



COLONY AND PROTECTORATE OF KENYA

---

# ORDINANCES

ENACTED DURING THE YEAR

1932

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VOL. XI (NEW SERIES)

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1933

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## CORRIGENDA

For dates of commencement of the following Ordinances, read as follows:—

Ordinances No. IX	..	"By Notice".
„ „ XII	..	"7th July, 1897".
„ „ XXII	..	"18th August, 1932".

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

FORMER ORDINANCES (in Chronological Order) REPEALED OR AMENDED BY ORDINANCES OF 1932

Year and No. of Ordinance	Short Title	How Affected	Ordinance of 1932
<i>Revised Edition</i> 11 of 1927	European Officers' Pensions .. .. .	Adds sections regarding privilege to officers named in Schedule, and power to add to Schedule .. .. .	3
11 of 1927	European Officers' Pensions .. .. .	Certain persons permitted to retire upon proportionate pensions .. .. .	11
12 of 1927	King's African Rifles Reserve of Officers .. .. .	Amends sections 5, 6 and 7 .. .. .	20
17 of 1927	Ancient Monuments Preservation .. .. .	Amends sections 2 and 15 .. .. .	39
19 of 1928	Local Government (Municipalities) .. .. .	Amends section 52 .. .. .	29
20 of 1928	Local Government (Rating) .. .. .	Adds section regarding improvements rate not to apply to Mombasa until 1st January, 1935 .. .. .	16
21 of 1928	Local Government (District Councils) .. .. .	Amends section 101 .. .. .	6
21 of 1928	Local Government (District Councils) .. .. .	Repeals and replaces sections 20, 21 and 23. Amends sections 26(1) and 27. Repeals and replaces section 29. Amends section 30. Repeals and replaces section 60 .. .. .	30
24 of 1928	Trout Protection .. .. .	Amends section 2. Repeals and replaces section 10. Repeals Ordinance No. 27 of 1930 .. .. .	38
26 of 1928	Traffic .. .. .	Adds section regarding refunds of licence fees .. .. .	21
2 of 1929	Abuse of Opiates (Amendment) .. .. .	Repealed .. .. .	43
31 of 1929	Fencing .. .. .	Amends heading to Part I and sections 3(1)(a), 5(1), 8(1), 11, 12(1), 20(b), 21, 23, 27 and 33(1) .. .. .	9
1 of 1930	Customs Tariff .. .. .	Amends Schedule. Adds sections regarding reduction of freight charges for goods conveyed by air, and authority to refund excess .. .. .	33
9 of 1930	Native Lands Trust .. .. .	Amends section 15 .. .. .	51
24 of 1930	Chattels Transfer .. .. .	Amends section 2. Adds section regarding date of operation .. .. .	36
27 of 1930	Trout Protection (Amendment) .. .. .	Repealed .. .. .	38
31 of 1930	King's African Rifles .. .. .	Repealed .. .. .	48
37 of 1930	Prisons .. .. .	Amends sections 2, 14(2), 22(4), 31, 33, 40, 42, 52, 57(21), 61(2) and 62 .. .. .	34
39 of 1930	Native Tribunals .. .. .	Amends section 34(4) .. .. .	35

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

FORMER ORDINANCES (in Chronological Order) REPEALED OR AMENDED BY ORDINANCES OF 1932

Year and No. of Ordinance	Short Title	How Affected	Ordinance of 1932
<i>Revised Edition</i> 1 of 1931	Mining .. .. .	Amends sections 1 and 11. Repeals sections 30 and 31. Amends sections 33, 38, 39, 40(2), 64, 67, 82, 83, 89 and 101(r) .. .. .	15
1 of 1931	Mining .. .. .	Amends sections 2, 8, 12, 13, 15, 18 and 20. Repeals and replaces section 24. Amends section 26. Repeals and replaces section 28. Amends section 33. Repeals section 37. Amends sections 39 and 40. Repeals and replaces section 43. Amends section 47. Repeals and replaces sections 67 and 74. Amends section 82 and various sections .. .. .	52
3 of 1931	Land and Agricultural Bank .. .. .	Amends sections 34 and 35 .. .. .	7
22 of 1931	Butter Levy .. .. .	Amends sections 2, 3, 5, 7 and 11. Adds section providing for "sale" to include "barter" .. .. .	13
23 of 1931	Carriage of Goods by Motor (Control) .. .. .	Repealed .. .. .	46
24 of 1931	Co-operative Societies (Registration) .. .. .	Amends sections 2, 4(1), 5(1), 10(2) and 29. Adds section regarding Repealed .. .. .	46
33 of 1931	Carriage of Goods by Motor (Control) .. .. .	investigation of a registered society .. .. .	8
52 of 1931	Excise Duties .. .. .	Adds section regarding exemption from excise duty .. .. .	32
57 of 1931	Levy on Official Salaries .. .. .	Amends sections 2 and 4. Adds sections regarding refund of levy in respect of officers of common service and definition of "common service" .. .. .	27
5 of 1932	Contracts in Restraint of Trade .. .. .	Repealed .. .. .	40
Applied Act, 1865	Indian Succession Act .. .. .	Repeals section 105 as applied to the Colony. Adds section regarding commencement of Ordinance and validation of bequests to religious or charitable uses .. .. .	12
Applied Act, IX of 1872	Indian Contract Act .. .. .	Section 27 repealed as applied to the Colony .. .. .	5

**AN ORDINANCE.**

**No. I of 1932.**

Assented to in His Majesty's name this twenty-sixth day of May, 1932.

J. BYRNE,  
Governor.

[26TH MAY, 1932.] Date of assent.

**An Ordinance to Amend the Traders Licensing Ordinance.**

26th May, 1932

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 *Traders Licensing (Amendment) Ordinance, 1932* and shall be read as one with the Traders Licensing Ordinance (Chapter 58 of the Revised Edition), hereinafter referred to as "the Principal Ordinance." *Repealed by Ord. 4/1933*

Short title.

2. Schedule I to the Principal Ordinance is hereby amended and shall be read as if the following words were added after the words "in any case" which occur in the seventeenth line thereof:—

Amendment to Schedule I of the Principal Ordinance.

"If it is considered that the charging of the fee for any licence taken out under (1) will prove a serious check to desirable trade the whole or any part of such fee may be remitted in any particular case by the Provincial Commissioner of the Province in which the licence is taken out."

**AN ORDINANCE.**

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**No. II of 1932.**

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Assented to in His Majesty's name this twenty-sixth day of May, 1932.

J. BYRNE,  
*Governor.*

Date of assent.

[26TH MAY, 1932.]

**An Ordinance to Repeal the Railway Materials Protection Ordinance.**

Date of commencement.

*26th May, 1932*

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 Railway Materials Protection (Repeal) Ordinance, 1932."

Repeal of Chapter 75 of the Revised Edition.

**2.** The Railway Materials Protection Ordinance (Chapter 75 of the Revised Edition) is hereby repealed.

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## AN ORDINANCE.

**No. III of 1932.** *Amended by Ord. 5/49*

Assented to in His Majesty's name this twenty-sixth day  
of May, 1932.

J. BYRNE,  
*Governor.*

[26TH MAY, 1932.] Date of assent.

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

*26th May, 1932*

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 European Officers' Pensions (Amendment) Ordinance, 1932," and shall be read as one with the European Officers' Pensions Ordinance, 1927, hereinafter referred to as "the Principal Ordinance."

Short title.

No. 11 of  
1927.

**2.** Anything in the Principal Ordinance and the Regulations made thereunder or any amendments thereto to the contrary notwithstanding, a pension, gratuity or other allowance may be granted to any officer named in the Schedule to this Ordinance on his completion of twenty years' East African service: Provided that no such service shall be counted if it is not in itself pensionable or allowed to be reckoned for pension, and provided that it shall be lawful for the Governor in Council with the approval of the Secretary of State to require any such officer to retire at any time after he attains the age of fifty years or completes twenty years' East African service, whichever is the earlier.

Privilege to  
officers  
named in  
Schedule.

**3.** The Governor in Council may, with the approval of the Secretary of State, from time to time make Regulations adding to the Schedule to this Ordinance the name of any officer transferred to the Colony, whose name is included in the Schedule to any Ordinance of another East African Dependency having the like effect as this Ordinance.

Power to  
add to  
Schedule.

## SCHEDULE.

<i>Name of Officer.</i>	<i>Department.</i>
Rowland William Cunningham Baker-Beall ... ..	Administration.
George Henry Chaundy ... ..	Education.
Edward John Davies ... ..	Legal.
Henry Hamilton Low ... ..	Administration.
William Ryder McGeagh ... ..	Administration.
Robert Pans Platt ... ..	Administration.
Reginald Lindsay Underwood	Judicial.
5148 Desmond David G. Swayne	Police
Thomas Stanley Ebbelwhite	
Edward John Potter	

## AN ORDINANCE.

### No. IV of 1932.

Assented to in His Majesty's name this twenty-sixth day of May, 1932.

J. BYRNE,  
*Governor.*

[26TH MAY, 1932.] Date of assent.

#### An Ordinance to Amend the Stock Traders' Licence Ordinance.

*26th May, 1932*

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 Stock Traders' Licence (Amendment) Ordinance, 1932,” and shall be read as one with the Stock Traders' Licence Ordinance (Chapter 59 of the Revised Edition), hereinafter referred to as “ the Principal Ordinance.” Short title.

**2.** Sub-section (3) of section 5 of the Principal Ordinance, as amended by the Stock Traders' Licence (Amendment) Ordinance, 1929, is hereby amended by the addition at the end thereof of the following proviso :— Amendment of section 5 (3) of the Principal Ordinance. No. 23 of 1929

“ Provided that if it is considered that the charging of the fees for any licence under this sub-section will prove a serious check to desirable trade in the Northern Frontier Province or the Turkana Province, the Provincial Commissioner of such Province may remit the whole or any part of such fees in respect of any shopkeeper who buys, sells or barter stock at his shop in the ordinary course of trade.”

**AN ORDINANCE.****No. V of 1932.**

*Replaced by  
Ord. 45/32*

Assented to in His Majesty's name this twenty-sixth day  
of May, 1932.

J. BYRNE,  
Governor.

Date of assent.

[26TH MAY, 1932.]

**An Ordinance to Render Lawful Certain  
Contracts in Restraint of Trade.**

Date of commencement.

26th May, 1932

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 Contracts in  
Restraint of Trade Ordinance, 1932."

Contracts in restraint of trade.

2. Any agreement or contract which contains any provision or covenant whereby any party thereto is restrained from exercising any lawful profession, trade, business, or occupation shall not be void only on the ground that such provision or covenant is therein contained:

Power of Court to declare covenant void.

Provided that the Court shall have power to declare such provision or covenant to be void where the Court is satisfied that such provision or covenant is not reasonable and in determining whether any such provision or covenant is reasonable the Court shall take into consideration any restriction relating to the space or area within which it was contemplated that such provision or covenant should apply having regard to the nature of the profession, trade, business or occupation:

**No. V**      *Contracts in Restraint of Trade***1932**

And further provided that where a minor has entered into any agreement or contract containing any such provision or covenant the Court shall also take into consideration whether it was for his benefit that he did so.

3. Notwithstanding and in addition to anything contained in the last preceding section any such provision or covenant shall be void in any case where an employer terminates the services of an employee on grounds other than grounds of misconduct.      Saving where services terminated.

4. Section 27 of the Indian Contract Act (Act No. IX of 1872) as applied to the Colony is hereby repealed.      Repeal.

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**AN ORDINANCE.****No. VI of 1932.**

Assented to in His Majesty's name this twenty-sixth day of May, 1932.

J. BYRNE,  
*Governor.*

Date of assent.

[26TH MAY, 1932.]

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

Date of commencement.

*26th May, 1932*

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 (District Councils) (Amendment) Ordinance, 1932,” and shall be read as one with the Local Government (District Councils) Ordinance, 1928, hereinafter referred to as “ the Principal Ordinance.”

No. 21 of 1928.

Amendment of section 101 of the Principal Ordinance.

**2.** Section 101 of the Principal Ordinance (as repealed and replaced by section 4 of the Local Government (District Councils) (Amendment) Ordinance, 1931), is hereby amended by the addition thereto of the following sub-section to be numbered (4) :—

No. 63 of 1930.

“ (4) Notwithstanding anything contained in sub-section (1) of section 4 of this Ordinance, the term “ District ” in this section may, on the application of a District Council and with the approval of the Governor, to be given prior to the first imposition of the rate, include any township under the Townships Ordinance, 1930, whose area is surrounded or bordered by the area of jurisdiction of such District Council, and it shall be competent for the Governor to appoint, as members of the said District Council for the purpose of the administration of any such township, and for this purpose only, one or more persons, as he shall deem fit, as representatives of such township.”

**AN ORDINANCE.****No. VII of 1932.**

Assented to in His Majesty's name this twenty-sixth day of May, 1932.

J. BYRNE,  
*Governor.*

[26TH MAY, 1932.] Date of assent.

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

*26th May, 1932*

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, 1932," and shall be read as one with the Land and Agricultural Bank Ordinance, 1930, hereinafter called "the Principal Ordinance." Short title. No. 3 of 1931.

2. Section 34 of the Principal Ordinance is hereby amended by the deletion of the second proviso thereto. Amendment of section 34 of the Principal Ordinance.

3. Section 35 of the Principal Ordinance is hereby amended by the deletion of the second proviso thereto. Amendment of section 35 of the Principal Ordinance.

## AN ORDINANCE.

### No. VIII of 1932.

Assented to in His Majesty's name this twenty-sixth day of May, 1932.

J. BYRNE,  
*Governor.*

Date of assent. [26TH MAY, 1932.]

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

Date of commencement. *26th May, 1932*

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 Co-operative Societies (Registration) (Amendment) Ordinance, 1932," and shall be read as one with the Co-operative Societies (Registration) Ordinance, 1931, hereinafter referred to as "the Principal Ordinance."

No. 24 of 1931

Amendment of Section 2 of the Principal Ordinance. **2.** Section 2 of the Principal Ordinance is hereby amended by the insertion after the definition of "Co-operative Society" of the following definition :—

" 'producers of agricultural products' includes persons, partnerships and companies who cut timber and prepare timber and timber products for market."

Amendment of Section 4 (1) of the Principal Ordinance. **3.** Sub-section (1) of section 4 of the Principal Ordinance is hereby amended by the deletion of the full-stop after the word "Ordinance" in the last line thereof and by the addition of the following words at the end thereof :—

" with or without limited liability."

1932

*Co-operative Societies (Registration)*

No. VIII

4. Sub-section (1) of section 5 of the Principal Ordinance is hereby amended by the deletion of the full-stop after the word " Ordinance " in the last line thereof and by the addition of the following words at the end thereof :—

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

" with or without limited liability."

5. Sub-section (2) of section 10 of the Principal Ordinance is hereby amended by the substitution of a comma for the full-stop after the word " society " in the second line thereof, and by the addition of the following words at the end thereof :

Amendment of  
Section 10 (2)  
of the  
Principal  
Ordinance.

" and, if a registered society has been registered with limited liability, the word ' limited ' shall be the last word in its name."

6. Section 29 of the Principal Ordinance is hereby amended by the insertion after the word " is " at the end of the second line thereof of the following words :—

Amendment of  
Section 29  
of the  
Principal  
Ordinance.

" registered with limited liability or which is ".

7. (1) The Governor may, at any time, when it appears to him that good reason exists therefor, appoint a person or persons to investigate and report upon the books, or accounts and affairs of any registered society, and every person so appointed shall have a right of access to the books, accounts, vouchers, and documents of the registered society, and may require from its directors or other officers such information and explanation as may be necessary for the investigation.

Investigation  
of a  
registered  
society.

(2) Any person who knowingly obstructs any person or persons appointed as aforesaid in any investigation as aforesaid shall be liable on conviction before a magistrate of the first or second class to a fine not exceeding twenty pounds.

(3) The Governor may order the expenses of and incidental to such investigation to be defrayed by the registered society concerned, and, in the event of such order being made, the Governor shall cause a copy of the report upon the investigation to be transmitted to the office of such registered society.

## AN ORDINANCE.

### No. IX of 1932.

Assented to in His Majesty's name this twenty-sixth day of May, 1932.

J. BYRNE,  
*Governor.*

Date of assent.

[26TH MAY, 1932.]

#### An Ordinance to Amend the Fencing Ordinance, 1929.

Date of commencement.

*26th May, 1932*

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 Fencing (Amendment) Ordinance, 1932,” and shall be read as one with the Fencing Ordinance, 1929, hereinafter referred to as “ the Principal Ordinance.”

Amendment of Heading to Part I of the Principal Ordinance.

**2.** The heading to Part I of the Principal Ordinance is hereby amended, and shall be read as if the words “ Advances for Erection thereof ” were deleted therefrom.

Amendment of section 3 (1) (a) of the Principal Ordinance.

**3.** Paragraph (a) of sub-section (1) of section 3 of the Principal Ordinance is hereby amended by the insertion between the words “ area ” and “ are ” in the first line thereof of the words “ which shall not include any native reserve or part of such reserve ”.

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

**4.** Sub-section (1) of section 5 of the Principal Ordinance is hereby amended by the deletion in the fourth and fifth lines thereof of all the words after the word “ completed ” and the substitution therefor of the words “ within a reasonable period to be specified by the Director.”

**AN ORDINANCE.****No. X of 1932.**

Assented to in His Majesty's name this twenty-sixth day of May, 1932.

J. BYRNE,  
Governor.

Date of assent.

[26TH MAY, 1932.]

**An Ordinance Relating to Trading Centres and to Provide for Matters Incidental Thereto.**

Date of commencement.

*14 Aug. 1932* By Proclamation

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.

*N. 454/32*

1. This Ordinance may be cited as "the Trading Centres Ordinance, 1932," and shall come into operation upon such date as the Governor may by notice in the Gazette appoint.

Power to declare trading centres.

f

*N. 374/33*  
*L. 350*

2. The Governor may from time to time by notice in the Gazette declare any place to be a trading centre and define or alter its boundaries and assign a name to it, provided that, prior to the exercise of any such powers, the proposals shall be submitted for the recommendations of the District Council (if any) having jurisdiction over the area within which it is proposed to establish a trading centre.

Administration of trading centres.

3. A trading centre shall be administered by the District Commissioner of the district in which it is situated.

Rules for trading centres.

4. The Governor may from time to time make rules in respect of all matters as are necessary or desirable for the maintenance of the health, safety and well-being of the inhabitants or for the good order and government of any trading centre.

Power to fix fees, etc.

5. The power to make rules shall include the power to fix reasonable fees, charges or tariffs for any service rendered to the inhabitants of the trading centre.

1932

*Fencing*

No. IX

5. Sub-section (1) of section 8 of the Principal Ordinance is hereby amended by the substitution of the word " shall " for the word " may " in the second line thereof. Amendment of section 8 (1) of the Principal Ordinance.
6. Section 11 of the Principal Ordinance is hereby amended by the insertion after the word " holding " in the first line thereof of the words " in a proclaimed district "; and by the insertion immediately before the word " period " in the fourth line thereof of the word " reasonable ". Amendment of section 11 of the Principal Ordinance.
7. Sub-section (1) of section 12 of the Principal Ordinance is hereby amended by the deletion of the words " such period of time as may be specified in such notice " in the last line thereof and the substitution therefor of the words " a reasonable period of time to be specified in such notice." Amendment of section 12 (1) of the Principal Ordinance.
8. Paragraph (b) of section 20 of the Principal Ordinance is hereby amended by the insertion after the word " holdings " in the first line thereof of the words " abutting on any road "; and by the insertion after the word " and " in the same line of the word " the ". Amendment of section 20 (b) of the Principal Ordinance.
9. Section 21 of the Principal Ordinance is hereby amended by the insertion immediately before the word " time " in the seventh line thereof of the word " reasonable ". Amendment of section 21 of the Principal Ordinance.
10. Section 23 of the Principal Ordinance is hereby amended by the substitution of the word " thereof " for the word " of " in the second line of the section. Amendment of section 23 of the Principal Ordinance.
11. Section 27 of the Principal Ordinance is hereby amended by the insertion after the word " licence " in the ninth line thereof of a full stop, and by the substitution of the capital letter " A " for the small letter " a " in the word " as " following such full stop. Amendment of section 27 of the Principal Ordinance.
12. Sub-section (1) of section 33 of the Principal Ordinance is hereby amended by the deletion of the comma after the word " ravine " in the fourth line thereof and the substitution therefor of the word " or ". Amendment of section 33 (1) of the Principal Ordinance.

Keeping of his stock Rules. 1939 - G.O. 1007/39  
p. 907

S.N. 665/33. p. 492

G.O. 739/34. p. 544. Kikuyu Landing Centre.

" 104/35. p. 65 Takauqua.

912/48 p. 347 - Hweiga

1209/48 p. 482 - Consuwaney Fees Rules 1948

1210/48 p. 483 - Justice Rules 1948

792/44 p. 332 - Koru

828/49 p. 341 - Trading Centres (waterworks) Rules 1949

1125/49 p. 493 - Kendu Bay (New River) Trading Centre



6. The Governor may, by rule, impose a fine or imprisonment or both such fine and imprisonment, for the breach of any rule made under this Ordinance, and may also impose different fines and different periods of imprisonment in case of successive or continuous breaches, but no such fine shall exceed fifty pounds, and no such period of imprisonment shall exceed six months. Penalty for breach of Rules.
7. Any rule may further provide that, in addition to any such fine and imprisonment, any expenses incurred by the Government in consequence of any breach of such rule or in execution of any work directed by any such rule to be executed by any person and not executed by him, shall be paid by the person committing such breach or failing to execute such work. Expenses incurred in consequence of breach of Rule to be paid by person committing breach.
-

**AN ORDINANCE.****No. XI of 1932.**

Assented to in His Majesty's name this twenty-sixth day of May, 1932.

J. BYRNE,  
*Governor.*

Date of assent.

[26TH MAY, 1932.]

**An Ordinance to Provide for the Granting of Pensions to Certain Civil Servants in Certain Circumstances.**

Date of commencement.

*26th May, 1932*

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 Civil Servants (Proportionate Pensions) Ordinance, 1932."

Certain persons permitted to retire upon proportionate pensions.

2. Notwithstanding anything contained in the European Officers' Pensions Ordinance, 1927, or in the Regulations made thereunder each of the persons mentioned in the Schedule hereto shall as from the date of the passing of this Ordinance be permitted to retire upon pension and he shall be granted a pension at the rate of ~~one-four-hundred~~ and eightieth of his pensionable emoluments for each complete month of pensionable service subject to the conditions prescribed in section 10 of the European Officers' Pensions Ordinance, 1927.

No. 11 of 1927.

Power to add names to the Schedule.

3. The Governor in Council may, with the approval of the Secretary of State, add to the Schedule hereto the names of all or any persons who shall have applied to have their names added to the said Schedule on or before the 30th day of June, 1932, and thereupon all the provisions of this Ordinance shall apply to the persons whose names have been so added to the said Schedule.

SCHEDULE.

Reginald Rabson, Assistant Telegraph Engineer, Post and Telegraphs Department.

Edgar Wilkinson, Senior Overseer, Public Works Department.

John Edwin Harrison, Clerk, Agricultural Department.

Vernon Grenville Cole, Administrative Officer.

**AN ORDINANCE.****No. XII of 1932.**

Assented to in His Majesty's name this twenty-sixth day  
of May, 1932.

J. BYRNE,  
*Governor*

[26TH MAY, 1932.] Date of assent.

**An Ordinance to Amend the Indian Succession  
Act, 1865, as applied to the Colony.**

*26th May, 1932*

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 Succession Act (Amendment) Ordinance, 1932," and shall be read as one with the Indian Succession Act, 1865, as applied to the Colony (hereinafter referred to as " the Principal Act "). Short title.
2. Section 105 of the Principal Act is hereby repealed. Repeal of  
section 105  
of the  
Principal  
Act.
3. This Ordinance shall be deemed to have come into operation and to have had force and effect as from the 7th day of July, 1897, and no bequest to religious or charitable uses shall be deemed to have been or to be void or invalid in any way by reason of any non-compliance with the provisions of section 105 of the Principal Act at any time heretofore during the application to the Colony of the Principal Act. Commence-  
ment of  
Ordinance and  
validation of  
bequests to  
religious or  
charitable uses.

*Repealed and replaced  
by Ord. 34/58*

## AN ORDINANCE.

### No. XIII of 1932.

Assented to in His Majesty's name this twenty-sixth day of May, 1932.

J. BYRNE,  
Governor.

Date of assent.

[26TH MAY, 1932.]

#### An Ordinance to Amend the Butter Levy Ordinance, 1931.

Date of commencement.

26th May, 1932

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 Butter Levy (Amendment) Ordinance, 1932," and shall be read as one with the Butter Levy Ordinance, 1931, hereinafter referred to as "the Principal Ordinance."

No. 22 of 1931

Amendment of section 2 of the Principal Ordinance.

**2.** Section 2 of the Principal Ordinance is hereby amended by the addition thereto of the following :—

"The provisions of this section shall not apply to butter manufactured in the Colony for the purpose of exporting, and actually exported, from the Colony."

Amendment of section 3 of the Principal Ordinance.

**3.** Section 3 of the Principal Ordinance is hereby amended by substituting the words "becomes operative" for the words "is imposed" in sub-section (1) of the section, and by inserting the following as sub-section (3) :—

"(3) This section shall not apply to butter imported into the Colony."

Amendment of section 5 of the Principal Ordinance.

**4.** Section 5 of the Principal Ordinance is hereby amended by the addition of the following words at the end of the section :—

"and such package or wrapper bearing such mark shall be deemed to be marked with the name of the manufacturer and the place of manufacture for the purposes of this section."

1932

*Butter Levy*

No. XIII

5. Section 7 of the Principal Ordinance is hereby amended by the insertion between the word "person" and the word "duly" in the first line thereof of the following words: "or any class of European officer in the Government service."

Amendment of section 7 of the Principal Ordinance.

6. Section 11 of the Principal Ordinance is hereby amended by the deletion of the full stop after the word "Territory" at the end thereof, and the addition thereafter of the following words: "or butter manufactured and sold for use in ships and exported therein."

Amendment of section 11 of the Principal Ordinance.

7. Wherever the word "sold" occurs in the Principal Ordinance the words "or bartered" shall be deemed to be inserted immediately thereafter, and wherever the word "sale" occurs in the Principal Ordinance the words "or barter" shall be deemed to be inserted immediately thereafter.

Sale includes barter.

## AN ORDINANCE.

### No. XIV of 1932.

Assented to in His Majesty's name this twenty-sixth day of May, 1932.

J. BYRNE,  
*Governor.*

Date of assent.

[26TH MAY, 1932.]

### An Ordinance to Amend the Civil Procedure Ordinance, 1924.

Date of commencement.

*26th May, 1932*

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 Civil Procedure (Amendment) Ordinance, 1932," and shall be read as one with the Civil Procedure Ordinance, 1924, hereinafter referred to as " the Principal Ordinance."

No. 3 of 1924.

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

**2.** Sub-section (4) of section 2 of the Principal Ordinance is hereby amended by the deletion of the word " determine " which occurs in the third line thereof and the substitution therefor of the word " determines ".

Amendment of section 11 of the Principal Ordinance.

**3.** ~~The second proviso to section 11 of the Principal Ordinance is hereby repealed and the following substituted therefor :—~~

*Ord 13/32* Provided further that any suit may be instituted in the Supreme Court which could have been commenced in a Subordinate Court, then and in every such case the following provisions shall apply :—

Subject to the proviso hereinafter contained, should the plaintiff recover a sum less than Sh. 400, he shall not be entitled to any costs, and if he shall recover a sum of Sh. 400 or upwards, but not exceeding ~~Sh. 1,500, he shall not be entitled to any more~~

costs than he would have been entitled to if the suit had been brought in such Subordinate Court: Provided that in any suit a judge of the Supreme Court may, if satisfied that there was good reason for bringing such suit in that Court, make such order as to costs as to him may seem just."

4. The first two lines of paragraph (b) of sub-section (1) of section 18 of the Principal Ordinance are hereby repealed and the following substituted therefor:—

Amendment of section 18 (1) (b) of the Principal Ordinance.

"(b) withdraw any suit or other proceeding pending in any Court subordinate to it, and thereafter—"

5. Sub-section (2) of section 35 of the Principal Ordinance is hereby repealed and the following substituted therefor:—

Amendment of section 35 (2) of the Principal Ordinance.

"(2) Nothing in this section shall be deemed to preclude the Court from ordering the execution of a decree upon an application presented after the expiration of the said term of twelve years where the judgment-debtor has, by fraud or force, prevented the execution of the decree at some time within twelve years immediately before the date of the application."

6. Sub-section (1) of section 44 of the Principal Ordinance is hereby amended by the insertion of the words "due or accruing due, salary accrued or to become due" after the word "debts" in the fifth line thereof.

Amendment of section 44 (1) of the Principal Ordinance.

7. Section 47 of the Principal Ordinance is hereby amended by the deletion of the Explanation attached thereto.

Amendment of section 47 of the Principal Ordinance.

8. Sub-section (1) of section 53 of the Principal Ordinance is hereby amended by the insertion of the words "or to any advocate in practice in the Colony" after the words "Subordinate Court" in the second line thereof.

Amendment of section 53 (1) of the Principal Ordinance.

9. The Explanation attached to section 56 of the Principal Ordinance is hereby amended by the insertion of the word "Northern" before the word "Ireland" in the third line thereof.

Amendment of section 56 of the Principal Ordinance.

Repeal and replacement of section 65 of the Principal Ordinance.

Appeals from decrees of subordinate courts.

10. Section 65 of the Principal Ordinance is hereby repealed and the following is substituted therefor :—

“ 65. (1) Unless otherwise expressly provided by this Ordinance an appeal shall lie from the decrees or from any part of the decrees and from the orders of all Subordinate Courts to the Supreme Court :

Provided that appeals from Cadis' Courts shall lie to the Supreme Court with the Chief Cadi as assessor :

Provided further that there shall be no appeal as a pauper from the Supreme Court by anyone admitted to take or defend or be a party to any legal proceedings without leave of the Court before whom the matter was heard or of the Court of Appeal in the event of a refusal by such Court.

(2) ~~Notwithstanding anything contained in the Indian Limitation Act, 1877, as applied to the Colony, every appeal from a Subordinate Court to the Supreme Court shall be filed within thirty days from the date of the decree or order appealed against.~~

61/33

**AN ORDINANCE.**

**No. XV of 1932.**

Assented to in His Majesty's name this twenty-sixth day of May, 1932.

J. BYRNE,  
*Governor.*

[26TH MAY, 1932.] Date of assent.

**An Ordinance to Amend the Mining Ordinance,  
1930.**

*16th March, 1932*

Date of  
commencement.

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

- |   |  |
|---|--|
| <p><b>1.</b> This Ordinance may be cited as "the Mining (Amendment) Ordinance, 1932," and shall be read as one with the Mining Ordinance, 1930, hereinafter referred to as "the Principal Ordinance."</p>   | <p>Short title.<br/>No. 1 of 1931.</p>                     |
| <p><b>2.</b> Section 1 of the Principal Ordinance is hereby amended by the deletion of the year "1930" and the substitution therefor of the year "1931."</p>  | <p>Amendment of section 1 of the Principal Ordinance.</p>  |
| <p><b>3.</b> Section 11 of the Principal Ordinance is hereby amended by the addition of the following proviso :—<br/>"Provided that the Commissioner may by permit under his hand exempt from liability to royalties samples of minerals exported for the purposes of assay."</p> | <p>Amendment of section 11 of the Principal Ordinance.</p> |
| <p><b>4.</b> Section 30 of the Principal Ordinance is hereby repealed.</p>  | <p>Repeal of section 30 of the Principal Ordinance.</p>    |
| <p><b>5.</b> Section 31 of the Principal Ordinance is hereby repealed.</p>  | <p>Repeal of section 31 of the Principal Ordinance.</p>    |
| <p><b>6.</b> Section 33 of the Principal Ordinance is hereby amended by the deletion of the words "on payment of the prescribed rent" in the last two lines thereof.</p>  | <p>Amendment of section 33 of the Principal Ordinance.</p> |

Amendment of section 38 of the Principal Ordinance.

**7.** Section 38 of the Principal Ordinance is hereby amended by the deletion of the proviso thereto.

Amendment of section 39 of the Principal Ordinance.

**8.** Section 39 of the Principal Ordinance is hereby amended by the deletion of sub-section (c) thereof.

Amendment of section 40 (2) of the Principal Ordinance.

**9.** Sub-section (2) of section 40 of the Principal Ordinance is hereby amended by the deletion of the word "discovery" in line six thereof and the substitution of the word "location" therefor; and by the insertion of the word "other" between the words "all" and "boundary" in lines six and seven thereof.

Amendment of section 64 of the Principal Ordinance.

**10.** Section 64 of the Principal Ordinance is hereby amended by the deletion of the words "claim or exclusive prospecting licence" in lines one and two thereof.

Amendment of section 67 of the Principal Ordinance.

**11.** Section 67 of the Principal Ordinance is hereby amended in the following manner:—

- (1) By the insertion of the words "or claim" between the words "lease" and "may" in line two thereof;
- (2) by the deletion of the words "be permitted" in lines seven and eight thereof;
- (3) by the insertion of the words "or claim holder" after the word "lessee" in line eleven thereof; and
- (4) by the insertion of the words "or claim holder" after the word "lessee" in the last line thereof.

Amendment of section 82 of the Principal Ordinance.

**12.** Section 82 of the Principal Ordinance is hereby amended by the insertion of the words "an inspector or assistant inspector" after the word "Commissioner" in line one thereof; and by the deletion of the word "an" in the same line and the substitution of the words "any other" therefor.

Amendment of section 83 of the Principal Ordinance.

**13.** Section 83 of the Principal Ordinance is hereby amended by the insertion of the word "right" between the words "the" and "claim" in line six thereof.

1932

*Mining*

No. XV

14. Section 89 of the Principal Ordinance is hereby amended by the deletion of the words "Indian Land Acquisition Act, 1894, as applied to" in line two thereof and the substitution therefor of the following words "provisions of any law relating to the compulsory acquisition of land for the time being in force in".

Amendment of section 89 of the Principal Ordinance.

15. Sub-section (r) of section 101 of the Principal Ordinance is hereby amended by the substitution of the word "metal" for the word "mineral" in the first line thereof, and by the substitution of the word "metals" for the word "minerals" in the last line thereof.

Amendment of section 101 (r) of the Principal Ordinance.

16. This Ordinance shall be deemed to have come into operation on the 16th day of March, 1932.

Date of operation.

**AN ORDINANCE.****No. XVI of 1932**

Assented to in His Majesty's name this twenty-sixth day of May, 1932.

J. BYRNE,  
*Governor.*

Date of assent.

[26TH MAY, 1932.]

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

Date of  
commencement.

*26th May, 1932*

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 (Rating) (Amendment) Ordinance, 1932," and shall be read as one with the Local Government (Rating) Ordinance, 1928, hereinafter referred to as " the Principal Ordinance."

No 20 of  
1928.

Improvements  
rate not to  
apply to  
Mombasa  
until  
1st January,  
1935.

2. After the commencement of this Ordinance and notwithstanding anything in the Principal Ordinance contained, the provisions of sub-section (4) of section 15 of that Ordinance shall not have any force or effect within the Municipality of Mombasa until the first day of January, 1935, or such later date as the Governor in Council may decide :

Provided, however, that at any time prior to the date aforesaid, it shall be lawful for the Municipal Board of Mombasa to impose a rate or rates upon the value of improvements as appearing in the valuation roll for each and any financial year of such amount as the said Board shall determine (such rate or rates being hereinafter referred to as the " improvements rate " ) :

Provided, further, that, in the case of any improvements rate imposed by the said Board at any time prior to the date aforesaid the percentage payable shall not in any one financial year exceed the total percentage payable for such financial year in respect of both the original and additional rates on the unimproved value of land, and such improvements rate shall not in any case exceed one per centum in any one financial year except as provided in sub-section (6) of section 15 of the Principal Ordinance.

**AN ORDINANCE.****No. XVII of 1932**

Assented to in His Majesty's name this twenty-sixth day of July, 1932.

J. BYRNE,  
Governor.

[26TH JULY, 1932.] Date of assent.

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

26th July, 1932

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 Dangerous Petroleum Tax (Amendment) Ordinance, 1932," and shall be read as one with the Dangerous Petroleum Tax Ordinance (Chapter 54 of the Revised Edition), as amended by the Dangerous Petroleum Tax (Amendment) Ordinance, 1927, the Dangerous Petroleum Tax (Amendment) Ordinance, 1928, and the Dangerous Petroleum Tax (Amendment) Ordinance, 1930, together collectively hereinafter referred to as "the Principal Ordinance."

Short title.

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

Repeal and replacement of section 3 of the Principal Ordinance.

"3. On and after the 26th day of July, 1932, there shall be charged, levied and paid to the general revenue of the Colony by any person importing dangerous petroleum a tax at the rate of thirty-five cents a gallon on all such dangerous petroleum when it is delivered from Customs control for consumption in the Colony :

Provided that nothing in this Ordinance shall apply to dangerous petroleum delivered from Customs control by or on behalf of the Government of the Colony or by or on behalf of the Kenya and Uganda Railways and Harbours Services."

3. Section 4 of the Principal Ordinance is hereby amended by the insertion of the words "rebate or refund" after the word "payment" which occurs in line 2 thereof.

Amendment of section 4 of the Principal Ordinance.



## AN ORDINANCE

### No. XVIII of 1932

Assented to in His Majesty's name this eighteenth day of August, 1932.

J. BYRNE,  
*E. Byrne* Governor.

[18TH AUGUST, 1932.] Date of assent.

#### An Ordinance to Provide for the Payment of Additional Poll Tax by Non-Natives in the Year 1932.

*18th August, 1932*

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 Non-Native Poll Tax (Additional Taxes) Ordinance, 1932," and shall be read as one with the Non-Native Poll Tax Ordinance as amended by the Non-Native Poll Tax (Amendment) Ordinance, 1929, hereinafter together referred to as "the Principal Ordinance."
- Short title.  
*Cap. 52.*  
No. 4 of 1929.
- 2.** In this Ordinance "non-native" includes any person who is not a native or a Swahili.
- Interpretation.
- 3.** In addition to the tax payable under section 3 of the Principal Ordinance there shall be paid the following—
- Additional taxes payable by non-natives in 1932.
- (a) by every male non-native who on the first day of July, 1932, had attained the age of eighteen, the sum of thirty shillings; and
- (b) by every female non-native who on the first day of July, 1932, had attained the age of eighteen and who between first January and thirtieth September, 1932, was employed within the Colony and in respect of such employment received or earned remuneration at an average rate of not less than

fifteen pounds a month or who between the aforementioned dates received within the Colony from any source a sum of not less than one hundred and thirty-five pounds, the sum of thirty shillings.

Taxes, when payable.

4. The additional taxes imposed by section 3 of this Ordinance shall be payable between the first day of August and the thirty-first day of October, 1932 :

Provided that in the case of a non-native who is not resident in the Colony on the first day of July, 1932, or who, although resident in the Colony on such date, leaves the Colony without having paid the additional tax payable, such non-native shall pay the additional tax within three months of his or her coming or returning to the Colony, as the case may be.

And provided further that any non-native who fails to pay such additional tax within one month of the expiry of the period hereinbefore set forth for such payment shall be liable to pay double the amount of such additional tax, provided always that such liability shall not accrue if such non-native can show that such default was due to causes beyond his own control.

Information to be furnished by employers.

5. Every person who between first January and thirtieth September, 1932, employs any female non-native at a remuneration of not less than fifteen pounds a month shall, not later than thirtieth September, 1932, furnish to the Collector a return of the non-natives so employed by him, the period of such employment, and the rate at which each such non-native was employed.

Penalty for failing to give information or giving false information.

6. Any employer who fails to give the information required by section 5 of this Ordinance within the time prescribed or who wilfully furnishes false particulars as to any such information shall on conviction by a magistrate be liable to a fine not exceeding fifteen pounds or to imprisonment for a term not exceeding two months.

Persons on temporary visit to Colony exempt from tax.

7. Notwithstanding the provisions of section 3 of this Ordinance no payment under this Ordinance shall be due from any non-native on a temporary visit to the Colony not exceeding three months between first July and thirty-first December, 1932.

1932

*Non-Native Poll Tax*

No. XVIII

8. The provisions of sections 5 to 14 inclusive, 16 and 17 of the Principal Ordinance shall apply as if the additional taxes imposed by this Ordinance were part of the tax prescribed in the Principal Ordinance and the terms "Collector" and "Magistrate" shall have the meanings assigned to them in section 2 of the Principal Ordinance.

Provisions of Principal Ordinance to apply to additional taxes under this Ordinance.

9. This Ordinance shall continue in force until the thirty-first day of December, 1932, and shall then expire :

Duration of Ordinance.

Provided that such expiry shall not affect any liability, penalty or punishment incurred under this Ordinance or any legal proceeding or remedy in respect of any such liability, penalty or punishment, but any such legal proceeding or remedy may be carried on or sought as if this Ordinance had not expired.

**AN ORDINANCE****No. XIX of 1932**

Assented to in His Majesty's name this eighteenth day of August, 1932.

J. BYRNE,  
*Governor.*

Date of assent.

[18TH AUGUST, 1932.]

**An Ordinance to Amend the Beer Ordinance.**

Date of commencement.

*18th August, 1932*

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 Beer (Amendment) Ordinance, 1932," and shall be read as one with the Beer Ordinance (Chapter 100 of the Revised Edition), hereinafter referred to as "the Principal Ordinance."

Authority to grant rebate or refund of excise duty.

**2.** Notwithstanding anything contained in the Principal Ordinance, a rebate of the duty payable or a refund of the duty paid on beer brewed in the Colony may be granted by the Commissioner on such beer when exported from the Colony to any place other than Uganda or a place in any territory into which it may be admitted free of Customs duty by virtue of any Agreement made under section 263 of the Customs Management Ordinance, 1926, provided that—

No. 25 of 1926.

- (a) such beer shall only be exported through a Customs port ;
- (b) every person so exporting shall produce to the Commissioner such evidence of exportation and of the actual amount of duty paid as the Commissioner may require ;
- (c) if such beer after having been so exported shall be brought into the Colony the Excise duty in force at the date of importation shall be payable by the importer.

## AN ORDINANCE

No. XX of 1932

Assented to in His Majesty's name this eighteenth day of August, 1932.

J. BYRNE,  
Governor.

[18TH AUGUST, 1932.] Date of assent.

### An Ordinance to Amend the King's African Rifles Reserve of Officers Ordinance, 1927.

*18th August, 1932*

Date of commencement.

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

- |  |   |
|--|---|
| <p><b>1.</b> This Ordinance may be cited as “ the King's African Rifles Reserve of Officers (Amendment) Ordinance, 1932,” and shall be read as one with the King's African Rifles Reserve of Officers Ordinance, 1927, hereinafter referred to as “ the Principal Ordinance.”</p>  | <p>Short title.<br/>No. 12 of 1927.</p>                   |
| <p><b>2.</b> Section 5 of the Principal Ordinance is hereby amended by the substitution of the words “ British subjects ” for the word “ officers ” which occurs in the first line of sub-section (1) thereof.</p>   | <p>Amendment of section 5 of the Principal Ordinance.</p> |
| <p><b>3.</b> Section 6 of the Principal Ordinance is hereby amended by the substitution of the words “ A British subject ” for the words “ An officer ” which occur in the first line thereof.</p>   | <p>Amendment of section 6 of the Principal Ordinance.</p> |
| <p><b>4.</b> Section 7 of the Principal Ordinance is hereby amended as follows :—</p> <p>(a) By the substitution of the words “ A British subject ” for the words “ An officer ” which occur in the first line thereof ;</p> <p>(b) by the deletion of the words “ shall be attached to such Battalion of the King's African Rifles and ” which occur in the second and third lines thereof.</p> | <p>Amendment of section 7 of the Principal Ordinance.</p> |

## AN ORDINANCE

### No. XXI of 1932

Assented to in His Majesty's name this eighteenth day of August, 1932.

J. BYRNE,  
*Governor.*

Date of assent. [18TH AUGUST, 1932.]

### An Ordinance to Amend the Traffic Ordinance, 1928.

Date of commencement. *18th August, 1932*

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 Traffic (Amendment) Ordinance, 1932 ”, and shall be read as one with the Traffic Ordinance, 1928, hereinafter referred to as “ the Principal Ordinance.”

No. 26 of 1928.

Refunds of licence fees. **2.** Notwithstanding anything in the Principal Ordinance contained, if the holder of a licence other than a quarterly licence shall satisfy a licensing officer that the vehicle in respect of which it has been issued has been destroyed, broken up or permanently removed from the Colony, or that for some other reason the vehicle will not be used in the Colony again during the currency of the licence, the licensing officer may cancel the licence and refund to such person in the case of a yearly licence a sum equal to 15 per cent or 45 per cent or 70 per cent of the fee paid, according as the licence is cancelled in the third, second or first quarter of the year and in the case of a half yearly licence a sum equal to 45 per cent of the fee paid, provided that, in the latter case, no refund shall be made where the licence is due to expire within a period of three months from the date on which the vehicle was withdrawn from use.

**AN ORDINANCE****No. XXII of 1932**

Assented to in His Majesty's name this eighteenth day of August, 1932.

J. BYRNE,  
Governor.

[18TH AUGUST, 1932.] Date of assent.

**An Ordinance relating to the Creation of  
Minimum Wage Fixing Machinery.**

*By Proclamation*

Date of commencement.

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

1. This Ordinance may be cited as "the Minimum Wage Ordinance, 1932."

Short title.

2. The Governor in Council may, by order in the Gazette, fix the minimum wage for any occupation in any municipality, township, district or other area in which he is satisfied that the wages for such occupation are unreasonably low.

Power to fix minimum wage for occupations.

3. The Governor in Council may make Rules with respect to any of the following matters—

Power to make rules.

- (1) the constitution and appointment of advisory boards for the purpose of advising the Governor in Council in regard to the fixing of minimum wage for occupations in any place where it is considered by the Governor in Council that such advisory boards are desirable;
- (2) the duties, powers and conduct of meetings of such advisory boards;
- (3) the scope and mode of investigation by such advisory boards of wages and conditions of labour in any municipality, township, district or other area; and
- (4) generally for the better carrying out of the provisions of this Ordinance.

*Replaced by  
Ord. 55/1962/157*

## AN ORDINANCE

### No. XXIII of 1932

Assented to in His Majesty's name this eighteenth day of August, 1932.

J. BYRNE,  
*Governor.*

Date of assent.

[18TH AUGUST, 1932.]

#### An Ordinance to Amend the Electric Power Ordinance.

Date of commencement.

*18th August, 1932*

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 Electric Power (Amendment) Ordinance, 1932,” and shall be read as one with the Electric Power Ordinance (Chapter 165 of the Revised Edition), hereinafter referred to as “the Principal Ordinance.”

Repeal and replacement of section 4 of the Principal Ordinance.

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

Licenses only may supply electrical energy on sale or construct or maintain supply lines or other works.  
*Cap. 166.*

“4. (1) (a) Except as provided in sub-section (2) of section 3 of this Ordinance no public or local authority, company or person not being a licensee under this Ordinance shall generate, or, subject to the provisions of the Electric Supply Line Ordinance, shall transmit a supply of electrical energy or construct, maintain or operate works for such generation or transmission of electrical energy.

(b) Notwithstanding the provisions of sub-section (1) (a) of this section:—

Supply to particular consumers under authority of the Governor in Council.

(i) The Governor in Council may authorize any public or local authority, company or person in any place not within the licensed area of any authorized distributor and whose primary business or occupation is not the supply of electrical

energy to supply such energy for sale or any other consideration to one or more particular authorities, companies or persons not within any such licensed area;

- (ii) The Governor may authorize any such authority in any place not within any such licensed area, or any company or person whether within any such licensed area or not, to generate or, subject to the provisions of the Electric Supply Line Ordinance, to transmit a supply of electrical energy for its or his own use and to erect maintain and operate the works necessary therefor :

Authority of Governor for private generating plants.

Cap. 166.

Provided that where the rated capacity of the generating plant does not exceed 25 kilowatts and the pressure in any part of the system connected thereto does not exceed 150 volts in the case of direct current or 50 volts in the case of alternating current, and provided further that no part of such system is without the close or curtilage of the premises in which the electrical energy is generated, no licence or authority shall be necessary.

- (2) No public or local authority may use, within the licensed area of an authorized distributor, any form of energy for power or lighting purposes (excepting portable power and portable lighting purposes) other than electrical energy, without the authority of the Governor in Council :

Public or local authorities to use only electrical energy save with permission of Governor in Council.

Provided that nothing in this sub-section shall prevent the use of steam or internal combustion engines for locomotive purposes, or the generation of electrical energy for the lighting of such vehicles.

Exemption for locomotives and vehicles and the lighting thereof.

- (3) No public or local authority, company or person not being licensed as an authorized distributor shall receive a supply of electrical energy from a bulk supply licensee, nor shall a bulk supply licensee supply electrical energy except to such an authorized distributor."

Authorized distributor only may receive bulk supply.

Repeal and replacement of section 62 of the Principal Ordinance.

For protection of human life, public or private property and conveniences, and safeguarding of employees.

3. Section 62 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

“ 62. (1) In the execution of works in connexion with the construction, modification, maintenance or operation of any electrical supply line or apparatus or conductor connected thereto, every public or local authority, company or person shall—

- (a) in no way injure the works, conveniences or property belonging to any other such authority, company or person, nor obstruct or interfere with public traffic, except with the previous written consent of the Governor;
- (b) take adequate precautions to protect from danger any person engaged upon such works by the provision and maintenance in safe and efficient condition of the necessary safety appliances for the use of such persons and by ensuring their proper use, or by other means approved by the Governor;
- (c) take adequate precautions to prevent any conductor or apparatus from being accidentally or inadvertently electrically charged when persons are working thereon;
- (d) ensure that only persons qualified by knowledge or experience to understand the danger involved undertake work where technical knowledge or experience is required in order to avoid danger.

Penalty.

(2) For the contravention of any of the provisions of sub-section (1) of this section, the public or local authority, company or person responsible for the execution of the work shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty pounds.

Penalty for negligence in control of apparatus etc., and wilful tampering with lines and apparatus.

(3) Any person who, in contravening any of the provisions of sub-section (1) of this section or who, by any omission or negligent act in respect of any electric supply line, apparatus or conductor under his control, or who by wilfully tampering with any electric supply line, apparatus, conductor or safety appliance causes hurt to any person or injury to any property shall be guilty of an

offence and shall be liable on conviction to a fine not exceeding fifty pounds or to imprisonment for a period not exceeding twelve months or both."

4. Section 88 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

Repeal and replacement of section 88 of the Principal Ordinance.

" 88. (1) ~~The amount of electrical energy supplied~~ by the licensee to any consumer, or the electrical quantity contained in the supply (according to the method by which the licensee elects to charge), hereinafter referred to as "the value of the supply," shall, except as otherwise agreed between such consumer and the licensee, be ascertained by means of an appropriate meter or meters which may be duly certified as hereinafter provided, and fixed and connected with the supply system in a manner approved by the Governor.

Meter to be used except by agreement.

(2) Such meter, whether the property of the licensee or of the consumer, may be sealed by the licensee with an approved seal bearing the licensee's distinguishing brand or mark impressed thereon.

Sealing of meters by licensee.

(3) The licensee may, in order to protect such meter or any other apparatus belonging to him, instal suitable cut-outs on a consumer's premises on the supply side of any such meter or other apparatus and seal such cut-outs with an approved seal bearing the licensee's distinguishing brand or mark impressed thereon.

Placing and sealing of cut-outs on consumers' premises by licensee.

(4) Where any seal affixed under the provisions of sub-sections (2) and (3) of this section is broken without the authority of the licensee the consumer upon whose premises the seal was placed shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten pounds:

Penalty for unauthorized breaking of seals.

Provided that where it can be proved that the offence was committed by some person other than the consumer, that person shall be punishable as if he were the consumer upon whose premises the breach occurred."

Repeal and replacement of section 100 of the Principal Ordinance.

Licensee may instal meters to measure supply or to check measurement.

Sealing of meters or other apparatus by licensee.

Penalty for unauthorized breaking of seals.

Repeal and replacement of section 107 of the Principal Ordinance.

Wilful injury to works, tampering with meter or fraudulent use of energy.

5. Section 100 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

“ 100. (1) In addition to any meter which may be placed upon the premises of any consumer to ascertain the value of the supply, the licensee may place upon such consumer's premises such meter or other apparatus as he may desire for the purpose of ascertaining or regulating either the amount of electrical energy supplied to the consumer or the number of hours during which the supply is given, or the maximum power taken by the consumer, or any other quantity or time connected with the supply: Provided that the meter or apparatus shall be of some construction and pattern, and shall be fixed and connected with the supply system in some manner, approved by the Governor, and shall be supplied and maintained entirely at the cost of the licensee and shall not, except by agreement, be placed otherwise than between the mains of the licensee and the consumer's terminals.

(2) Such meter or other apparatus may be sealed by the licensee with an approved seal bearing the licensee's distinguishing brand or mark impressed thereon.

(3) Where any such seal is broken without the authority of the licensee the consumer upon whose premises the seal was placed shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten pounds:

Provided that where it can be proved that the offence was committed by some person other than the consumer, that person shall be punishable as if he were the consumer upon whose premises the breach occurred.”

6. Section 107 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

“ 107. (1) Any person who wilfully <sup>or</sup> fraudulently ~~or~~ ~~by culpable negligence~~ injures or permits to be injured any works of the licensee, or alters the index of any meter for ascertaining the value of the supply, or prevents

any such meter from duly registering the value of the supply, or fraudulently abstracts, consumes, or uses the electrical energy of the licensee shall be guilty of an offence and shall (without prejudice to any other right or remedy for the protection of the licensee or ~~the punishment of the offender~~) be liable on conviction to a fine not exceeding fifty pounds or to imprisonment for a period not exceeding one year or both. **Penalty.**

(2) The existence of artificial or unlawful means for causing such alteration or prevention (when such meter is under the custody or control of the consumer), or for abstracting, consuming or using the electrical energy of the licensee, shall be prima facie evidence that such alteration, prevention, abstraction or consumption, as the case may be, has been fraudulently, knowingly and wilfully caused or permitted *by the consumer*. **Evidence of tampering with meter or fraudulent use of energy.**

(3) In any case in which any person has wilfully and fraudulently injured or permitted to be injured any works of the licensee, or altered the index of any meter for ascertaining the value of the supply, or prevented any such meter from duly registering the value of the supply, the licensee may also, until the matter complained of has been remedied, but no longer, discontinue the supply of electrical energy to the person so offending (notwithstanding any contract previously existing). **Licensee may discontinue supply.**

**7.** Section 125 of the Principal Ordinance is hereby amended by the addition thereto of the following sub-section :— **Amendment of section 125 of the Principal Ordinance.**

“(7) The provisions of sub-sections (1), (2), (3) and (4) of this section shall not apply to applications for authority of the Governor in Council under sections 4 (1) (b) and 39 (3) of this Ordinance.”

*Repealed by Ord. 68/60*

**AN ORDINANCE**

**No. XXIV of 1932**

Assented to in His Majesty's name this eighteenth day of August, 1932.

J. BYRNE,  
Governor.

Date of assent.

[18TH AUGUST, 1932.]

**An Ordinance to Legalise the Payment of a Gratuity and a reduced Pension to Alban Wesley Morris.**

Date of commencement.

*18th August, 1932*

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 Morris Pension Ordinance, 1932."

Payment of gratuity and reduced pension to Mr. A. W. Morris.

2. Anything in the European Officers' Pensions Ordinance, 1927, and the European Officers' Pensions (Consolidation) Regulations, 1930, to the contrary notwithstanding, it shall be lawful for the ~~Treasurer~~ <sup>*Chief Clerk*</sup> to pay out of the revenues of the Colony to Alban Wesley Morris such gratuity and reduced pension as would have been payable to him if he had exercised his option to receive a gratuity and a reduced pension in manner provided by Regulation 16 of the European Officers' Pensions (Consolidation) Regulations, 1930.

## AN ORDINANCE

### No. XXV of 1932

Assented to in His Majesty's name this eighteenth day of August, 1932.

J. BYRNE,  
*Governor.*

[18TH AUGUST, 1932.] Date of assent.

#### **An Ordinance to Supply a Further Sum of Money for the Service of the Year ended 31st December, 1931.**

*18th August, 1932*

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 1931 Short title. Supplementary Appropriation Ordinance, 1932."

**2.** The Public Revenue for the period 1st January to 31st December, 1931, and other Funds of the Colony and Protectorate of Kenya are hereby charged towards the service of the period 1st January to 31st December, 1931, with a further sum of one hundred and sixty-one thousand, four hundred and twenty-seven pounds, thirteen shillings and seventy-nine cents, in addition to the sums provided by the 1931 Appropriation Ordinance No. 49 of 1930.

Public revenue charged.

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

Application of money granted.

**4.** The Treasurer of the Colony and Protectorate of Kenya is hereby given authority for having paid out of the Revenue and other funds of the Colony and Protectorate of Kenya, for the several services specified in the Schedule, the said sum of one hundred and sixty-one thousand, four hundred and twenty-seven pounds, thirteen shillings and seventy-nine cents, which have come in course of payment during the period 1st January to 31st December, 1931

Treasurer's authority for payment.

## SCHEDULE.

		£	s.	cts.
Ia	His Excellency the Governor— Extraordinary ... ..	211	17	00
IIIa	Agricultural Department—Extra- ordinary ... ..	20,218	3	73
XIIIa	Legal Department—Extraordinary	610	13	92
XVa	Medical Department—Extraordinary	58	6	10
XVIa	Military—Extraordinary ... ..	8,673	11	76
XVIIa	Miscellaneous Services—Extra- ordinary ... ..	11,434	0	17
XVIII	Pensions and Gratuities ... ..	7,837	8	23
XXa	Post Office and Telegraphs—Extra- ordinary ... ..	4,965	15	15
XXIII	Public Debt Funded ... ..	76,494	10	93
	Colonial Development Fund ...	30,923	6	80
		<hr/>		
		£161,427	13	79
		<hr/>		

**AN ORDINANCE.****No. XXVI of 1932**

Assented to in His Majesty's name this thirtieth day of December, 1932.

J. BYRNE,  
*Governor.*

[30TH DECEMBER, 1932.] **Date of assent.**

**An Ordinance to Provide for the Suppression of Rabies.**

*30th December, 1932*

**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 Suppression of Rabies Ordinance, 1932." **Short title.**

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

"disease" means rabies and "diseased" means infected with rabies;

"dog" includes any animal of the canine tribe;

"inspector" means an inspector appointed under section 12 of the Diseases of Animals Ordinance; **Cap. 157.**

"stray dog" means any dog found wandering at large in any public place and not being under the control or charge of any person;

"suspected" means suspected of rabies;

"proclaimed district" means any area to which this Ordinance may by proclamation be applied by the Governor, either retrospectively from the ~~twenty-fifth day of November, 1932,~~ or from the date of such proclamation.

**3. (1)** A district officer, veterinary officer, European police officer, inspector or any person authorized by the Chief Veterinary Officer may seize and detain any stray dog in a proclaimed district. **Power to seize, detain or destroy stray dogs.**

(2) In any proclaimed district a district officer, veterinary officer, European police officer, inspector or any person expressly authorized thereto by the Chief Veterinary Officer may shoot or otherwise destroy any stray dog found in any public place or any stray dog which he has reason to suppose to be suspected.

Dogs seized to be impounded.

4. (1) Every dog seized under section 3 shall be detained in such place as shall be appointed in that behalf by the Chief Veterinary Officer, until the owner shall have claimed the same and paid all expenses incurred by reason of such detention.

Notice to owner.

(2) Notice of the seizure of a dog shall immediately be given to the owner, if known.

Power to sell or destroy dog seized.

(3) When a dog has remained under detention for three clear days without the owner claiming it and paying all expenses incurred by reason of its detention, a veterinary officer may cause it to be sold or destroyed.

Order on owner.

5. Any magistrate, if satisfied on a complaint made by any person that a dog in a proclaimed district is not kept under proper control, may make an order on the owner or the person in charge of the dog directing that the dog be kept under proper control, and every person failing to comply with such order shall be liable to a fine of five shillings for every day during which such default continues.

Duties of owners and persons in charge of diseased or suspected dogs.

6. (1) Every owner or person in charge of a diseased dog shall forthwith cause the same to be destroyed, and shall give notice thereof to a veterinary officer.

(2) Every owner or person in charge of a suspected dog shall forthwith cause the same to be destroyed or to be securely tied or otherwise confined, and shall give notice thereof to a veterinary officer.

(3) Any person failing to comply with the requirements of either of the preceding sub-sections of this section shall be liable to a fine of ten pounds, or to imprisonment for three months or to both such fine and such imprisonment.

Power of district officers, veterinary officers and police officers in respect of diseased or suspected dogs.

7. A district officer, veterinary officer, inspector or European police officer receiving credible information of, or having reasonable grounds for suspecting the existence of rabies, shall forthwith cause the matter to be investigated, and for such purpose may cause any dog to be examined and any diseased or suspected dog to be destroyed or otherwise dealt with as he may think necessary.

Power of Chief Veterinary Officer to issue orders in case of an outbreak or expected outbreak of disease.

8. (1) The Chief Veterinary Officer may, in case of an outbreak or expected outbreak of rabies in any area in the Colony, issue orders for all or any of the purposes following:—

(a) For providing for the keeping of dogs under control by the owner, or the person in charge thereof, in such manner as may be prescribed by such order.

- (b) For providing for the seizure, detention and disposal including destruction of dogs not being kept under control in the manner prescribed by such orders.
- (c) For providing for any dogs to be inoculated or otherwise treated in such manner as may be prescribed by such order.
- (d) For providing that no person shall move or cause to be moved any dog out of such area unless he shall have first obtained the written permission of a veterinary officer.
- (e) For providing for the recovery by any veterinary officer of the expenses incurred in respect of the detention of any dog seized and detained and disposed of under such orders from the owner thereof.

(2) Such orders shall be notified in such manner as the Chief Veterinary Officer may think fit, and unless disallowed by the Governor, and until so disallowed, shall have the full force of law, and every person failing to comply with any such order shall be liable to a fine of ten pounds or to imprisonment for three months or to both such fine and such imprisonment.

9. No action shall lie against Government or any officer thereof or any person authorized by any such officer for any act done in good faith under the provisions of this Ordinance, and no compensation shall be payable to any person for any act done in good faith under the provisions of this Ordinance.

Indemnity and compensation.

10. The Governor in Council may make rules for prescribing fees for the inoculation, testing, disinfecting, and maintenance of dogs and for better carrying into effect the purposes of this Ordinance.

Power to make rules.

**AN ORDINANCE.****No. XXVII of 1932**

Assented to in His Majesty's name this thirtieth day of December, 1932.

J. BYRNE,  
Governor.

Date of assent.

[30TH DECEMBER, 1932.]

**An Ordinance to Amend the Levy on Official Salaries Ordinance, 1931.**

Date of commencement.

30th December, 1932

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 Levy on Official Salaries (Amendment) Ordinance, 1932," and shall be read as one with the Levy on Official Salaries Ordinance, 1931, hereinafter referred to as " the Principal Ordinance."

No. 57 of 1931.

Amendment of section 2 of the Principal Ordinance.

2. Section 2 of the Principal Ordinance is hereby amended by deleting from the definition of " salary " the words " whether such officer is in the Colony or on leave in or from the Colony."

Amendment of section 4 of the Principal Ordinance.

3. Section 4 of the Principal Ordinance is hereby amended by inserting after the word " levy " in the fourth line of the first sub-section of the section the words " either wholly or partially."

Governor may refund levy on officers of common service.

4. (1) It shall be lawful for the Governor to pay from the revenue of the Colony to the Government of the Uganda Protectorate or to the Government of Tanganyika Territory such proportion of the levy imposed on the salary of an officer of a common service as the amount of the contribution from such Government in respect of such salary bears to the total of such salary.

Definition of " common service."

(2) For the purposes of this section " common service " means a service which is common to the Colony and to either or both of the dependencies mentioned in the first sub-section of this section, and part of the cost of which to the Colony is reimbursed by such other dependency but does not include the East African Agricultural Research Station at Amani, the Governors' Conference Establishment or the Joint East African Meteorological Service.

1932

*Levy on Official Salaries*

No. XXVII

(3) The proceeds of the levy on the salary of any officer of the East African Agricultural Research Station at Amani or of the Governors' Conference Establishment or of the Joint East African Meteorological Service shall notwithstanding anything contained in section 7 of the Principal Ordinance be paid to and form part of the revenue of the said Research Station, Establishment or Service, as the case may be.

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**AN ORDINANCE.****No. XXVIII of 1932**

Assented to in His Majesty's name this thirtieth day of December, 1932.

J. BYRNE,  
*Governor.*

Date of assent.

[30TH DECEMBER, 1932.]

**An Ordinance to Amend the Widows' and Orphans' Pension Ordinance.**

Date of commencement.

*1st October, 1932*

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

Short title.

**1.** This Ordinance may be cited as "the Widows' and Orphans' Pension (Amendment) Ordinance, 1932," and shall be read as one with the Widows' and Orphans' Pension Ordinance (Chapter 34 of the Revised Edition), hereinafter referred to as "the Principal Ordinance."

Amendment of section 3 of the Principal Ordinance.

**2.** Section 3 of the Principal Ordinance is hereby amended by deleting sub-section (2) (a) thereof, by renumbering sub-section (2) (b) as sub-section (2), and by adding the following as sub-section (4) thereof :—

"(4) Any officer who has claimed exemption from the obligation to become a contributor under this Ordinance under sub-section (4) (a) of section 4 of this Ordinance and who subsequently becomes ineligible to continue to be a depositor to the Kenya and Uganda Railways and Harbours Provident Fund, shall become a contributor under the provisions of this Ordinance from the date on which he ceases to be a depositor in the said fund unless he is otherwise ineligible or not liable to do so."

Amendment of section 4 of the Principal Ordinance.

**3.** Section 4 of the Principal Ordinance is hereby amended by the addition thereto of the following sub-section :—

"(4) (a) Any officer who is or becomes a depositor to the Kenya and Uganda Railways and Harbours Provident Fund may claim exemption from the obligation to become or continue to be a contributor under this Ordinance, provided that every such claim shall be made in writing and shall be received by the Crown Agents not later than the thirty-first day of December, 1932, or within six

months from the date upon which such officer first became a depositor to the said fund, whichever shall be the later date.

(b) Every such claim for exemption shall take effect from the date upon which the officer first became a depositor to the said fund and the amount of any contributions which he shall have made under this Ordinance since that date shall be refunded to him without interest.

(c) As from the date upon which any such claim to exemption shall take effect the officer by whom the claim was made shall be deemed, in respect of all rights arising from his contributions made under this Ordinance prior to that date, to be subject to the provisions of sections 26, 27 and 28 of this Ordinance to the same extent as if he had left the East African Service on that date.

(d) For the purposes of this sub-section an officer who had previously been a depositor in the said fund and had ceased to be a depositor but who again becomes a depositor by reason of his re-appointment to the service of the High Commissioner for Transport shall have the same rights as though the date upon which he again becomes a depositor were the date upon which he became a depositor for the first time.

(e) Save as provided in sub-section (4) of section 3 of this Ordinance an officer who has claimed exemption under this sub-section may not subsequently become a contributor under this Ordinance unless he marries and gives notice to the Government not later than three months after the date of his marriage that he desires so to become a contributor, and satisfies the Governor, by submitting to such medical examination as the Governor may require, or otherwise, that he is in good health :

Provided that in the application of this sub-section to an officer who was married before the date when this Ordinance comes into operation, that date shall be deemed to be the date of his marriage.

4. Section 7 of the Principal Ordinance is hereby amended by repealing sub-section (1) of the section and substituting therefor the following :—

“ 7. (1) All annual contributions shall be paid in monthly instalments and shall, subject as hereinafter mentioned, be payable until either the contributor dies, or he has contributed for an exact number of years, such period of payment in the latter case terminating on or after the

Repeal and  
replacement  
of section 7 (1)  
of the  
Principal  
Ordinance.

forty-ninth and before the fiftieth birthday of the contributor; provided that a contributor who is making an additional annual contribution may at any time, by notification to the Crown Agents, elect to discontinue such contribution either as from the next date, subsequent to the receipt of his notification of election by the Crown Agents on which the instalments paid on account thereof will amount to one or more full annual contributions, or as from the beginning of the month next after that in which his notification of election is received by the Crown Agents.

When a contributor so elects to discontinue an additional annual contribution, only such instalments thereof as form part of a complete annual contribution paid by him shall be taken into account for the purpose of calculating any pension under this Ordinance, and any balance shall not be refunded except in pursuance of the provisions of section 26 of this Ordinance."

Repeal and replacement of section 11 (2) of the

Principal Ordinance.

5. Sub-section (2) of section 11 of the Principal Ordinance is hereby repealed and the following is substituted therefor:—

"(2) If a contributor or widow of a contributor shall at any time have wilfully made any false statement respecting any of the particulars required by this Ordinance to be furnished, all or any part of the rights under the scheme of the contributor or the widow or any child of the contributor shall be liable to be forfeited at the discretion of the Secretary of State."

Amendment of section 16 of the Principal Ordinance.

6. Sub-section (1) of section 16 of the Principal Ordinance shall be amended by the insertion therein after the words "East African Service" of the words "(not having elected under section 8 of the Widows' and Orphans' Pensions (Amendment) Ordinance, 1932, to continue to rank for benefit)".

Amendment of section 26 of the Principal Ordinance.

7. Section 26 of the Principal Ordinance is hereby amended by the insertion of the words "attains the age of fifty-five years while still serving in" after the word "leaves" which occurs in the fourth line thereof.

Option to continue payments.

8. (1) Notwithstanding the provisions of section 26 of the Principal Ordinance, any contributor such as is mentioned in that section—

(a) who is, or has been, compelled, after the first day of January, 1931, to leave the East African service in

- consequence of the abolition of his office, or with a view to effecting economy, and
- (b) who is not transferred to other ~~service under the~~ <sup>Public Service</sup> Crown, and
- (c) who is in receipt of a pension granted in respect of his service in East Africa, ~~and~~
- (d) whose ~~service~~ <sup>service</sup> is of such a nature and of such length as would render him eligible for a pension if retired from the East African Service on a medical certificate,

may, not later than three months after the date of commencement of this Ordinance, or one month after the date upon which he leaves the East African Service, whichever shall be the later, elect, in lieu of receiving repayment of his contributions under the said section 26, to continue to make contributions, which shall be deducted from his pension, at the rate at which he was contributing immediately before he left the East African service.

(2) The date of the exercise of the option under this section shall be deemed to be the receipt of written notification addressed by the contributor either to the Colonial Secretary in the Colony or to the Crown Agents for the Colonies.

(3) A contributor who shall have elected under this section to continue to make contributions may, at any time after leaving the East African service, cease to contribute. When such a contributor so ceases to contribute then---

- (a) if he is married or a widower with children of a pensionable age, any pension payable on his death shall be reduced so as to correspond with the payments he has made;
- (b) in any other case, section 26 of the Principal Ordinance shall apply as if he had left the East African service at the date on which he so ceased to contribute.

9. Notwithstanding the provisions of section 28 of the Principal Ordinance, any such contributor as is mentioned in that section who is or has been compelled after the first day of January, 1931, to leave the East African Service in consequence of the abolition of his office or with a view to effecting economy, and is not transferred to other service under the Crown, may elect at his option exercisable as hereinafter provided to rank for benefit as though section 27 of <sup>Contribution by retrenched officers.</sup>

the Principal Ordinance were applicable instead of in accordance with the provisions of section 28; but he shall not be eligible to continue to contribute.

Option.

**10.** (1) The option referred to in the preceding section shall be exercisable—

(a) in the case of an officer who has retired at the date of commencement of this Ordinance not later than three months after that date; and

(b) in the case of any other officer not later than one month after the date on which he ceases to draw salary.

(2) The date of the exercise of the option shall be deemed to be the receipt of his written notification addressed either to the Colonial Secretary in Nairobi or to the Crown Agents for the Colonies.

(3) If an officer has exercised the option, his decision shall be irrevocable.

Date of application of Principal Ordinance to certain officers.  
No. 9 of 1931.

**11.** Notwithstanding anything contained in the Widows' and Orphans' Pension (Amendment) Ordinance, 1931, the officers enumerated in the Schedule shall be subject to the provisions of the Principal Ordinance with effect from the dates upon which they were respectively taken on to the open line staff of the High Commissioner for Transport.

Commencement of Ordinance.

**12.** This Ordinance shall be deemed to have come into operation on the first day of October, 1932.

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SCHEDULE.

Mr. Richard Cooper Gowthorpe.

Mr. Frank Buckley.

Mr. Richard Charles Maynard-Buckby.

Mr. Williams Henry Stevens.

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**AN ORDINANCE.****No. XXIX of 1932**

Assented to in His Majesty's name this thirtieth day of December, 1932.

*Replaced by*  
*Ord. No. 19/32*  
 J. BIRNE,  
 Governor.

[30TH DECEMBER, 1932.] Date of assent.

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

*30th December, 1932*

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 (Municipalities) (Amendment) Ordinance, 1932," and shall be read as one with the Local Government (Municipalities) Ordinance, 1928, hereinafter referred to as "the Principal Ordinance."

Short title.

No. 19 of 1928.

2. Section 52 of the Principal Ordinance is hereby amended by the addition after sub-section (34) of the following sub-section :—

"(34A) Notwithstanding any provisions of this Ordinance, or the Traffic Ordinance, 1928, or any other law, whenever any service of motor omnibuses or other vehicles drawn or propelled by animal, mechanical or electrical power for the carriage of passengers is established, acquired, maintained or carried on either by the Council or by any person or corporation under an agreement entered into with the Council under this Ordinance, to prohibit, subject to the approval of the Governor, the carrying on by any person or corporation (other than a person or corporation with whom the Council has entered into an agreement as aforesaid) of any such service; and when any such prohibition has been so made and approved, no licence issued under any law in respect of any public vehicle or motor vehicle carrying passengers for hire or reward, if such public vehicle or motor vehicle be licensed to carry more than six passengers, shall, without the consent of the Council, entitle any person to ply for hire with such public vehicle or motor vehicle within the municipality :

No. 26 of 1928.

Provided that—

- (a) the right of any person to ply for hire within the municipality with any public vehicle or motor vehicle for the unexpired period of any licence issued prior to the coming into force of this sub-section shall not be affected;
- (b) the right of any person to carry for hire or reward passengers departing to or arriving from any place outside the limits of the municipality shall not be affected by this sub-section;
- (c) the powers of the Council under this sub-section shall not be exercised in respect of any such service established, maintained or carried on by any person or corporation under an agreement entered into with the Council unless and until the terms of such agreement have received the approval of the Governor;
- (d) before any resolution to prohibit the carrying on by any person or corporation of any such service is made by the Council, notice of the intention to introduce a motion for this purpose shall be given by publication in the Gazette and in at least one newspaper circulating within the municipality. Such notice shall be given once in each week for four succeeding weeks, and any objections received shall be laid before the Council at the meeting appointed to consider the motion and copies thereof shall be forwarded to the Governor.

Any person who contravenes the provisions of this sub-section shall be liable on conviction to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding six months, and, in addition, to a fine not exceeding ten pounds in respect of each and every day upon which he contravenes the provisions of this sub-section."

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**AN ORDINANCE.****No. XXX of 1932**

Assented to in His Majesty's name this thirtieth day of December, 1932.

J. BYRNE,  
*Governor.*

[30TH DECEMBER, 1932.] Date of assent.

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

*30th December, 1932*

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) (No. 2) Ordinance, 1932," and shall be read as one with the Local Government (District Councils) Ordinance, 1928, hereinafter referred to as "the Principal Ordinance."

Short title.

No. 21 of 1928.

2. Section 20 of the Principal Ordinance is hereby repealed and the following substituted therefor :—

Repeal and replacem<sup>t</sup>ent of section 20 of the Principal Ordinance. Holding of first elections and term of office.

20. (1) The first election of members of the Council (hereinafter referred to as "members") shall be held in the manner hereinafter prescribed as soon as may be after the voters' rolls in the district have been completed. The date of any such election shall be such date as may be notified in the Gazette by the Commissioner for Local Government.

(2) Of the members so elected, one-third, or as near as may be, shall retire on the thirtieth day of April immediately following the date upon which the first election is held, and one-third, or as near as may be, shall retire on the thirtieth day of April next ensuing and the remaining one-third, or as near as may be, shall retire on the thirtieth day of April next again ensuing.

Provided, however, that, where the district is divided into wards, and each ward is represented by more than one member, an equal proportion (or as near as may be) of the number of members representing each ward shall retire on each succeeding thirtieth day of April.

(3) The order of retirement of members under this section shall be determined by lot.

(4) Any member of any District Council elected prior to the first day of January, 1933, who would, under the Principal Ordinance, become due to retire on or after that date shall, notwithstanding the actual date of determination of the period for which he was elected, retire upon the thirtieth day of April in the year in which his retirement would, under the Principal Ordinance, have become due.

Repeal and replacement of section 21 of the Principal Ordinance.

Annual elections and terms of office.

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

21. (1) After the first election of members as aforesaid, an annual election shall be held upon the first day in March which is neither a Sunday nor a public holiday in each and every year for the purpose of electing members to replace those members whose terms of office expire upon the thirtieth day of April next ensuing.

(2) The members elected at every such annual election to fill the vacancies caused by the retirement of members owing to the expiration of their term of office, shall hold office for a period of three years.

Repeal and replacement of section 23 of the Principal Ordinance.  
Casual vacancies.

4. Section 23 of the Principal Ordinance is hereby repealed and the following substituted therefor :—

23. (1) Any vacancy caused by the death of an elected member or by an elected member vacating his seat for any reason other than the expiration of his term of office shall be deemed to be a casual vacancy.

(2) Whenever a casual vacancy shall occur an election shall as soon as possible be held for the purpose of filling such vacancy and the Councillor to be elected to fill such vacancy shall be elected in the manner provided for the election of candidates at the annual election. Any member elected to fill a casual vacancy under this section shall hold office for the remainder of the term for which the member whose place he has taken would have been entitled to remain in office.

Amendment of section 26 (1) of the Principal Ordinance.  
No. 7 of 1930.

5. Sub-section (1) of section 26 of the Principal Ordinance, as amended by section 3 of the Local Government (District Councils) (Amendment) Ordinance, 1930, is hereby further amended by the deletion of the word "fourteen" in the third line of the sub-section, and the substitution therefor of the word "ten."

6. (1) Sub-section (1) of section 27 of the Principal Ordinance is hereby amended by substituting the words " ten o'clock in the forenoon until one o'clock in the afternoon " for the words " eleven o'clock in the forenoon and for sixty minutes thereafter " in the third and fourth lines of the sub-section.

Amendment of section 27 of the Principal Ordinance.

(2) Sub-section (2) of section 27 of the Principal Ordinance is hereby amended by substituting the word " three " for the word " seven " in the second line thereof.

(3) Sub-section (3) of section 27 of the Principal Ordinance is hereby amended by the deletion of the words " and supporters " in the third line thereof.

7. Section 29 of the Principal Ordinance is hereby repealed and the following substituted therefor:—

Repeal and replacement of section 29 of the Principal Ordinance.

29. (1) If at the expiration of the time appointed for the election the number of any duly nominated candidates for any district or ward, as the case may be, does not exceed the number of members to be elected for such district or ward, the returning officer shall forthwith declare such candidate or candidates to be elected, and shall publish the result of the election in the Gazette.

Procedure for election of candidates.

(2) If the number of duly nominated candidates exceeds the number of members to be elected as aforesaid, the returning officer shall forthwith adjourn the election for the purpose of taking a poll and shall publish immediately in the Gazette and in one or more newspapers circulating in the district and cause to be posted at such conspicuous places as he shall think fit within the ward or wards in which a poll is to be taken, a notice specifying—

- (a) the ward or wards in which the poll will be taken;
- (b) the date on which the poll will be taken, which shall not be less than fourteen days from the date of the publication of the notice;
- (c) the names of the candidates as described in their respective nomination papers and the names of their proposers and seconders;

(d) the place or places at which a poll will be taken and the portion of the district or ward, as the case may be, allotted to each polling station.

(3) No election which is adjourned for the purpose of taking a poll shall be declared invalid for the reason that the poll was not held or completed before the thirtieth day of April in the year in which such election is held.

Amendment of section 30 of the Principal Ordinance.

8. Section 30 of the Principal Ordinance is hereby amended by substituting the words " returning officer " for the words " Commissioner for Local Government " in the third and fourth lines of the section.

Repeal and replacement of section 60 of the Principal Ordinance. No. 7 of 1930.

9. Section 60 of the Principal Ordinance, as amended by the Local Government (District Councils) (Amendment) Ordinance, 1930, is hereby repealed and the following substituted therefor :—

Council to control district roads.

" 60. (1) The Council shall have the general control and care of all district roads, as herein defined, and of all bridges, ferries, fords, drifts, culverts, drains and other accessories on any such roads or used in connexion therewith, and the Council may make, construct, alter, repair, and, if necessary, temporarily close any such road or any such bridge, ferry, ford, drift, culvert, drain and other accessory, and the same shall be vested in the Council in trust to keep the same for the use and benefit of the inhabitants.

(2) The Council may by order prescribe that any district road or part thereof shall be open to traffic of a particular kind or shall be closed to traffic of a particular kind or shall be closed to all traffic, and may order the suspension of any or all traffic on any district road for any specified period or may fix times during which any particular kind of traffic, which is authorized to use such road, may use it :

Provided that the Council shall display such road signs or warning notices or barriers as should suffice to convey to the public adequate intimation of the effect of any such order :

Provided further that the Council shall publish in a newspaper circulating in the district notice of any order closing a road to all traffic as soon as possible after such order has been made.

(3) Any person feeling himself aggrieved by any order made under sub-section (2) of this section may appeal against such order to the Governor whose decision shall be final.

(4) The Council shall not commence to construct or carry out any road work the cost of which is estimated to exceed one thousand pounds without the consent of the Standing Committee and the Council shall in every case furnish such plans and specifications as may be required by the Commissioner for Local Government."

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**AN ORDINANCE.****No. XXXI of 1932**

Assented to in His Majesty's name this thirtieth day of December, 1932.

J. BYRNE,  
Governor.

Date of assent. [30TH DECEMBER, 1932.]

**An Ordinance relating to the Protection of the  
Sisal Bag Industry.**

Date of commencement. 30th December, 1932

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 Sisai Bag Industry Ordinance, 1932."

Interpretation. 2. In this Ordinance, unless the context otherwise requires, "sisal bags" means bags and material made wholly or predominantly of the fibre of *Agave rigida*, var. *Sisalana*, and includes any fabric, bagging or packing material made therefrom.

Minimum price for certain bags. 3. (1) No person shall sell within the Colony any new bags of any of the descriptions mentioned in the Schedule to this Ordinance at a price lower than the lowest price quoted by the Bengal Chamber of Commerce for such bags "free alongside ship" Calcutta, between the time at which the original overseas contract for purchase was made and the time at which the bags were sold within the Colony plus such amount as may in the opinion of the Commissioner of Customs be reasonable to cover loading, freight, landing charges, insurance, delivery and other cognate charges.

(2) The Governor in Council may by order, add to or vary the Schedule to this Ordinance and may also by such order specify the minimum price at which any trade description of bag added to the said Schedule may be sold.

No. 32 of 1930. (3) Nothing in this section contained shall apply to a sale by order of a court or to a sale of the property of a bankrupt under the Bankruptcy Ordinance, 1930.

(4) This section shall come into operation three months after the issue of a licence under section 4 of this Ordinance

and shall remain in force so long only as a licence under the said section is in force.

4. (1) No person shall manufacture sisal bags unless he is in possession of a licence issued to him by the Governor in Council. Licence to manufacture sisal bags.

(2) Every applicant for a licence under this section shall specify the building and/or place at which the licensee proposes to manufacture sisal bags and no licensee shall manufacture sisal bags otherwise than at such building and/or place.

(3) The Governor in Council may in his discretion refuse to issue a licence to any person on the ground that a sufficient number of licences have already been granted or on any other ground which may appear to him to be sufficient.

(4) Every licence shall be in such form and shall contain such conditions as may be prescribed by the Governor in Council and the annual fee in respect of each licence shall be the sum of ten pounds.

5. Any person who contravenes or fails to comply with any of the provisions of section 3 or section 4 (1) of this Ordinance shall be guilty of an offence, and, subject to the provisions of this Ordinance, shall be liable on conviction to a penalty not exceeding five hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and imprisonment. Penalties.

#### SCHEDULE.

Liverpool Twills.

"A" Twills.

"B" Twills.

Light Cees ("C" bags light).

**AN ORDINANCE.****No. XXXII of 1932**

Assented to in His Majesty's name this thirtieth day  
of December, 1932.

J. BYRNE,  
*Governor.*

Date of assent.

[30TH DECEMBER, 1932.]

**An Ordinance to Amend the Excise Duties  
Ordinance, 1931.**

Date of  
commencement.*30th December, 1932*

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 Excise Duties  
(Amendment) Ordinance, 1932," and shall be read as one with  
the Excise Duties Ordinance, 1931, hereinafter called "the  
Principal Ordinance."

No. 52 of 1931.

Exemption  
from excise  
duty.

**2.** Notwithstanding anything contained in the Principal  
Ordinance excise duty shall not be payable on tobacco made  
up by the grower, without the use of machinery, ready for  
smoking in tobacco pipes.

## AN ORDINANCE.

### No. XXXIII of 1932

Assented to in His Majesty's name this thirtieth day  
of December, 1932.

J. BYRNE,  
*Governor.*

[30TH DECEMBER, 1932.] Date of assent.

#### An Ordinance to Amend the Customs Tariff Ordinance, 1930.

Section 2—*By notice.*

Date of  
commencement.

Section 3—*30th June, 1932.*

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, 1932," and shall be read as one with  
the Customs Tariff Ordinance, 1930, hereinafter called "the  
Principal Ordinance." Short title.  
No. 1 of 1930.

2. (1) Class I of the Schedule to the Principal Ordinance  
is hereby amended by the deletion of item 12 (b) occurring  
therein, and the substitution of the following in lieu thereof :— Amendment of  
Class I of  
Schedule to  
the Principal  
Ordinance.

Item	Article	Duty
12	(b) Currants, dried, without sugar ..	per 100 lb. .. <span style="float: right;">Sh. cts. 1 75</span>

*Mod. 30/32*

(2) This section shall come into operation on such day  
as the Governor may by notice in the Gazette appoint. Commence-  
ment.  
1.1.33

3. Notwithstanding anything contained in section 4 of  
the Principal Ordinance, the Commissioner shall be  
empowered, in respect of goods conveyed by air, to reduce the  
amount of the freight charges to be added to the value for  
purposes of assessment of duty to a figure not less than one-  
fourth of the freight charges actually payable on such goods. Reduction of  
freight charges  
for goods  
conveyed by  
air.

4. Section 3 of this Ordinance shall be deemed to have  
come into operation on the 30th day of June, 1932, and the  
~~Treasurer~~ <sup>*Govt. Secy*</sup> is hereby authorized to pay out of the general  
revenue of the Colony such sums as may be found to be payable  
by way of refunds owing to the retrospective effect of section 3  
of this Ordinance. Authority to  
refund excess  
duty.

**AN ORDINANCE.**

**No. XXXIV of 1932**

Assented to in His Majesty's name this thirtieth day of  
December, 1932.

J. BYRNE,  
*Governor.*

Date of assent. [30TH DECEMBER, 1932.]

**An Ordinance to Amend the Prisons  
Ordinance, 1930.**

Date of commencement. *30th December, 1932*

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 Prisons  
(Amendment) Ordinance, 1932,” and shall be read as one  
No. 37 of 1930. with the Prisons Ordinance, 1930, hereinafter referred to as  
“ the Principal Ordinance.”

Amendment of section 2 of the Principal Ordinance. **2.** Section 2 of the Principal Ordinance is hereby  
amended as follows—

(a) by the insertion of the word “ assistant ” between  
the words “ no ” and “ superintendent ” in the  
third line of the definition of the term “ superin-  
tendent ” ;

(b) by the addition of the following definitions after the  
definition of “ prohibited article ”—

“ ‘ penal diet ’ means a punishment diet  
sufficient to sustain life for a limited period pro-  
vided that it is not combined with hard labour ;  
‘ reduced diet ’ means a punishment diet not  
entailing exemption from hard labour.”

Amendment of section 14 (2) of the Principal Ordinance. **3.** Paragraph (2) of section 14 of the Principal  
Ordinance is hereby amended by the insertion of the word  
“ and ” between the words “ prison ” and “ an ” which  
occur in the third line thereof.

Amendment of section 22 (4) of the Principal Ordinance. **4.** Sub-section (4) of section 22 of the Principal Ordin-  
ance is hereby amended as follows :—

(a) by the deletion of the word “ and ” which occurs in  
the seventh line thereof ;

(b) by the insertion of the word "and" at the end of paragraph (d) thereof.

5. Section 31 of the Principal Ordinance is hereby amended by the substitution of the word "prisoner" for the words "person in prison under sentence of any court for an offence committed by him" which occur in the second and third lines thereof. Amendment of section 31 of the Principal Ordinance.

6. Section 33 of the Principal Ordinance is hereby amended by the substitution of the word "appear" for the words "become or be found" which occur in the first line thereof. Amendment of section 33 of the Principal Ordinance.

7. Section 40 of the Principal Ordinance is hereby amended by the substitution of the words "more than six months" for the words "six months or more" which occur in the second line thereof. Amendment of section 40 of the Principal Ordinance.

8. Section 42 of the Principal Ordinance is hereby amended by the addition at the end thereof of the following:—  
 "Any licence granted under this section shall, unless revoked or altered by the Commissioner, continue in force for the unexpired portion of the sentence, less any period of remission earned under section 40 of this Ordinance."  
Amendment of section 42 of the Principal Ordinance.

9. Section 52 of the Principal Ordinance is hereby amended by inserting after the figures "49" in the second line of the section the words "or by any rules made under this Ordinance". Amendment of section 52 of the Principal Ordinance.

10. Paragraph (21) of section 57 of the Principal Ordinance is hereby amended by the substitution of the word "wells" for the word "walls" which occurs in the first line thereof. Amendment of section 57 (21) of the Principal Ordinance.

11. Sub-section (2) of section 61 of the Principal Ordinance is hereby repealed and the following substituted therefor:—  
Amendment of section 61 (2) of the Principal Ordinance.

"(2) A sentence of corporal punishment shall be to be whipped once only. Such whipping shall be with a rod or cane to be approved by the Governor or with such other instrument as the Governor may approve. The sentence shall specify the number of strokes which shall not exceed twenty-four, and in the case of a person under the age of sixteen years shall not exceed twelve

strokes with a light cane. Every sentence of corporal punishment exceeding twelve strokes shall be subject to confirmation by the Governor and shall not be carried into effect until such confirmation shall have been received."

**Amendment of section 62 of the Principal Ordinance.**

**12.** Section 62 of the Principal Ordinance is hereby amended by the addition thereto of the following proviso:—

" Provided that nothing in this Ordinance shall be construed to exempt any prisoner from being proceeded against for any offence by the ordinary course of law, and provided that no prisoner shall be punished twice for the same offence."

**AN ORDINANCE.****No. XXXV of 1932**

Assented to in His Majesty's name this thirtieth day  
of December, 1932.

J. BYRNE,  
*Governor.*

[30TH DECEMBER, 1932.] *Date of assent.*

**An Ordinance to Amend the Native Tribunals  
Ordinance, 1930.**

*30th December, 1932*

*Date of  
commencement.*

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

1. This Ordinance may be cited as "the Native Tri-  
bunals (Amendment) Ordinance, 1932," and shall be read as  
one with the Native Tribunals Ordinance, 1930, hereinafter  
called "the Principal Ordinance."

*Short title.*

*No. 39 of 1930.*

2. Sub-section (4) of section 34 of the Principal Ordinance is hereby repealed and the following sub-section is substituted therefor:—

*Amendment of  
section 34 (4)  
of the  
Principal  
Ordinance.*

"(4) Any person aggrieved by any order or decision of the Provincial Commissioner made or given upon appeal from a District ~~Commissioner~~ *Magistrate*, whereby such person is sentenced to a term of imprisonment of four months or more, or to pay a fine exceeding fifteen pounds, or, in civil proceedings other than cases in connexion with marriage or inheritance or relating to immovable property, where the sum involved is more than fifty pounds, excluding costs, may within thirty days from the date of such order apply to the Provincial Commissioner to state a case for the consideration of the Supreme Court, and the Provincial Commissioner shall thereupon state and sign such case and transmit it to the Registrar of the Supreme Court."

**AN ORDINANCE.**

**No. XXXVI of 1932**

Assented to in His Majesty's name this thirtieth day of December, 1932.

*Refracted by* J. BYRNE,  
Governor.  
[30TH DECEMBER, 1932.]  
*Ind. 3/1/32*

Date of assent.

**An Ordinance to Amend the Chattels Transfer Ordinance, 1930.**

Date of commencement.

*13th June, 1930*

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 Chattels Transfer (Amendment) Ordinance, 1932," and shall be read as one with the Chattels Transfer Ordinance, 1930, hereinafter referred to as " the Principal Ordinance."

No. 24 of 1930.

Amendment of section 2 of the Principal Ordinance.

**2.** Section 2 of the Principal Ordinance is hereby amended by deleting paragraph (j) of the definition of the term "Instrument", and by renumbering paragraph (k) as paragraph (j).

Date of operation.

**3.** This Ordinance shall have retrospective effect and shall be deemed to have come into force on the 13th day of June, 1930.

**AN ORDINANCE.****No. XXXVII of 1932**

Assented to in His Majesty's name this thirtieth day  
of December, 1932.

J. BYRNE,  
*Governor.*

[30TH DECEMBER, 1932.] Date of assent.

**An Ordinance to Amend the Estate Duty  
(Consolidation) Ordinance, 1926.**

*30th December, 1932*

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 Estate Duty Short title.  
(Consolidation) (Amendment) Ordinance, 1932," and shall be  
read as one with the Estate Duty (Consolidation) Ordinance, No. 13 of 1926.  
1926, hereinafter called "the Principal Ordinance."

2. Notwithstanding anything contained in sub-section Payment on  
(5) of section 14 of the Principal Ordinance, when payment of immovable  
duty on immovable property is made by instalments, the Com- property by  
missioners may impose such terms and conditions upon the instalments  
person accountable as will, in their opinion, provide for the may be made  
due and regular payment of the instalments, and, in the case subject to  
of the person accountable refusing to comply with such terms terms and  
and conditions, then the provisions of sub-section (5) of section conditions.  
14 of the Principal Ordinance shall not apply to such person.

**AN ORDINANCE.****No. XXXVIII of 1932**

Assented to in His Majesty's name this thirtieth day of December, 1932.

J. BYRNE,  
*Governor.*

Date of assent. [30TH DECEMBER, 1932.]

**An Ordinance to Amend the Trout Protection Ordinance, 1928.**

Date of commencement. *30th December, 1932*

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 Trout Protection (Amendment) Ordinance, 1932,” and shall be read as one with the Trout Protection Ordinance, 1928, hereinafter referred to as “ the Principal Ordinance.”

No. 24 of 1928.

Amendment of section 2 of the Principal Ordinance. **2.** The definition of “ Resident ” in section 2 of the Principal Ordinance is hereby deleted.

Repeal and replacement of section 10 of the Principal Ordinance. **3.** Section 10 of the Principal Ordinance, as amended by the Trout Protection (Amendment) Ordinance, 1930, is hereby repealed and the following substituted therefor :—

Fees payable for licences. “ 10. (1) The following Trout Fishing Licences may be granted by any licensing officer and the following fees shall be paid therefor, that is to say :—

	Sh.
Yearly Licence . . . . .	25
Fortnightly Licence . . . . .	10
Twenty-four Hourly Licence . . . . .	3

(2) (a) A Yearly Licence shall be in force up to and including the thirty-first day of December in the year of issue.

(b) A Fortnightly Licence shall be in force for fourteen consecutive days from and including the day on which it is dated to commence by the licensing officer.

(c) A Twenty-four Hourly Licence shall be in force for twenty-four consecutive hours from and including the hour of the day on which it is dated to commence by the licensing officer.

(3) A Fortnightly Licence may be converted during the year of its issue into a Yearly Licence on payment of the difference between the fees for Fortnightly and Yearly Licences.

(4) The Governor shall have power to remit the fee payable in respect of any licence under this Ordinance.

(5) In the event of any licensee losing his licence he may apply to the licensing officer who issued such licence for the issue of a duplicate licence, and a fee of two shillings shall be charged by such licensing officer for the issue of such duplicate licence."

4. The Trout Protection (Amendment) Ordinance, 1930, is hereby repealed. Repeal.  
No. 27 of 1930.

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**AN ORDINANCE.****No. XXXIX of 1932**

Assented to in His Majesty's name this thirty-first day  
of December, 1932.

J. BYRNE,  
*Governor.*

Date of assent.

[31ST DECEMBER, 1932.]

**An Ordinance to Amend the Ancient Monuments  
Preservation Ordinance, 1927.**

Date of commencement.

*31st December, 1932*

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 Ancient Monu-  
ments Preservation (Amendment) Ordinance, 1932 ", and  
shall be read as one with the Ancient Monuments Preservation  
Ordinance, 1927, hereinafter referred to as " the Principal  
Ordinance."

No. 17 of 1927.

Amendment of section 2 of the Principal Ordinance.

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

(a) by deleting the definition of " Monument " therein  
contained and substituting therefor the following :—

" Monument " means any structure, erection, or  
memorial, or any tumulus or place of interment, or any cave,  
rock-sculpture, inscription or monolith, or any fossil  
remains of animals or plants, or any bed or beds contain-  
ing such fossil remains, which are of archæological,  
scientific, historical or artistic interest, or any remains  
thereof, and includes—

(a) the site of the monument;

(b) such portion of land adjoining the site of the  
monument as may be required for fencing or  
covering in or otherwise preserving such  
monument; and

(c) the means of access to and convenient inspection  
of the monument;

(b) by inserting the word " scientific " after the  
word " archæological " in the definition of  
" Antiquity "; and

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*Ancient Monuments Preservation*

No. XXXIX

(c) by substituting the word " Provincial " for the word  
" Senior " in the definition of " Authority ".

3. Section 15 of the Principal Ordinance is hereby amended by deleting the figure and brackets (1) after the figures 15, at the beginning of the section.

Amendment of  
section 15 of  
the Principal  
Ordinance.

**AN ORDINANCE.****No. XL of 1932**

Assented to in His Majesty's name this thirty-first day of December, 1932.

J. BYRNE,  
*Governor.*

Date of assent.

[31ST DECEMBER, 1932.]

**An Ordinance to Render Lawful Certain Contracts  
in Restraint of Trade.**

Date of  
commencement.

*31st December, 1932*

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 Contracts in Restraint of Trade (No. 2) Ordinance, 1932.”

Contracts in  
restraint of  
trade.

**2.** Any agreement or contract which contains any provision or covenant whereby any party thereto is restrained from exercising any lawful profession, trade, business, or occupation, shall not be void only on the ground that such provision or covenant is therein contained :

Power of Court  
to declare  
covenant void.

Provided that the Supreme Court shall have power to declare such provision or covenant to be void where the court is satisfied that, having regard to the nature of the profession, trade, business, or occupation concerned, and the period of time and the area within which it is expressed to apply, and to all the circumstances of the case, such provision or covenant is not reasonable either in the interests of the parties, inasmuch as it affords more than adequate protection to the party in whose favour it is imposed against something against which he is entitled to be protected, or in the interests of the public, inasmuch as such provision or covenant is injurious to the public interest :

And provided further that where a minor has entered into any agreement or contract containing any such provision or covenant the court shall also take into consideration whether it was for his benefit that he did so.

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*Contracts in Restraint of Trade*

No. XL

3. Notwithstanding and in addition to anything contained in the last preceding section any such provision or covenant shall be void in any case where an employer terminates the services of an employee in contravention of the terms of the contract of service. **Saving where service terminated in contravention of contract.**

4. The Contracts in Restraint of Trade Ordinance, 1932, is hereby repealed. **Repeal. No. 5 of 1932.**

## AN ORDINANCE.

### No. XLI of 1932

Assented to in His Majesty's name this thirty-first day of December, 1932.

J. BYRNE,  
*Governor.*

Date of assent. [31ST DECEMBER, 1932.]

### An Ordinance to Amend the State Railway Provident Fund Ordinance.

Date of commencement. *31st December, 1932*

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 State Railway Provident Fund (Amendment) Ordinance, 1932,” and shall be read as one with the State Railway Provident Fund Ordinance (Chapter 35 of the Revised Edition), hereinafter referred to as “ the Principal Ordinance.”

**Amendment of section 6 of the Principal Ordinance.**           **2.** Section 6 of the Principal Ordinance is hereby amended by the addition of the words “ or any gratuity granted by the Manager in accordance with the Rules of the Fund to a depositor ” between the words “ thereon ” and “ shall ” appearing in the second line thereof.

**3.** The following section is hereby inserted in the Principal Ordinance :—

**Assignment of compulsory deposits and bonus or interest thereon.**           “ 6A. No depositor in any State Railway Provident Fund shall assign or otherwise deal with compulsory deposits made by him to such Fund or the bonus or interest thereon or appoint, except as provided by the Rules of the Fund, any person to demand or receive compulsory deposits or the bonus or interest thereon due or to become due to him from such Fund.”

**AN ORDINANCE.****No. XLII of 1932**

Assented to in His Majesty's name this thirty-first day  
of December, 1932.

J. BYRNE,  
*Governor.*

[31ST DECEMBER, 1932.]

**An Ordinance to Regulate and Control the Use  
of Compulsory Labour.**

*31st December, 1932*

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 Compulsory  
Labour (Regulation) Ordinance, 1932."

2. In this Ordinance—  
"compulsory labour" means all work or service which is  
exacted from any person under the menace of any penalty and  
for which the said person has not offered himself voluntarily,  
but does not include—

- (a) any work or service exacted by virtue of any compul-  
sory military service law for work of a purely  
military character ;
- (b) any work or service exacted from any person as a  
consequence of a conviction in a court of law, pro-  
vided that such work or service is carried out under  
the supervision and control of a public authority,  
and that the said person is not hired to or placed at  
the disposal of private persons ;
- (c) any work or service exacted in case of emergency,  
that is to say, in the event of war or of a calamity  
or threatened calamity, such as fire, flood, famine,  
earthquake, violent epidemic or epizootic disease,  
invasion by animal or insect pests or plant diseases  
or pests, and in general any circumstance which  
might endanger the existence or well-being of the  
whole or part of the population ;
- (d) minor communal services of a kind, which, being  
performed by the members of the community in the  
direct interest of the said community, can therefore  
be considered as normal civic obligations incumbent

Date of assent  
Date of commencement.

Short title

Interpreta-  
tion.

upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services;

“headman” means a headman appointed under the provisions of the Native Authority Ordinance.

Cap. 129.

Prohibition of compulsory labour for private purpose.

3. (1) No compulsory labour shall be imposed or permitted for the benefit of private persons.

(2) No concession granted to a private person shall involve any form of compulsory labour for the production or collection of products which such private person utilizes or in which he trades.

(3) No official of Government shall put any constraint upon any other person to work for any private person.

Governor's consent necessary for compulsory labour.

4. No compulsory labour shall be imposed without the consent of the Governor who, before imposing such labour shall satisfy himself—

(a) that the work to be done or the service to be rendered is of important direct interest to the community called upon to do the work or render the service;

(b) that the work or service is of present or imminent necessity;

(c) that it has been impossible to obtain voluntary labour for carrying out the work or rendering the service by the offer of rates of wages and conditions of labour not less favourable than those prevailing in the area concerned for similar work or service; and

(d) that the work or service will not lay too heavy a burden on the community concerned, having regard to the labour available and its capacity to undertake the work.

Governor may delegate powers to impose compulsory labour.

5. The Governor may authorize any Provincial Commissioner, District Officer, or headman to impose compulsory labour, provided that—

(i) such compulsory labour, unless it is imposed solely for the purpose of facilitating the movement of officials of Government when on duty or for the transport of Government stores, shall not involve the removal of the workers from their place of habitual residence;

See S. N. 878/47 p. 254 - Kamba tribe - work & the dome at Takueni  
 213/49 p. 111 - Kipsigis Tribe - do Chepalungu  
 461/49 p. 181 - Teita do Teita Hills  
 496/49 p. 195 - Fort Hall do Fort Hall  
 885/49 p. 367 - Kitook Tribe do N. N. D.  
 259/50 p. 88 - Suha  
 909/50 p. 395 - Location of Kikifi district  
 704/51 p. 196 - Kwele

Authorisation to P. G. + D. O. — S. N. 756/33, p. 514.



- (ii) where compulsory labour is imposed for the execution of public works, the authority imposing it shall satisfy himself—
- (a) that the work to be done or the service to be rendered is of important direct interest to the community called upon to do the work or render the service;
  - (b) that the work or the service is of present or imminent necessity;
  - (c) that the work or service will not lay too heavy a burden upon the community concerned having regard to the labour available and its capacity to undertake the work;
  - (d) that the work or service will not entail the removal of the workers from their place of habitual residence; and
  - (e) that the execution of the work or the rendering of the service will be directed in accordance with the exigencies of religion, social life and agriculture.

6. (1) Only adult able-bodied males, who are of an apparent age of not less than eighteen and not more than forty-five, may be called upon for compulsory labour.

Who are liable to compulsory labour.

(2) Save in respect of compulsory labour, for a public purpose under section 5 (ii) of this Ordinance, the following conditions shall apply :—

- (i) Whenever possible, every worker shall, before being called upon for compulsory labour, be certified by a Government medical officer to be free from contagious or infectious disease and physically fit for the work required in the conditions under which it is to be carried out.
- (ii) No teacher in a school, child attending a registered school, person granted exemption under the Native Exemption Ordinance, person employed by Government or by a Local Native Council, or person employed under the Employment of Natives Ordinance shall be liable to be called upon for compulsory labour.
- (iii) No number of persons shall be called upon from any community in excess of the number prescribed.
- (iv) Conjugal and family ties shall be respected.

Cap. 128.

Cap. 139.

**Maximum period of compulsory labour.**

7. (1) No person shall be called upon for compulsory labour of any kind for a period exceeding sixty days in any one period of twelve months, including the time spent in going to and returning from the place of work.

(2) Every person from whom compulsory labour is exacted shall be furnished with a certificate showing the periods of such labour which he has completed.

**Normal hours of labour.**

8. (1) The normal working hours of compulsory labour shall be the same as those prevailing in the case of voluntary labour, and the hours worked in excess of normal working hours shall be remunerated at the rates prevailing in the case of overtime for voluntary labour.

(2) A weekly day of rest shall be given to all persons doing compulsory labour, and such day shall be the day customarily observed as a day of rest in the community concerned.

**Remuneration for compulsory labour.**

9. (1) Compulsory labour shall be remunerated in cash at rates not less than those prevailing for similar kinds of work, either in the district in which the labour is employed or in the district in which the labour is recruited, whichever may be the higher.

(2) Wages shall be paid to each worker individually, and not to his chief or headman or to any other authority.

(3) For the purpose of calculating wages due, the days spent in travelling to and from the place of work shall be counted as working days.

(4) Nothing in this section contained shall be construed to prevent ordinary rations being given as a part of wages, such rations to be at least equivalent in value to the money payment they are taken to represent, but no deduction from wages shall be made for the payment of taxes or for special food, clothing or accommodation supplied to a worker for the purpose of maintaining him in a fit condition to carry on his work under the conditions of his employment, or for the supply of tools.

**Workmen's compensation law to apply to compulsory labour.**

10. (1) Any Ordinance or law for the time being in force in the Colony relating to workmen's compensation for accident or sickness arising out of the employment of the worker or providing compensation for the dependants of deceased or incapacitated workers shall apply to persons from whom compulsory labour is exacted as to voluntary workers.

(2) It shall be obligatory on any authority employing compulsory labour to ensure the subsistence of any worker who, by accident or sickness arising out of his employment, is rendered wholly or partially incapable of providing for himself, and to take measures to ensure the maintenance of any persons actually dependent upon such a worker in the event of his incapacity or decease arising out of his employment.

11. (1) Except in cases of special necessity, persons from whom compulsory labour is exacted shall not be transferred to places where the food or climate differs so considerably from those to which they have been accustomed as to be likely to endanger their health.

Workers not to be transferred to unhealthy districts.

(2) In no case shall the transfer of such workers be permitted unless all measures relating to hygiene and accommodation which are necessary to adapt such workers to the conditions and to safeguard their health can be strictly applied.

(3) When such transfer cannot be avoided, measures of gradual habituation to the new conditions of diet and of climate shall be adopted on competent medical advice.

(4) In cases where such workers are required to perform regular work to which they are not accustomed, measures shall be taken to ensure their habituation to it, especially as regards progressive training, the hours of work and the provision of rest intervals, and any increase or amelioration of diet which may be necessary.

12. The Governor shall not permit the imposition of compulsory labour for works of construction or maintenance which entail the workers remaining at the place of work for considerable periods until he is satisfied that—

Conditions governing compulsory labour on construction.

- (1) all necessary measures have been taken to safeguard the health of the workers and to guarantee the necessary medical care and attention, and, in particular—
  - (a) that the workers are medically examined before commencing the work and at prescribed intervals during the period of service,
  - (b) that there is an adequate medical staff properly equipped to meet all requirements, and
  - (c) that the sanitary conditions of the place of work, the supply of drinking water, food, fuel and cooking utensils, and, where necessary, of housing and clothing, are satisfactory;

- (2) definite arrangements are made to ensure the subsistence of the families of the workers, in particular by arranging for the payment of part of the wages to the family at the request or with the consent of the worker ;
- (3) the journeys of the workers to and from the place of work are made at the expense and under the responsibility of Government, which shall facilitate such journeys by making the fullest use of all available means of transport ;
- (4) in case of illness or accident, causing incapacity to work of a prescribed duration, the worker is repatriated at Government expense ; and
- (5) any worker who may wish to remain as a voluntary worker at the end of his period of compulsory labour is permitted to do so without, for a period of two years, losing his right to repatriation free of expense to himself.

**Compulsory  
labour for  
transport of  
persons or  
goods.**

**13.** The following conditions shall apply to the employment of compulsory labour for the transport of persons or goods :—

- (a) such labour shall be employed only for the purpose of facilitating the movement of Government officials when on duty or for the transport of Government stores, or, in cases of very urgent necessity, the transport of persons other than officials ;
- (b) workers so employed shall be medically certified to be physically fit, where medical examination is possible. Where such examination is not practicable, the person employing such workers shall do his utmost to ensure that they are physically fit and not suffering from any infectious or contagious disease ;
- (c) no worker shall carry a load of a greater weight than the maximum weight prescribed ;
- (d) no worker shall be taken a greater distance from his home than the maximum distance prescribed ;
- (e) no worker shall be employed for a greater number of days in any month than the maximum number prescribed ; and



- All Regulations - S. N. 657/33. p. 485.
- do (Makueni Area) - S.N. 938/47 p. 315
- do (Chepungu) - G.N. 214/49 p. 111
- do (Teita Area) - G.N. 465/49 p. 180
- do (Fort Hall) - G.N. 497/49 p. 196
- do (North Nyanga) - G.N. 947/49 p. 386
- do (Embu) - G.N. 358/50 p. 165
- do (Kilifi) - S.N. 941/50 p. 425
- do (Kwale) - G.N. 814/51 p. 255

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(f) no person, other than a person duly authorized in this behalf, shall demand this form of compulsory labour, and no person shall demand such labour to an extent in excess of that to which he is authorized to demand it.

14. Compulsory labour shall not be employed for purposes of cultivation except as a measure of precaution against famine or a deficiency of food supplies, and the food or produce so produced shall remain the property of the individual or the community so producing it.

Compulsory labour for cultivation.

15. An order of a Provincial Commissioner, District Officer or headman lawfully imposing compulsory labour may be enforced as if such order were a lawful order issued under the Native Authority Ordinance, and failure or refusal to comply with such order shall be punishable as in that Ordinance provided.

Enforcement of order of Provincial Commissioner, etc.

Cap. 129.

16. The Governor in Council may make Regulations—

Power to make Regulations.

(a) for the hearing of complaints relative to the conditions of compulsory labour;

(b) fixing the proportion, which proportion shall in no case exceed twenty-five per cent, of the resident adult able-bodied males who may be taken at any one time for compulsory labour. In fixing this proportion regard shall be had to the density of the population, to its social and physical development, to the seasons, to the work which must be done by the persons concerned on their own behalf in their locality, and generally to the economic and social necessities of the normal life of the community concerned;

(c) for any purpose which in this Ordinance is prescribed; and

(d) generally for the better and more effectual carrying out of the provisions of this Ordinance.

17. Sections 8, 15 and 16 of the Native Authority Ordinance shall be subject to the qualifications on the use of compulsory labour imposed by this Ordinance, and section 8 of the said Ordinance is hereby amended by deleting paragraphs (m), (n) and (o) thereof, and substituting therefor the following:—

Amendment of Chapter 129.

“ (m) Suppressing or controlling animal or insect pests or plant pests or diseases.”

**AN ORDINANCE.****No. XLIII of 1932**

Assented to in His Majesty's name this thirty-first day of December, 1932.

J. BYRNE,  
Governor.

Date of assent.

[31ST DECEMBER, 1932.]

**An Ordinance to Regulate the Importation, Exportation, Manufacture, Sale and Use of Opium and Other Dangerous Drugs.**

Date of commencement.

*16 Feb. 1933* By Proclamation.

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

Short title and commencement.

1. This Ordinance may be cited as "the Dangerous Drugs Ordinance, 1932", and shall commence and come into operation on such date as the Governor may, by proclamation in the Gazette, appoint.

PART I.

INTERPRETATION.

Interpretation.

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

"raw opium" includes powdered or granulated opium, but does not include medicinal opium;

"prepared opium" means opium prepared for smoking and includes dross and any other residues remaining after opium has been smoked;

"medicinal opium" means raw opium which has undergone the processes necessary to adapt it for medicinal use in accordance with the requirements of the British Pharmacopœia, whether it is in the form of powder or is granulated or is in any other form and whether it is or is not mixed with neutral materials;

"coca leaves" means the leaves of any plant of the genus of the Erythroxyloideæ, from which cocaine can be extracted either directly or by chemical transformation;

"Indian hemp" means the dried flowering or fruiting tops of the pistillate plant known as *cannabis sativa*, from which the resin has not been extracted, by whatever name such tops are called;

— and also includes any opium, for whatever purpose prepared, which is liable to being used.



"The Hague Convention" means the International Convention signed at The Hague on the 23rd day of January, 1912;

"the Geneva Convention (No. 1)" means the convention signed at Geneva, on behalf of His Majesty, on the 19th day of February, 1925, for the purpose of completing and strengthening the provisions of The Hague Convention.

"the Geneva Convention (No. 2)" means the convention signed at Geneva, on behalf of His Majesty, on the 13th day of July, 1931, for limiting the manufacture and regulating the distribution of narcotic drugs.

## PART II.

### RAW OPIUM AND COCA LEAVES.

3. (1) It shall not be lawful for any person to import or bring into or export from the Colony any raw opium or coca leaves except under licence and into or from prescribed ports or places.

Restriction on importation and exportation of raw opium and coca leaves.

(2) If at any time the importation of raw opium or coca leaves into a foreign country is prohibited or restricted by the laws of that country, there shall, while that prohibition or restriction is in force, be attached to every licence which is issued under this Ordinance authorizing the export of raw opium or coca leaves from the Colony, such conditions as may appear to the licensing officer to be necessary for preventing or restricting, as the case may be, the exportation of raw opium or coca leaves from the Colony to that country during such time as the importation of raw opium or coca leaves into that country is so prohibited or restricted, and any such licences issued before the prohibition or restriction came into force shall, if the Governor by order so directs, be deemed to be subject to the like conditions.

4. The Governor in Council may make Rules for controlling or restricting the production, possession, sale and distribution of raw opium or coca leaves, and in particular, but without prejudice to the generality of the foregoing power, for prohibiting the production, possession, sale or distribution of raw opium or coca leaves except by persons licensed or otherwise authorized in that behalf, and for controlling or restricting the possession of or dealing in raw opium or coca leaves while in transit through the Colony whether by land, air or by water.

Power to regulate the production of and dealing in raw opium and coca leaves.

Prohibition of trade, etc., in new drugs, and power to apply Part V to certain drugs.

5. (1) It shall not be lawful for any person in the Colony to trade in or manufacture for the purpose of trade any products obtained from any of the phenanthrene alkaloids of opium or from the ecgonine alkaloids of the coca leaf, not being a product which was on the 13th day of July, 1931, being used for medical or scientific purposes :

Provided that if the Governor is at any time satisfied as respects any such product that it is of medical or scientific value, he may by order direct that this sub-section shall cease to apply to that product.

(2) If it is made to appear to the Governor that a decision with respect to any such product as is mentioned in sub-section (1) of this section has in pursuance of Article 11 of the Geneva Convention (No. 2) been communicated by the Secretary-General of the League of Nations to the parties to the said Convention, the Governor, by order, may, as the case requires, either declare that the provisions of Part V shall apply to that product in the same manner as they apply to the drugs mentioned in sub-section (1) of section 13 or apply Part V to that product with such modifications as may be specified in the order.

(3) The Governor may by order apply Part V of this Ordinance, with such modifications as may be specified in the order, to any of the following drugs, that is to say, methylmorphine (commonly known as codeine), ethylmorphine (commonly known as dionin) and their respective salts.

Prohibition of cultivation of opium or coca plant.

6. No person shall cultivate the opium poppy (*papaver somniferum*) or the coca plant (*Erythroxylum coca*).

### PART III.

#### PREPARED OPIUM.

Prohibition of export or import of prepared opium.

7. No person shall import or bring into, or export from, the Colony any prepared opium.

Penalty for manufacturing, selling, using, etc., prepared opium.

8. If any person—

(a) manufactures, sells or otherwise deals in prepared opium; or

(b) has in his possession any prepared opium; or

Prohibition of importation and exportation of Indian hemp and of the resin from the plant *cannabis sativa* and of the products of which such resin forms the base.

“9. No person shall import or bring into, or from the Colony any Indian hemp, or any resin obtained from the plant *cannabis sativa*, or any products of which such resin forms the base (excluding such products which are used solely for medicinal purposes) :

Provided that where such Indian hemp, or such resin, or such products are imported or brought into the Colony solely for the purpose of transit (including deviation through the Colony or are exported from the Colony immediately after having been brought into the Colony for such purpose, such goods shall not be deemed to have been imported, or brought into, or exported from the Colony within the meaning of this section.”

“10. If any person—

(a) produces, sells or otherwise deals in Indian hemp, or resin obtained from the plant *cannabis sativa*, or any products of which such resin forms the base ; or

(b) has in his possession any Indian hemp, or any resin from the plant *cannabis sativa*, or any products of which such resin forms the base, except when such Indian hemp, or such resin, or such products as aforesaid are in transit through the Colony, whether by land, or by air, or by water ; or

(c) cultivates the plant *cannabis sativa* ; or

(d) sells or otherwise deals in the whole or any portion of the plant *cannabis sativa* (excluding its medicinal preparations) ; or

(e) has in his possession the whole or any portion of the plant *cannabis sativa* (excluding its medicinal preparations),

he shall be guilty of an offence against this Ordinance.”

4. The following section, to be numbered 10A, shall be deemed to be inserted immediately after section 10 of the Principal Ordinance, as follows :—

“10A. The Governor in Council may make Rules for controlling or restricting the possession of or dealing in Indian hemp, or resin obtained from the plant *cannabis sativa*, or products of which such resin forms the base while such Indian hemp, or such resin, or such products is or are in transit through the Colony whether by land, or by air, or by water.”

Power to Governor in Council to make Rules regarding Indian hemp, etc., while in transit through the Colony.

Penalty for selling, etc., the plant *cannabis sativa* and the resin therefrom.



- (c) being the occupier of any premises permits those premises to be used for the purpose of the preparation of opium for smoking or the sale or smoking of prepared opium; or
- (d) is concerned in the management of any premises used for any such purpose as aforesaid; or
- (e) has in his possession any pipes or other utensils for use in connexion with the smoking of opium, or any utensils used in connexion with the preparation of opium for smoking; or
- (f) smokes or otherwise uses prepared opium, or frequents any place used for the purpose of opium smoking,

he shall be guilty of an offence against this Ordinance.

#### PART IV.

##### INDIAN HEMP.

~~9. No person shall import or bring into, or export from, the Colony any resin obtained from the plant *cannabis sativa*.~~

Prohibition of importation and exportation of the resin from the plant *cannabis sativa*.

10. If any person—

- (a) produces, sells or otherwise deals in resin from the plant *cannabis sativa*; or
- (b) has in his possession any resin from the plant *cannabis sativa*; or
- (c) cultivates the plant *cannabis sativa*; or
- (d) sells or otherwise deals in the whole or any portion of the plant *cannabis sativa* (excluding its medicinal preparations); or
- (e) has in his possession the whole or any portion of the plant *cannabis sativa* (excluding its medicinal preparations),

Penalty for selling, etc., the plant *cannabis sativa* and the resin therefrom.

~~he shall be guilty of an offence against this Ordinance.~~

## PART V.

## COCAINE, MORPHINE, ETC.

Restriction on  
import and  
export of  
cocaine, etc.

**11.** No person shall import or bring into, or export from the Colony any drug to which this Part of this Ordinance applies except under licence, and into or from prescribed ports or places.

Control of  
manufacture  
and sale of  
cocaine, etc.

**12.** (1) For the purpose of preventing the improper use of the drugs to which this Part of this Ordinance applies, the Governor in Council may make Rules for controlling the manufacture, sale, possession and distribution of those drugs, and in particular, but without prejudice to the generality of the foregoing power, for—

- (a) prohibiting the manufacture of any drug to which this Part of this Ordinance applies except on premises licensed for the purpose and subject to any conditions specified in the licence; and
- (b) prohibiting the manufacture, sale or distribution of any such drug except by persons licensed or otherwise authorized under Rules made under this Ordinance and subject to any conditions specified in the licence or authority; and
- (c) regulating the issue by medical practitioners of prescriptions containing any such drug and the dispensing of any such prescriptions; and
- (d) requiring persons engaged in the manufacture, sale or distribution of any such drug to keep such books and furnish such information either in writing or otherwise as may be prescribed; and
- (e) controlling or restricting the possession of or dealing in any such drug while in transit through the Colony whether by land, air or by water.

(2) The Rules under this section shall provide for authorizing any person who lawfully keeps open shop for the retailing of poisons in accordance with the provisions of the Drugs and Poisons Ordinance—

- (a) to manufacture at the shop in the ordinary course of his retail business any preparation, admixture or extract of any drug to which this Part of this Ordinance applies; or

(b) to carry on at the shop the business of retailing, dispensing or compounding any such drug, subject to the power of the Governor to withdraw the authorization in the case of a person who has been convicted of an offence against this Ordinance and who cannot, in the opinion of the Governor, properly be allowed to carry on the business of manufacturing or selling or distributing, as the case may be, any such drug.

(3) Nothing in any Rules made under this section shall be taken to authorize the sale, or the keeping of an open shop for the retailing, dispensing or compounding of poisons by any person who is not qualified in that behalf under, or otherwise than in accordance with, the provisions of the Drugs and Poisons Ordinance, or to be in derogation of the provisions of the said Ordinance for prohibiting, restricting or regulating the sale of poisons. *Cap. 120.*

**13.** (1) The drugs to which this Part of this Ordinance applies are— Drugs to which Part V applies.

- (a) medicinal opium;
- (b) any extract or tincture of Indian hemp;
- (c) morphine and its salts, and diacetylmorphine (commonly known as diamorphine or heroin) and other esters of morphine and their respective salts;
- (d) cocaine (including synthetic cocaine) and ecgonine and their respective salts, and the esters of ecgonine and their respective salts;
- (e) any solution or dilution of morphine or cocaine or their salts in an inert substance whether liquid or solid, containing any proportion of morphine or cocaine, and any preparation, admixture, extract or other substance (not being such a solution or dilution as aforesaid) containing not less than one-fifth per centum of morphine or one-tenth per centum of cocaine or of ecgonine;
- (f) any preparation, admixture, extract or other substance containing any proportion of diacetylmorphine;
- (g) dihydrohydroxycodeinone, dihydrocodeinone, dihydromorphinone, acetyldihydrocodeinone, dihydromorphine, their esters and the salts of any of these substances and of their esters, morphine-N-oxide

- commonly known as genomorphine), the morphine-N-oxide derivatives, and any other pentavalent nitrogen morphine derivatives ;
- (h) thebaine and its salts, and (with the exception of methylmorphine, commonly known as codeine, and ethylmorphine, commonly known as dionin, and their respective salts) benzylmorphine and the other ethers of morphine and their respective salts ;
- (i) any preparation, admixture, extract or other substance containing any proportion of any of the substances mentioned in paragraph (g) or in paragraph (h) of this sub-section.

For the purpose of the foregoing provision the expression "ecgonine" means lævo-ecgonine and includes any derivatives of ecgonine from which it may be recovered industrially, and the percentage in the case of morphine shall be calculated as in respect of anhydrous morphine.

Calculation of percentage in case of liquid preparations.

(2) For the purposes of this section, percentages in the case of liquid preparations shall, unless other provision in that behalf is made by Rules under this Ordinance, be calculated on the basis that a preparation containing one per centum of any substance means a preparation in which one gramme of the substance, if a solid, or one millilitre of the substance, of a liquid, is contained in every hundred millilitres of the preparation, and so in proportion, for any greater or less percentage.

(3) If it appears to the Governor in Council that any new derivative of morphine or cocaine or of any salts of morphine or cocaine or any other alkaloid of opium or any other drug of whatever kind is or is likely to be productive, if improperly used or is capable of being converted into a substance which is, or is likely to be productive, if improperly used, of ill-effects substantially of the same character or nature as or analogous to those produced by morphine or cocaine, the Governor in Council may by order provide that this Part of this Ordinance shall apply to that new derivative or alkaloid or other drug in the same manner as it applies to the drugs mentioned in sub-section (1) of this section.

(4) If the Governor in Council thinks fit to declare that a finding with respect to any preparation containing any of the drugs to which this Part of this Ordinance applies has in pursuance of Article 8 of the Geneva Convention (No. 1) been

See G.O. 253/51 p. 71  
1274/51 p. 457

communicated by the Council of the League of Nations to the parties to the said Convention, the provisions of this Part of this Ordinance shall as from such date as may be specified in such declaration cease to apply to the preparations specified therein.

## PART VI.

## GENERAL.

**14.** Licences, permits or authorities for the purposes of this Ordinance may be issued or granted by such person on such terms and subject to such conditions (including in the case of a licence the payment of a fee) as the Governor in Council may prescribe. **Licences.**

**15.** If any goods prohibited to be exported by virtue of this Ordinance are exported from the Colony in contravention thereof, or brought to a quay or other place to be shipped for the purpose of being so exported or of being waterborne to be so exported, the exporter or his agent shall be guilty of an offence against this Ordinance. **Exporter or agent liable for contravention regarding export.**

**16.** (1) Any police officer or other person authorized in that behalf by any general or special order of the Commissioner of Police, Director of Medical and Sanitary Services, or of a Provincial Commissioner shall, for the purposes of the execution of this Ordinance, have power to enter the premises of any person carrying on the business of a producer, manufacturer, seller or distributor of any drugs to which this Ordinance applies and to demand the production of and to inspect any books or documents relating to dealings in any such drugs and to inspect any stocks of any such drugs. **Powers of inspection and seizure.**

(2) If a Magistrate is satisfied by information on oath that there is reasonable ground for suspecting that any drugs to which this Ordinance applies are, in contravention of the provisions of this Ordinance or any Rule made thereunder, in the possession or under the control of any person in any premises, or that any document directly or indirectly relating to or connected with any transaction or dealing which was, or any intended transaction or dealing which would, if carried out, be an offence against this Ordinance or in the case of a transaction or dealing carried out or intended to be carried out in any place outside the Colony, an offence against the provisions of any corresponding law in force in that place, is

in the possession or under the control of any person in any premises he may grant a search warrant authorizing any police officer named in the warrant, at any time or times within one month from the date of the warrant, to enter, if need be by force, the premises named in the warrant, and to search the premises and any persons found therein, and if there is reasonable ground for suspecting that an offence against this Ordinance has been committed in relation to any such drugs which may be found in the premises or in the possession of any such persons, or that any document which may be so found is such a document as aforesaid, to seize and detain those drugs or that document, as the case may be :

Provided always that if it appears to him that any delay occasioned by obtaining such search warrant will defeat the objects of this section any police officer may exercise the powers by this sub-section conferred as if he were in possession of a search warrant, but he shall as soon as possible report what he has done to a magistrate.

(3) If any person wilfully delays or obstructs any person in the exercise of his powers under this section or fails to produce or conceals or attempts to conceal any such books, stocks, drugs or documents as aforesaid, he shall be guilty of an offence against this Ordinance.

**Offences and penalties.**

**17.** (1) Any person—

- (a) who acts in contravention of, or fails to comply with, any provision of this Ordinance; or
- (b) who acts in contravention of, or fails to comply with, the conditions of any licence or permit issued or authority granted under or in pursuance of this Ordinance; or
- (c) who for the purpose of obtaining, whether for himself or for any other person, the issue, grant or renewal of any such licence, permit or authority as aforesaid, makes any declaration, or statement which is false in any particular, or knowingly utters, produces or makes use of any such declaration or statement or any document containing the same; or
- (d) who in the Colony aids, abets, counsels or procures the commission in any place outside the Colony of

any offence punishable under the provisions of any corresponding law in force in that place, or does any act preparatory to, or in furtherance of, any act which if committed in the Colony would constitute an offence against this Ordinance,

shall be guilty of an offence against this Ordinance.

(2) Every person guilty of an offence against this Ordinance shall, in respect of each offence, be liable—

- (a) on conviction by the Supreme Court to a fine not exceeding one thousand pounds, or to imprisonment for a period not exceeding ten years, or to both such fine and imprisonment; or
- (b) on conviction by a subordinate court of the first or second class to a fine not exceeding two hundred and fifty pounds, or to imprisonment for a period not exceeding one year, or to both such fine and imprisonment,

and shall, in every case on conviction for the offence, forfeit to His Majesty all articles in respect of which the offence was committed, and the court before which the offender was convicted may order any forfeited articles to be destroyed or otherwise disposed of as the court thinks fit.

(3) No person shall, on conviction for any offence of contravening or failing to comply with any Rule under this Ordinance relating to the keeping of books or the issuing or dispensing of prescriptions containing drugs to which this Ordinance applies, be sentenced to imprisonment without the option of a fine or to pay a fine exceeding fifty pounds, if the court dealing with the case is satisfied that the offence was committed through inadvertence and was not preparatory to, or committed in the course of, or in connexion with, the commission or intended commission of any other offence against this Ordinance.

(4) If any person attempts to commit an offence against this Ordinance, or solicits or incites another person to commit such an offence, he shall, without prejudice to any other liability, be liable on conviction to the same punishment and forfeiture as if he had committed an offence under this Ordinance.

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

**Definition of  
"corresponding  
law."**

**18.** In the last two preceding sections the expression "corresponding law" means any law stated in a certificate purporting to be issued by or on behalf of the Government of any country outside the Colony to be a law providing for the control and regulation in that country of the manufacture, sale, use, export and import of drugs in accordance with the provisions of The Hague Convention, the Geneva Convention (No. 1) or the Geneva Convention (No. 2), and any statement in any such certificate as to the effect of the law mentioned in the certificate, or any statement in any such certificate that any facts constitute an offence against that law, shall be conclusive.

**Power of  
arrest.**

**19.** Any police officer or medical officer in the service of the Government may arrest without warrant any person who has committed, or attempted to commit, or is reasonably suspected by such officer of having committed or attempted to commit, an offence against this Ordinance, if he has reasonable ground for believing that that person will abscond unless arrested, or if the name and address of that person are unknown to and cannot be ascertained by him.

**Meaning of  
importation  
and exportation  
under  
licence.**

**20.** For the purposes of this Ordinance, any article shall be deemed to be imported under licence or exported under licence if the importer or exporter, as the case may be, is the holder of a licence issued under this Ordinance authorizing the importation or exportation, as the case may be, of the article and complies with the conditions, if any, of the licence, but not otherwise.

**Burden of  
proof.**

**21.** In any proceedings against any person for an offence against this Ordinance, it shall not be necessary to negative by evidence any licence, authority or other matter

of exception or defence, and the burden of proving any such matter shall lie on the person seeking to avail himself thereof.

**22.** The Governor in Council may from time to time **Power to make Rules.** make Rules for any of the purposes following :—

- (a) Providing for the forms of any declarations, certificates or permits made or issued for the purposes of this Ordinance and the conditions (if any) to be contained therein.
- (b) Prescribing the hours within which and the manner in which any declaration of any drug to which this Ordinance applies shall be made by the master or person in charge of any ship or other conveyance.
- (c) Regulating the arrival and berthing of ships or aircraft carrying any drug to which this Ordinance applies.
- (d) Providing for the rendering of periodical returns by any person being in possession of or producing or manufacturing any drug to which this Ordinance applies within the Colony, and for the rendering by any person of an estimate of the amount of any such drug to be imported by him during a period to be prescribed by the Rules, to such officer as the Governor in Council shall appoint in that behalf.
- (e) Generally for the better carrying out of the objects and purposes of this Ordinance.

- see rules  
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**23.** Where on any conviction for an offence against this Ordinance a fine is imposed, the court may award any sum, not exceeding a sum of twenty pounds of the fine recovered, as a reward to any person (not being a person whose duty it is to detect or assist in the detection of such offences) who gave information leading to such conviction. **Rewards.**

**24.** The Abuse of Opiates Prevention Ordinance (Chapter 121 of the Revised Edition) as amended by the Abuse of Opiates Prevention (Amendment) Ordinance, 1926, and the Abuse of Opiates Prevention (Amendment) Ordinance, 1929, **Repeal.** is hereby repealed. **No. 10 of 1926. No. 2 of 1929.**

**AN ORDINANCE.****No. XLIV of 1932**

Assented to in His Majesty's name this thirty-first day of December, 1932.

J. BYRNE,  
*Governor.*

Date of assent.

[31ST DECEMBER, 1932.]

**An Ordinance to Amend the Branding of Stock Ordinance.**

Date of commencement.

*31st December, 1932*

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 Branding of Stock (Amendment) Ordinance, 1932,” and shall be read as one with the Branding of Stock Ordinance (Chapter 159 of the Revised Edition), hereinafter referred to as “ the Principal Ordinance.”

Amendment of section 5 of the Principal Ordinance.

**2.** Section 5 of the Principal Ordinance is hereby amended and shall be read as if the words “ other than a native ” which occur in the first line thereof were deleted.

Amendment of section 16 of the Principal Ordinance.

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

On the sale of cattle the vendor must brand cattle with his registered brand reversed.

“ 16. In every case in which there shall be sale or transfer of any cattle branded with a brand registered under this Ordinance, it shall be the duty of every vendor or transferor immediately to brand each head of cattle so sold or transferred with the reverse of his registered brand.

Any person failing to comply with the provisions of this section shall be liable on conviction to a fine not exceeding seventy-five pounds and in default of payment to imprisonment for a term not exceeding three months.”

Repeal of sections 18 and 19 of the Principal Ordinance.

**4.** Sections 18 and 19 of the Principal Ordinance are hereby repealed.

Amendment of section 23 of the Principal Ordinance.

**5.** Section 23 of the Principal Ordinance is hereby amended by the substitution of the word “ person ” for the word “ native ” wherever the latter occurs in the section.

“ ‘money-lender’ includes every person whose business is that of money-lending, or who advertises or announces himself or holds himself out in any way as carrying on that business, but shall not include any pawnbroker in respect of business carried on by him in accordance with the provisions of any Ordinance for the time being in force in relation to pawnbrokers;”.

*Chattels transfer, or on mortgage  
or charge of immovable property* )

4. (1) The provisions of the Principal Ordinance shall ~~not~~ <sup>Saving.</sup> apply—

(a) to any money-lending transaction where the security for repayment of the loan and/or interest thereon is effected by execution of a chattels transfer in which the interest provided for is not in excess of 9 per cent per annum;

(b) to any money-lending transaction where the security for repayment of the loan and/or interest thereon is effected by execution of a legal or equitable mortgage upon immovable property or of a charge upon immovable property or of any bona fide transaction of money-lending upon such mortgage or charge.

(2) The exemption provided for in this section shall apply whether the transactions referred to are effected by a money-lender or not.

*Ord. 37/36*

**AN ORDINANCE.****No. XLV of 1932**

Assented to in His Majesty's name this thirty-first day  
of December, 1932.

J. BYRNE,  
Governor.

[31ST DECEMBER, 1932.] Date of assent.

**An Ordinance to Make Provision with Respect to  
Persons Carrying on Business as Money-  
lenders.**

*1st January, 1933.*

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 Money-lenders Ordinance, 1932," and shall come into operation on the first day of January, 1933. Short title and commencement.

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

"money-lender" ~~includes every person whose business is that of money-lending or who advertises or announces himself or holds himself out in any way as carrying on that business, but shall not include—~~

(a) any pawnbroker in respect of business carried on by him in accordance with the provisions of any Ordinance for the time being in force in relation to pawnbrokers, or

(b) any person bona fide carrying on the business of banking or insurance or lending money on mortgage or bona fide carrying on any business not having for its primary object the lending of money, in the course of which and for the purposes whereof he lends money;

"authorized name" and "authorized address" mean respectively the name under which and the address at which a money-lender is authorized by a certificate granted under this Ordinance to carry on business as a money-lender ;

"business name" means the name or style under which any business is carried on, whether in partnership or otherwise ;

"company" means any body corporate being a money-lender ;

*Amended by  
Ord. 44/33  
Dec. 31/36.*

*Dec 31/36*

*Ord. 44/33*

“firm” means an unincorporate body of two or more individuals, or one or more individuals and one or more corporations, or two or more corporations, who have entered into partnership with one another with a view to carrying on business for profit ;

“interest” does not include any sum lawfully charged in accordance with the provisions of this Ordinance by a money-lender for or on account of costs, charges or expenses, but, save as aforesaid, includes any amount, by whatsoever name called, in excess of the principal, paid or payable to a money-lender in consideration of or otherwise in respect of a loan ;

“principal” means in relation to a loan the amount actually lent to the borrower.

(2) Where by a contract for the loan of money by a money-lender the interest charged on the loan is not expressed in terms of a rate, any amount paid or payable to the money-lender under the contract (other than simple interest charged in accordance with the proviso to section 11 of this Ordinance) shall be appropriated to principal and interest in the proportion that the principal bears to the total amount of the interest, and the rate per cent per annum represented by the interest charged as calculated in accordance with the provisions of the Schedule to this Ordinance shall be deemed to be the rate of interest charged on the loan.

**Reopening of transactions of money-lenders.**

**3.** (1) Where proceedings are taken in any court by a money-lender for the recovery of any money lent after the commencement of this Ordinance, or the enforcement of any agreement or security made or taken after the commencement of this Ordinance, in respect of money lent either before or after the commencement of this Ordinance, and there is evidence which satisfies the court that the interest charged in respect of the sum actually lent is excessive, or that the amounts charged for expenses, inquiries, fines, bonus, premium, renewals or any other charges, are excessive, and that, in either case, the transaction is harsh and unconscionable, or is otherwise such that a court of equity would give relief, the court may reopen the transaction, and take an account between the money-lender and the person sued, and may, notwithstanding any statement or settlement of account or any agreement purporting to close previous dealings, and create a new obligation, reopen any account already taken between them, and relieve the person sued from payment of any sum in excess of the sum adjudged by the court to be fairly due in

respect of such principal, interest and charges, as the court, having regard to the risk and all the circumstances, may adjudge to be reasonable; and if any such excess has been paid, or allowed in account, by the debtor, may order the creditor to repay it; and may set aside, either wholly or in part, or revise or alter any security given or agreement made in respect of money lent by the money-lender, and if the money-lender has parted with the security may order him to indemnify the borrower or other person sued.

(2) Any court in which proceedings might be taken for the recovery of money lent by a money-lender shall have and may, at the instance of the borrower or surety or other person liable, exercise the like powers as may be exercised under this section, where proceedings are taken for the recovery of the money lent, and the court shall have power, notwithstanding any provision or agreement to the contrary, to entertain any application under this Ordinance by the borrower or surety, or other person liable, notwithstanding that the time for repayment of the loan, or any instalment thereof, may not have arrived.

(3) On any application relating to the admission or amount of a proof by a money-lender in any bankruptcy proceedings, the court may exercise the like powers as may be exercised under this section when proceedings are taken for the recovery of money.

(4) The foregoing provisions of this section shall apply to any transaction which, whatever its form may be, is substantially one of money-lending by a money-lender.

(5) Nothing in the foregoing provisions of this section shall affect the rights of any bona fide assignee or holder for value without notice.

(6) Nothing in this section shall be construed as derogating from the existing powers or jurisdiction of any court.

4. If any money-lender, or any manager, agent or clerk of a money-lender, or if any person being a director, manager or other officer of any corporation carrying on the business of a money-lender, by any false, misleading, or deceptive statement, representation or promise, or by any dishonest concealment of material facts, fraudulently induces or attempts to induce any person to borrow money or to agree to the terms on which money is or is to be borrowed, he shall be guilty of an offence, and shall be liable on conviction to imprisonment

Penalties for  
false state-  
ments and  
representa-  
tions.

for a term not exceeding two years, or to a fine not exceeding five hundred pounds, or to both.

Licences to be taken out by money-lenders.

5. (1) ~~Every money-lender, whether carrying on business~~ alone or as a partner in a firm, shall take out annually in respect of every address at which he carries on his business as such, a licence (in this Ordinance referred to as "a money-lender's licence"), which shall expire on the thirty-first day of December <sup>in 1936</sup> every year, and there shall be charged on every money-lender's licence a licence fee of fifteen pounds, or if the licence be taken out not more than six months before ~~the expiration thereof, of ten pounds.~~

(2) Subject to the provisions of this Ordinance, money-lenders' licences shall be in such form as the Governor may direct, and shall be granted on payment of the licence fee by any officer authorized by the Governor to grant them, and regulations made by the Governor may make provision as to the procedure to be followed in making application for money-lenders' licences :

Provided that a money-lender's licence shall be taken out by a money-lender in his true name, and shall be void if it be taken out in any other name, but every money-lender's licence shall also show the money-lender's authorized name and authorized address.

(3) If any person—

- (a) takes out a money-lender's licence in any name other than his true name, or
- (b) carries on business as a money-lender without having in force a proper money-lender's licence authorizing him so to do, or being licensed as a money-lender, carries on business as such in any name other than his authorized name, or at any other place than his authorized address or addresses, or
- (c) enters into any agreement in the course of his business as a money-lender with respect to the advance or repayment of money, or takes any security for money in the course of his business as a money-lender, otherwise than in his authorized name,

he shall be guilty of a contravention of the provisions of this Ordinance, and shall for each offence be liable to a penalty of one hundred pounds :

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Repeal and  
replacement of  
section 5 (1)  
of the  
Principal  
Ordinance.  
Licences to be  
taken out by  
money-lenders.

3. Sub-section (1) of section 5 of the Principal Ordinance is hereby repealed and the following sub-section is substituted therefor :—

“5. (1) Except as hereinafter provided, every money-lender and every company carrying on business as a money-lender shall take out annually in respect of every address at which he or it carries on his or its business as such, a licence (in this Ordinance referred to as ‘a money-lender’s licence’) which shall expire on the thirty-first day of December in every year, and there shall be charged on every money-lender’s licence a licence fee of fifteen pounds, or, if the licence be taken out not more than six months before the expiration thereof, of ten pounds :

Provided that if one partner in a firm of money-lenders has duly taken out a money-lender’s licence, every other partner in the firm shall, subject to the provisions of section 6 of this Ordinance, be issued with a money-lender’s licence free of charge for the business of the firm for such time as he shall remain a member of the firm.”

Provided that, on a second or subsequent conviction of any person (other than a company) for an offence under this sub-section, the court may, in lieu of or in addition to ordering the offender to pay the penalty aforesaid, order him to be imprisoned for a term not exceeding three months, and an offender being a company shall on a second or subsequent conviction be liable to a penalty of five hundred pounds.

6. (1) A money-lender's licence shall not be granted except to a person who holds a certificate granted in accordance with the provisions of this section authorizing the grant of the licence to that person, and a separate certificate shall be required in respect of every separate licence. Any money-lender's licence granted in contravention of this section shall be void.

Certificate  
required for  
grant of  
money-lender's  
licence.

(2) Certificates under this section (in this Ordinance referred to as "certificates") shall be granted by the subordinate court of the first or second class having jurisdiction in the district in which the money-lender's business is to be carried on.

(3) Every certificate granted to a money-lender shall show his true name and the name under which, and the address at which, he is authorized by the certificate to carry on business as such, and a certificate shall not authorize a money-lender to carry on business at more than one address, or under more than one name, or under any name which includes the word "bank", or otherwise implies that he carries on banking business, and no certificate shall authorize a money-lender to carry on business under any name except—

- (a) his true name, or
- (b) the name of a firm in which he is a partner, not being a firm required by the Registration of Business Names Ordinance to be registered, or *Cap. 92.*
- (c) a business name, whether of an individual or of a firm in which he is a partner, under which he or the firm has, at the commencement of this Ordinance, been registered for not less than three years under the Registration of Business Names Ordinance.

(4) A certificate shall come into force on the date specified therein, and shall expire on the next following thirty-first day of December.

(5) The Governor may make rules with respect to the procedure to be followed in making applications for certificates (including the notices to be given of intention to make such an application), and certificates shall be in such form as may be prescribed by rules so made.

(6) A certificate shall not be refused except on some one or more of the following grounds:—

- (a) That satisfactory evidence has not been produced of the good character of the applicant, and in the case of a company of the persons responsible for the management thereof.
- (b) That satisfactory evidence has been produced that the applicant, or any person responsible or proposed to be responsible for the management of his business as a money-lender, is not a fit and proper person to hold a certificate.
- (c) That the applicant, or any person responsible or proposed to be responsible for the management of his business as a money-lender, is by order of a court disqualified for holding a certificate.
- (d) That the applicant has not complied with the provisions of any rules made under this section with respect to applications for certificates.

(7) Any person aggrieved by the refusal of a subordinate court of the first or second class to grant a certificate may appeal to the Supreme Court.

**Suspension  
and forfeiture  
of money-  
lenders'  
certificates.**

7. (1) Where any person, being the holder of a certificate, is convicted of any offence under this Ordinance, the court—

- (a) may order that any certificate held by that person, and in the case of a partner in a firm by any other partner in the firm, shall either be suspended for such time as the court thinks fit, or shall be forfeited, and may also, if the court thinks fit, declare any such person, or any person responsible for the management of the money-lending business carried on by the person convicted, to be disqualified for obtaining a certificate for such time as the court thinks fit; and
- (b) shall cause particulars of the conviction and of any order made by the court under this sub-section to be endorsed on every certificate held by the person

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convicted or by any other person affected by the order, and shall cause copies of those particulars to be sent to the authority by whom any certificate so endorsed was granted, and to the <sup>E. 4. 93</sup> Treasurer:

Provided that, where by order of a court a certificate held by any person is suspended or forfeited, or any person is disqualified for obtaining a certificate, he may, whether or not he is the person convicted, appeal against the order in the same manner as any person convicted may appeal against his conviction, and the court may, if it thinks fit, pending the appeal, defer the operation of the order.

(2) Any certificate required by a court for endorsement in accordance with the foregoing provisions of this section shall be produced, in such manner and within such time as may be directed by the court, by the person by whom it is held, and any person who, without reasonable cause, makes default in producing any certificate so required shall, in respect of each offence, be liable on conviction by a subordinate court of the first or second class to a penalty not exceeding five pounds for each day during which the default continues.

(3) Where a certificate held by any person is ordered to be suspended or to be forfeited under the foregoing provisions of this section, any money-lender's licences granted to that person, whether in pursuance of that or any other certificate, shall be suspended during the period for which the certificate is ordered to be suspended or become void, as the case may be.

8. (1) Without prejudice to the provisions of the last foregoing section and of section 20 of the Registration of Business Names Ordinance, a money-lender shall not, for the purposes of his business as such, issue or publish, or cause to be issued or published, any advertisement, circular, business letter or other similar document which does not show in such manner as to be not less conspicuous than any other name, the authorized name of the money-lender, and any money-lender who acts in contravention of this sub-section shall be liable on conviction by a subordinate court of the first or second class to a fine not exceeding twenty pounds in respect of each offence.

Names to be  
stated on  
documents  
issued by  
money-lenders.  
Cap. 92.

(2) If a money-lender, for the purposes of his business as such, issues or publishes, or causes to be issued or published, any advertisement, circular or document of any kind whatsoever containing expressions which might reasonably be held

to imply that he carries on banking business, he shall on conviction by a subordinate court of the first or second class be liable to a fine not exceeding one hundred pounds, and on a second or subsequent conviction, in lieu of or in addition to such a fine as aforesaid, to imprisonment for a term not exceeding three months, or, in the case of a second or subsequent conviction of an offender being a company, to a fine not exceeding five hundred pounds.

**Restrictions  
on money-  
lending  
advertisements.**

9. (1) No person shall knowingly send or deliver or cause to be sent or delivered to any person except in response to his written request any circular or other document advertising the name, address or telephone number of a money-lender, or containing an invitation—

- (a) to borrow money from a money-lender;
- (b) to enter into any transaction involving the borrowing of money from a money-lender;
- (c) to apply to any place with a view to obtaining information or advice as to borrowing any money from a money-lender.

(2) Subject as hereinafter provided, no person shall publish or cause to be published in any newspaper or other printed paper issued periodically for public circulation, or by means of any poster or placard, an advertisement advertising any such particulars, or containing any such invitation, as aforesaid :

Provided that an advertisement in conformity with the requirements of this Ordinance relating to the use of names on money-lenders' documents may be published by or on behalf of a money-lender in any newspaper or in any such paper as aforesaid or by means of a poster or placard exhibited at any authorized address of the money-lender, if it contains no addition to the particulars necessary to comply with the said requirements, except any of the following particulars, that is to say, any authorized address at which he carries on business as a money-lender, and the telegraphic address and telephone number thereof, any address at which he formerly carried on business, a statement that he lends money with or without security, and of the highest and lowest sums that he is prepared to lend, and a statement of the date on which the business carried on by him was first established.

(3) No money-lender or any person on his behalf shall employ any agent or canvasser for the purpose of inviting any

person to borrow money or to enter into any transaction involving the borrowing of money from a money-lender, and no person shall act as such agent or canvasser, or demand or receive, directly or indirectly, any sum or other valuable consideration by way of commission or otherwise for introducing or undertaking to introduce to a money-lender any person desiring to borrow money.

(4) Where any document issued or published by or on behalf of a money-lender purports to indicate the terms of interest upon which he is willing to make loans or any particular loan, the document shall either express the interest proposed to be charged in terms of a rate per centum per annum or show the rate per centum per annum represented by the interest proposed to be charged as calculated in accordance with the provisions of the Schedule to this Ordinance.

(5) Any person acting in contravention of any of the provisions of this section shall be guilty of an offence and shall in respect of each offence be liable on conviction to imprisonment for a term not exceeding three months or a fine not exceeding one hundred pounds, or to both such imprisonment and fine.

(6) Where it is shown that a money-lending transaction was brought about by a contravention of any of the provisions of this section, the transaction shall, notwithstanding that the money-lender was duly licensed under this Ordinance, be illegal, unless the money-lender proves that the contravention occurred without his consent or connivance.

**10.** (1) No contract for the repayment by a borrower of money lent to him or to any agent on his behalf by a money-lender after the commencement of this Ordinance or for the payment by him of interest on money so lent, and no security given by the borrower or by any such agent as aforesaid in respect of any such contract shall be enforceable, unless a note or memorandum in writing of the contract be made and signed personally by the borrower, and unless a copy thereof be delivered or sent to the borrower within seven days of the making of the contract; and no such contract or security shall be enforceable if it is proved that the note or memorandum aforesaid was not signed by the borrower before the money was lent or before the security was given, as the case may be.

Form of  
money-lenders'  
contracts.

(2) The note or memorandum aforesaid shall contain all the terms of the contract, and in particular shall show the date

on which the loan is made, the amount of the principal of the loan, and either the interest charged on the loan expressed in terms of a rate per centum per annum, or the rate per centum per annum represented by the interest charged as calculated in accordance with the provisions of the Schedule to this Ordinance.

Prohibition of compound interest and provision as to defaults.

**11.** Subject as hereinafter provided, any contract made after the commencement of this Ordinance for the loan of money by a money-lender shall be illegal in so far as it provides directly or indirectly for the payment of compound interest or for the rate or amount of interest being increased by reason of any default in the payment of sums due under the contract :

Provided that provision may be made by any such contract that if default is made in the payment upon the due date of any sum payable to the money-lender under the contract, whether in respect of principal or interest, the money-lender shall be entitled to charge simple interest on that sum from the date of the default until the sum is paid, at a rate not exceeding the rate payable in respect of the principal apart from any default, and any interest so charged shall not be reckoned for the purposes of this Ordinance as part of the interest charged in respect of the loan.

Obligation of money-lender to supply information as to state of loan and copies of documents relating thereto.

**12.** (1) In respect of every contract for the repayment of money lent by a money-lender, whether made before or after the commencement of this Ordinance, the money-lender shall, on any reasonable demand in writing being made by the borrower at any time during the continuance of the contract and on tender by the borrower of the sum of one shilling for expenses, supply to the borrower or, if the borrower so requires, to any person specified in that behalf in the demand, a statement signed by the money-lender or his agent showing—

- (a) the date on which the loan was made, the amount of the principal of the loan and the rate per centum per annum of interest charged ; and
- (b) the amount of any payment already received by the money-lender in respect of the loan and the date on which it was made ; and
- (c) the amount of every sum due to the money-lender, but unpaid, and the date upon which it became due, and the amount of interest accrued due and unpaid in respect of every such sum ; and

(d) the amount of every sum not yet due which remains outstanding, and the date upon which it will become due.

(2) A money-lender shall, on any reasonable demand in writing by the borrower, and on tender of a reasonable sum for expenses, supply a copy of any document relating to a loan made by him or any security therefor, to the borrower, or, if the borrower so requires, to any person specified in that behalf in the demand.

(3) If a money-lender to whom a demand has been made under this section fails without reasonable excuse to comply therewith within one month after the demand has been made, he shall not, so long as the default continues, be entitled to sue for or recover any sum due under the contract on account either of principal or interest, and interest shall not be chargeable in respect of the period of the default, and if such default is made or continued after proceedings have ceased to lie in respect of the loan, the money-lender shall be liable on conviction by a subordinate court of the first or second class to a fine not exceeding five pounds for every day on which the default continues.

**13.** (1) Where a debt due to a money-lender in respect of a loan made by him after the commencement of this Ordinance includes interest, that interest shall, for the purposes of the provisions of the Bankruptcy Ordinance, 1930, relating to the presentation of a bankruptcy petition, voting at meetings, compositions and schemes of arrangement and dividend, be calculated at a rate not exceeding five per centum per annum, but nothing in the foregoing provision shall prejudice the right of the creditor to receive out of the estate, after all the debts proved in the estate have been paid in full, any higher rate of interest to which he may be entitled.

Provisions as to bankruptcy proceedings for money-lenders' loans. No. 32 of 1930.

The provisions of this sub-section shall, in relation to such a debt as aforesaid, have effect in substitution for the provisions of sub-section (1) of section 67 of the Bankruptcy Ordinance, 1930.

No. 32 of 1930.

(2) No proof of a debt due to a money-lender in respect of a loan made by him shall be admitted for any of the purposes of the Bankruptcy Ordinance, 1930, unless the affidavit verifying the debt is accompanied by a statement showing in detail—

(a) the amount of the sums actually lent to the debtor and the dates on which they were lent, and the

amount of every payment already received by the money-lender in respect of the loan and the date on which every such payment was made; and

- (b) the amount of the balance which remains unpaid, distinguishing the amount of the principal from the amount of interest included therein, the appropriation between principal and interest being made in accordance with the provisions of this Ordinance where the interest is not expressed by the contract for the loan in terms of a rate; and
- (c) where the amount of interest included in the unpaid balance represents a rate per centum per annum exceeding five per centum, the amount of interest which would be so included if it were calculated at the rate of five per centum per annum.

(3) General rules may be made under section 118 of the No. 32 of 1930. Bankruptcy Ordinance, 1930, for the purpose of carrying into effect the objects of this section.

Interest at a rate exceeding 48 per cent to be deemed harsh and unconscionable.

**14.** (1) Where, in any proceedings in respect of any money lent by a money-lender after the commencement of this Ordinance or in respect of any agreement or security made or taken after the commencement of this Ordinance in respect of money lent either before or after the commencement of this Ordinance, it is found that the interest charged exceeds the rate of forty-eight per centum per annum, or the corresponding rate in respect of any other period, the court shall presume for the purposes of section 3 of this Ordinance, that the interest charged is excessive and that the transaction is harsh and unconscionable, but this provision shall be without prejudice to the powers of the court under that section where the court is satisfied that the interest charged, although not exceeding forty-eight per centum per annum, is excessive.

(2) Where a court reopens a transaction of a money-lender under section 3 of this Ordinance, the court may require the money-lender to produce any certificate granted to him in accordance with the provisions of this Ordinance, and may cause such particulars as the court thinks desirable to be endorsed on any such certificate, and a copy of the particulars to be sent to the authority by whom the certificate was granted.

(3) The powers of a court under section 3 of this Ordinance with respect to the reopening of the transactions of money-lenders shall extend to any transaction effected under a special contract made in accordance with the provisions of section 20 of the Pawnbrokers Ordinance, and accordingly, for the purposes of the first-mentioned section, the provisions of paragraph (a) of the definition of the term "money-lender" in section 2 of this Ordinance shall not apply with respect to any such transaction.

Cap. 105.

(4) The powers of a court under sub-section (2) of section 3 of this Ordinance may, in the event of the bankruptcy of the borrower, be exercised at the instance of the trustee in bankruptcy, notwithstanding that he may not be a person liable in respect of the transaction.

(5) The powers of a court under sub-section (2) of section 3 of this Ordinance may be exercised notwithstanding that the money-lender's right of action for the recovery of the money lent is barred.

15. Subject as hereinafter provided, no action by a money-lender for the recovery of money lent by him or for enforcing any agreement or security relating to any such money shall be brought in any subordinate court other than a subordinate court of the first class :

Courts to which proceedings on money-lending transactions.

Provided that the Governor may by order direct that any subordinate court specified in the order shall have the same jurisdiction as respects such actions as aforesaid as it would have had but for the provisions of this section, and any such order may contain such provisions as appear to the Governor expedient with respect to the making of rules for regulating the procedure to be followed in the case of any such action.

16. Any agreement between a money-lender and a borrower or intending borrower for the payment by the borrower or intending borrower to the money-lender of any sum on account of costs, charges or expenses incidental to or relating to the negotiations for or the granting of the loan or proposed loan shall be illegal, and if any sum is paid to a money-lender by a borrower or intending borrower as for or on account of any such costs, charges or expenses, that sum shall be recoverable as a debt due to the borrower or intending borrower, or, in the event of the loan being completed, shall, if not so recovered be set off against the amount actually lent and that amount shall be deemed to be reduced accordingly.

Prohibition of charge for expenses on loans by money-lenders.

Limitation of time for proceedings in respect of money lent by money-lenders.

**17.** (1) No proceedings shall lie for the recovery by a money-lender of any money lent by him after the commencement of this Ordinance or of any interest in respect thereof, or for the enforcement of any agreement made or security taken after the commencement of this Ordinance in respect of any loan made by him, unless the proceedings are commenced before the expiration of twelve months from the date on which the cause of action accrued :

Provided that—

- (a) if during the period of twelve months aforesaid or at any time within any subsequent period during which proceedings may by virtue of this proviso be brought, the debtor acknowledges in writing the amount due and gives a written undertaking to the money-lender to pay that amount, proceedings for the recovery of the amount due may be brought at any time within a period of twelve months from the date of the acknowledgment and undertaking ;
- (b) the time limited by the foregoing provisions of this section for the commencement of proceedings shall not begin to run in respect of any payments from time to time becoming due to a money-lender under a contract for the loan of money until a cause of action accrues in respect of the last payment becoming due under the contract ;
- (c) if at the date on which the cause of action accrues or on which any such acknowledgment and undertaking as aforesaid is given by the debtor, the person entitled to take the proceedings is *non compos mentis*, the time limited by the foregoing provisions of this section for the commencement of proceedings shall not begin to run until that person ceases to be *non compos mentis* or dies, whichever first occurs ; and
- (d) if at the date on which the cause of action accrues or on which any such acknowledgment and undertaking as aforesaid is given by the debtor, the debtor is out of the Colony, the time limited by the foregoing provisions of this section for the commencement of proceedings shall not begin to run until he returns in the Colony.

(2) Without prejudice to the powers of a court under section 3 of this Ordinance, if at the time when proceedings are taken by a money-lender in respect of a default in the

payment of any sum due to him under a contract for the loan of money, any further amount is outstanding under the contract but not yet due, the court may determine the contract and order the principal outstanding to be paid to the money-lender with such interest thereon, if any, as the court may allow up to the date of payment.

18. (1) The provisions of sections 10, 16 and 17 of this Ordinance shall not apply in relation to any loan by a pawnbroker on a pledge, or in relation to any debt in respect of such a loan, or any interest thereon, notwithstanding that the loan is not made in the course of the business carried on by the pawnbroker in accordance with any law for the time being in force in relation to pawnbrokers, so long as the following conditions are complied with in respect of the loan :—

Special provisions as to pawnbrokers' loans.

(a) The pawnbroker shall deliver or send to the pawner within seven days a note or memorandum containing all the terms of contract, and in particular showing the date on which the loan is made, the amount of the principal of the loan, the interest charged on the loan expressed in terms of a rate per cent per annum, and any other charges payable by the pawner under the contract, and the rate of interest charged shall not exceed the rate of twenty per cent per annum.

(b) Subject as hereinafter provided, the pawner shall not be charged any sum on account of costs, charges, or expenses incidental to or relating to the negotiations for or the granting of the loan or proposed loan, except a charge for the preparation of documents relating to the loan not exceeding the sum of one shilling, and a charge equal to the actual amount of any stamp duty paid by the pawnbroker upon any such document :

Provided that a pawnbroker shall not be deemed to have failed to comply with the foregoing conditions by reason of his having made in good faith and in accordance with the terms of the contract for the loan—

(i) a reasonable charge in respect of the storage or care of any pledge which is not physically delivered to him or which, although so delivered, is of such weight or size that it would not under the Post Office Regulations for the time being in force be received for transmission by parcel post; or

- (ii) a charge for interest at a rate not exceeding twenty per cent per annum upon any sum reasonably expended by the pawnbroker in respect of the storage or care of the pledge; or
- (iii) a charge not exceeding one shilling for rendering any account of the sale of any pledge; or
- (iv) a charge not exceeding one shilling in respect of any inspection of the pawnbroker's books.

(2) Any charge authorized by this section for the preparation of documents relating to a loan, or in respect of stamp duty upon any such document, may be deducted by the pawnbroker from the amount of the loan, and, if so deducted, shall be deemed for the purposes of this Ordinance to be included in the principal.

Notice and information to be given on assignment of money-lenders' debts.

19. (1) Where any debt in respect of money lent by a money-lender whether before or after the commencement of this Ordinance or in respect of interest on any such debt or the benefit of any agreement made or security taken in respect of any such debt or interest is assigned to any assignee, the assignor (whether he is the money-lender by whom the money was lent or any person to whom the debt has been previously assigned) shall, before the assignment is made—

- (a) give to the assignee notice in writing that the debt, agreement or security is affected by the operation of this Ordinance; and
- (b) supply to the assignee all information necessary to enable him to comply with the provisions of this Ordinance relating to the obligation to supply information as to the state of loans and copies of documents relating thereto,

and any person acting in contravention of any of the provisions of this section shall be liable to indemnify any other person who is prejudiced by the contravention, and shall also be guilty of an offence, and shall in respect of each offence be liable on conviction to imprisonment for a term not exceeding two years, or to a fine not exceeding five hundred pounds, or to both such imprisonment and fine.

(2) In this section the expression "assigned" means assigned by any assignment *inter vivos* other than an assignment by operation of law, and the expressions "assignor" and "assignee" have corresponding meanings.

**20.** (1) Subject as hereinafter provided, the provisions of this Ordinance shall continue to apply as respects any debt to a money-lender in respect of money lent by him after the commencement of this Ordinance or in respect of interest on money so lent or of the benefit of any agreement made or security taken in respect of any such debt or interest, notwithstanding that the debt or the benefit of the agreement or security may have been assigned to any assignee, and, except where the context otherwise requires, references in this Ordinance to a money-lender shall accordingly be construed as including any such assignee as aforesaid :

Application of Ordinance as respects assignees.

Provided that notwithstanding anything in this Ordinance—

- (i) any agreement with, or security taken by, a money-lender in respect of money lent by him after the commencement of this Ordinance shall be valid in favour of any bona fide assignee or holder for value without notice of any defect due to the operation of this Ordinance and of any person deriving title under him ; and
- (ii) any payment or transfer of money or property made bona fide by any person, whether acting in a fiduciary capacity or otherwise, on the faith of a validity of any such agreement or security, without notice of any such defect shall, in favour of that person, be as valid as it would have been if the agreement or security had been valid ; and
- (iii) the provisions of this Ordinance limiting the time for proceedings in respect of money lent shall not apply to any proceedings in respect of any such agreement or security commenced by a bona fide assignee or holder for value without notice that the agreement or security was affected by the operation of this Ordinance, or by any person deriving title under him,

but in every such case the money-lender shall be liable to indemnify the borrower or any other person who is prejudiced by virtue of this section, and nothing in this proviso shall render valid an agreement or security in favour of, or apply to proceedings commenced by, an assignee or holder for value who is himself a money-lender.

(2) Nothing in this section shall render valid for any purpose any agreement, security, or other transaction which would, apart from the provisions of this Ordinance, have been void or unenforceable.

#### SCHEDULE.

##### CALCULATION OF INTEREST WHERE THE INTEREST CHARGED ON A LOAN IS NOT EXPRESSED IN TERMS OF A RATE.

1. The amount of principal outstanding at any time shall be taken to be the balance remaining after deducting from the principal the total of the portions of any payments appropriated to principal in accordance with the provisions of this Ordinance.

2. The several amounts taken to be outstanding by way of principal during the several periods ending on the dates on which payments are made shall be multiplied in each case by the number of calendar months during which those amounts are taken to be respectively outstanding, and there shall be ascertained the aggregate amount of the sum so produced.

3. The total amount of the interest shall be divided by one-twelfth part of the aggregate amount mentioned in paragraph 2 of this Schedule, and the quotient, multiplied by one hundred, shall be taken to be the rate of interest per cent per annum.

4. If having regard to the intervals between successive payments it is desired so to do, the calculation of interest may be made by reference to weeks instead of months, and in such a case the foregoing paragraphs shall have effect as though in paragraph 2 the word "weeks" were substituted for the words "calendar months," and in paragraph 3 the words "one-fifty-second," were substituted for the words "one-twelfth."

5. Where any interval between successive payments is not a number of complete weeks or complete months, the foregoing paragraphs shall have effect as though one day were one-seventh part of a week or one-thirtieth part of a month, as the case may be.

**AN ORDINANCE.****No. XLVI of 1932**

Assented to in His Majesty's name this thirty-first day of December, 1932.

J. BYRNE,  
Governor.

[31ST DECEMBER, 1932.] Date of assent.

**An Ordinance to Provide for the Prohibition of the Carriage for Reward of Goods by Motor Vehicles over Certain Roads of the Colony.**

By Notice. 17th January, 1933

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 Carriage of Goods by Motor (Prohibition) Ordinance, 1932," and shall come into operation upon such date as the Governor may by notice in the Gazette appoint.

Short title and commencement.

8th 31/32

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

Interpretation.

"motor vehicle" means every description of vehicle propelled by means of mechanism contained within itself other than a vehicle used on specially prepared ways such as railways and tramways, and includes a tractor and a trailer;

"tractor" means a motor vehicle designed for towing one or more trailers;

"trailer" means a vehicle attached to and drawn by a motor vehicle whether its weight is partly supported by the motor vehicle or otherwise;

"goods" means goods, or other movable property of any description, and includes animals and birds, whether alive or dead.

3. (1) Save as is provided under this Ordinance, no person shall for reward convey by means of any motor vehicle any goods (other than the personal effects of persons travelling therein) over or along any road mentioned in the Schedule hereto.

Prohibition of motor carriage of goods over certain roads.

(2) If any goods which have been sold or are being conveyed for sale are conveyed by the seller by means of a motor vehicle owned by him, in course of delivery of those goods to

their purchaser or to the place of sale such conveyance shall constitute a conveyance for reward within the meaning of this section.

(3) The provisions of this section shall not apply in regard to the conveyance of any farming products from the farm whereon such farming products were produced to the nearest railway station or siding or to the nearest municipality or township or to such other point as the Governor in Council may determine.

**Power to alter Schedule.**

4. The Schedule hereto may from time to time be added to, varied or revoked by resolution of the Legislative Council.

**Power to grant permits in special circumstances.**

5. Notwithstanding anything in this Ordinance contained, the Governor in Council may grant a permit on such terms as he may think fit to carry goods for reward over or along any road mentioned in the Schedule hereto in respect of any motor vehicle either generally or in respect of any particular journey and subject to such conditions as he may prescribe if he is satisfied that such motor vehicle is bona fide used for conveying supplies or equipment for persons on a temporary visit to the Colony or that special circumstances exist which justify him in granting such free permit.

**Application to motor vehicles imported from neighbouring territories.**  
No. 26 of 1928.

6. Notwithstanding the proviso to section 3 of the Traffic Ordinance, 1928, no motor vehicle licensed in the Uganda Protectorate or in the Tanganyika Territory shall be entitled to carry goods for reward over or along any road mentioned in the Schedule hereto.

**Offences cognizable to police.**

7. Offences against this Ordinance shall be cognizable to the police.

**Penalty.**

8. Any person who shall contravene any of the provisions of this Ordinance shall be guilty of an offence and shall be liable on conviction by a magistrate of the first or second class to a fine of one hundred pounds or to imprisonment for a term of six months or to both such fine and such imprisonment.

**Saving for conveyance of goods not involving 30 miles of a scheduled road.**

9. (1) Nothing in this Ordinance contained shall be deemed to make unlawful the conveyance of any goods for reward by means of a motor vehicle if the conveyance of such goods whether in one motor vehicle or in more than one motor vehicle does not involve the use of more than thirty miles in all of any road or roads mentioned in the Schedule hereto.

1932

*Carriage of Goods by Motor*

No. XLVI

(2) The distance travelled by any person over any road mentioned in the Schedule hereto shall be deemed to be the distance from the point at which such person first came upon such scheduled road to the point at which he would by using the normal means of communication finally leave such scheduled road.

**10.** When any person is charged with carrying goods for reward under this Ordinance the onus of proving that the goods so conveyed were not conveyed for reward shall be on the person so charged. **Onus of proof.**

**11.** The Carriage of Goods by Motor (Control) Ordinance, 1931, is hereby repealed: **Repeal.**  
**No. 23 of 1931.**

Provided that all licences, authorities or rights granted by the Road Transport Control Board under the authority of the Ordinance hereby repealed and in force immediately before the commencement of this Ordinance shall respectively continue in force for the period for which they were issued, which period shall in no case exceed one year, and while so in force all the provisions of the Ordinance hereby repealed in respect of those licences during the currency thereof and in respect of the vehicles used in connexion with such licences shall apply to such licences, authorities and rights as aforesaid, and to the vehicles to which they relate.

**12.** This Ordinance shall continue in force until the 31st day of December, 1933, and shall then expire provided that the Governor may by proclamation with the approval of the Legislative Council declare that this Ordinance shall remain in force until a date to be fixed in such proclamation." **Expiration of Ordinance.**

#### SCHEDULE.

From Mombasa (Makupa Causeway) via Rabai, Mariakani, Voi, Tsavo, Kibwezi, Makindu, Konza and Athi River Station to Nairobi, thence by the route known as Route A to Limuru, thence through the Kedong Valley to Naivasha and thence through Gilgil and passing east of Lake Elmenteita to Nakuru.

The road between Voi and Taveta.

**AN ORDINANCE.****No. XLVII of 1932**

*Replaced by Ord 36/33*  
Assented to in His Majesty's name this thirty-first day of December, 1932.

J. BYRNE,  
*Governor.*

Date of assent.

[31ST DECEMBER, 1932.]

**An Ordinance to Apply a Sum of Money for the Service of the Year ending the 31st day of December, 1933.**

Date of commencement.

*31st December, 1932*

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 1933 Appropriation Ordinance, 1932."

Public revenue charged.

**2.** The Public Revenue for the year 1933, and other funds of the Colony and Protectorate of Kenya are hereby charged towards the service of the year ending the 31st day of December, one thousand nine hundred and thirty-three, with the sum of three million, two hundred and sixty-seven thousand, seven hundred and forty-seven pounds.

Application of money granted.

**3.** The money granted by this Ordinance shall be applied for the purposes and services expressed in the Schedule annexed hereto.

Treasurer's authority for payment.

**4.** The Treasurer of the Colony and Protectorate of Kenya is hereby authorized and required from time to time upon the warrant or order of the Governor to pay out of the Revenue and other funds of the Colony and Protectorate of Kenya, for the several services specified in the Schedule, the said sum of three million, two hundred and sixty-seven thousand, seven hundred and forty-seven pounds, which will come in course of payment during the year ending on the 31st day of December, one thousand nine hundred and thirty-three.

SCHEDULE.

	£
I. His Excellency the Governor .. .. .	15,471
II. Administration ... .. .	249,818
IIa. Administration Extraordinary ... .. .	1,715
III. Agricultural Department ... .. .	101,871
IIIa. Agricultural Department Extraordinary	5,400
IV. Audit Department ... .. .	21,157

## SCHEDULE—Contd.

	£
V. Coast Agency ... ..	5,553
VI. Conference of East African Governors..	1,925
VII. Customs Department ... ..	48,210
VIII. Education Department ... ..	109,064
VIIIa. Education Department Extraordinary..	50
IX. Forest Department ... ..	34,230
X. Game Department ... ..	9,499
XI. Interest ... ..	3,500
XII. Judicial Department ... ..	33,190
XIII. Legal Department ... ..	8,006
XIV. Local Government Contributions to Local Authorities ... ..	88,621
XV. Medical Department ... ..	104,721
XVI. Military ... ..	142,380
XVIa. Military Extraordinary ... ..	815
XVIB. Mining and Geological Department ...	6,448
XVII. Miscellaneous Services ... ..	78,545
XVIIa. Miscellaneous Services Extraordinary...	4,317
XVIII. Pensions and Gratuities ... ..	151,297
XIX. Police ... ..	131,610
XX. Post Office and Telegraphs ... ..	214,992
XXa. Post Office and Telegraphs Extraordinary ... ..	5,350
XXI. Printing and Stationery ... ..	29,197
XXII. Prisons ... ..	47,172
XXIII. Public Debt Funded ... ..	995,500
XXIV. Public Works Department ... ..	88,504
XXV. Public Works Recurrent ... ..	113,817
XXVI. Registrar General's Department ...	5,613
XXVII. Rent and Interest to H.H. the Sultan of Zanzibar ... ..	16,000
XXVIII. Secretariat and Legislative Council ...	19,580
XXIX. Statistical Departments ... ..	21,134
XXX. Survey and Registration Department ...	31,532
XXXI. Trade and Information Office ... ..	3,800
XXXII. Treasury ... ..	22,940
XXXIIa. Treasury Extraordinary ... ..	200
XXXIII. Public Works Extraordinary ... ..	12,875
XXXIV. Colonial Development Fund ... ..	2,530
XXXV. Native Betterment Fund ... ..	279,598
Total Expenditure ... ..	<u>£3,267,747</u>

Repealed and replaced by Ord. 42 of 1958x

AN ORDINANCE.

*Amended by*

No. XLVIII of 1932  
Assented to by His Majesty's name this thirty-first day  
of December 1932

J. BYRNE,  
Governor.

Date of assent.

[31ST DECEMBER, 1932.]

An Ordinance to provide for the Establishment and Government of a Force styled the King's African Rifles and for matters incidental thereto.

Date of commencement.

31st December, 1932

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 King's African Rifles Ordinance, 1932."

Interpretation of terms.

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

"Army Act" means the Imperial Statute 44 and 45 Vict., cap. 58, as amended from time to time, or any Imperial enactment substituted therefor;

"administrative officer" means any official charged with the civil administration of a district;

"battalion" or "unit" includes the Somaliland Camel Corps, the Supply and Transport Corps, the Northern Brigade Headquarters and the Northern Brigade Signal Section;

*S. N. 84/70*

"Brigade Commander" means the officer in command of a brigade;

"boy" means any person enlisted or enrolled as a band, drummer or signal boy until such time as he is appointed as a bandsman, drummer, signaller or is transferred to a company for duty as a soldier;

"British warrant or non-commissioned officer" means a warrant or non-commissioned officer seconded from the British Army;

"locally enlisted British warrant or non-commissioned officer" means a warrant or non-commissioned officer appointed by the Governor for service in the Supply and Transport Corps on such terms and conditions as he may approve;

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at of  
pal 5. The principal Ordinance is hereby amended by deleting the words "Brigade Commander", wherever they appear therein, and substituting therefor the word "Commander". *Ord. 16/48*

"battalion" or "unit" includes the Military Provost Corps, the Coast Defence Battery, any unit of the East African Construction Force and the King's African Rifles Guard Companies;  
Substituted by section 2 of Ordinance No.4/1948, p.2

*— M. H. N. 398/39. / 146.*

2. Section 2 of the principal Ordinance is hereby amended by deleting the definition "Commander" and substituting therefor the following definition:— Amendment of section 2 of the principal Ordinance.

"Commander" means the Officer Commanding, East Africa Command, or such other officer as he may appoint". *Ord. 66/48*

... the ... Signal Company and the Coast Defence Battery;".

“commanding officer” means the officer in command of a battalion, and in relation to any officer, British warrant or non-commissioned officer, or soldier, means the officer in command of the battalion to which such officer, British warrant or non-commissioned officer or soldier belongs;

“enemy” includes all armed mutineers, armed rebels, armed rioters, and pirates;

“follower” means any person, not being of European origin or extraction, who is attached to the regiment in any capacity, and includes any such person being of the family of a soldier, or being an officer’s servant, syce, employee in canteen, sutler supplying the regiment or being in the lines;

“Governor” includes any officer administering the government of any East African Colony, Protectorate or Territory;

“imprisonment” means imprisonment with hard labour unless the court imposing such imprisonment shall otherwise order. ~~Imprisonment, where no maximum or minimum term is stated, shall be for any term not exceeding two years;~~

*Ord. 29/34.*

“Inspector-General” means the Inspector-General of the King’s African Rifles;

“military decoration” means any medal, clasp, good-conduct badge, or decoration;

“military reward” means any gratuity for long service or good conduct; it also includes any good-conduct pay or any other military pecuniary reward;

“non-commissioned officer” includes an acting non-commissioned officer ~~and an enlisted clerk~~, but does not include British warrant and non-commissioned officer or locally enlisted British warrant and non-commissioned officer;

“officer” means an officer commissioned or in pay as an officer in His Majesty’s Imperial, Dominion, Colonial or Protectorate forces, or any arm, branch, or part thereof. Warrant and other officers holding honorary commissions are officers within the meaning of this Ordinance;

“Reserve” means the reserve established under the King’s African Rifles Reserve Forces Ordinance or under this Ordinance; *Cap. 41.*

“soldier” does not include an officer, British warrant or non-commissioned officer or locally enlisted British warrant or non-commissioned officer, but otherwise includes every person subject to this Ordinance during the time that he is so subject who has been enlisted or enrolled for any period;

“superior officer,” when used in relation to a British warrant or non-commissioned officer, locally enlisted British warrant or non-commissioned officer, a soldier or follower, includes all officers, British warrant or non-commissioned officers, or locally enlisted British warrant or non-commissioned officers superior to such British warrant or non-commissioned officer, locally enlisted British warrant or non-commissioned officer, locally enlisted British warrant or non-commissioned officer, soldier or follower; when used in relation to ~~machine and Lewis gun porters~~ <sup>carriers</sup>, stretcher bearers, and syces, includes a headman.

Ad 3/1/38  
Division of Ordinance.

3. This Ordinance is divided into six parts relating to the following subject-matters, that is to say:—

Part I.—Constitution and Duties.

Part II.—Discipline.

Part III.—Government.

Part IV.—Enlistment, Discharge, and Service.

Part V.—General Provisions.

Part VI.—Application of Military Law and Miscellaneous Provisions.

#### PART I.—CONSTITUTION AND DUTIES.

Establishment of King's African Rifles.

4. (1) There shall be established and maintained in the Colony one or more battalion or battalions of troops forming part of a regiment of His Majesty's Forces styled the King's African Rifles, hereinafter called “the regiment.”

(2) The battalion or battalions maintained in the Colony shall form part of the Northern Brigade.

(3) The regiment shall be charged with the defence of the Colony, the Uganda Protectorate, the Nyasaland Protectorate, the British Somaliland Protectorate, and the Tanganyika Territory, with the maintenance of order, and with such other duties as may be from time to time defined by the Governor of any East African Colony, Protectorate or Territory within which any portion of the regiment may from time to time be stationed.

Employment beyond Colony.

(4) The Governor may at any time and for any purpose, as the Secretary of State may direct, order that a battalion or any part thereof which may be stationed in the Colony shall be employed out of or beyond the Colony.

(5) The Governor may, on the recommendation of the ~~Brigade~~ Commander, order that any soldier of the regiment

See GA. 1244/31 p. 442

5. The Principal Ordinance is hereby amended—

Amendment of  
the Principal  
Ordinance.

a) by substituting the word "carrier" for the words  
"machine and Lewis gun porter" or "machine gun  
and Lewis gun porter", as the case may be, wherever  
either of such last-mentioned words occur therein;  
and

b) by substituting the word "carriers" for the words  
"machine and Lewis gun porters" or "machine gun  
and Lewis gun porters", as the case may be, wherever  
either of such last-mentioned words occur therein.

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shall proceed to the United Kingdom for the purpose of undergoing instruction or training or for duty or employment.

PART II.—DISCIPLINE.

CRIMES AND PUNISHMENTS.

*Offences in respect of Military Service.*

5. Every person subject to this Ordinance who commits any of the following offences, that is to say—

Offences in relation to the enemy punishable with death.

- (1) shamefully abandons or delivers up any garrison, place, post, or guard, or uses any means to compel or induce any Governor, commanding officer or other person shamefully to abandon or deliver up any garrison, place, post, or guard which it was the duty of such Governor, officer or person to defend;
- (2) shamefully casts away his arms, ammunition or tools in the presence of the enemy;
- (3) treacherously holds correspondence with or gives intelligence to the enemy, or treacherously or through cowardice sends a flag of truce to the enemy;
- (4) assists the enemy with arms, ammunition, or supplies, or knowingly harbours or protects an enemy not being a prisoner;
- (5) having been made a prisoner of war, voluntarily serves with or voluntarily aids the enemy;
- (6) knowingly does when on active service any act calculated to imperil the success of His Majesty's Forces or any part thereof,

shall on conviction by court-martial be liable to suffer death, or such less punishment as is in this Ordinance mentioned.

6. Every person subject to this Ordinance who on active service commits any of the following offences, that is to say—

Offences in relation to the enemy not punishable with death.

- (1) without orders from his superior officer leaves the ranks in order to secure prisoners or horses, or on pretence of taking wounded men to the rear;
- (2) without orders from his superior officer wilfully destroys or damages any property;

- (3) is taken prisoner, by want of due precaution, or through disobedience of orders, or wilful neglect of duty, or having been taken prisoner fails to rejoin His Majesty's service when able to rejoin the same;
- (4) without due authority either holds correspondence with, or gives intelligence to, or sends a flag of truce to the enemy;
- (5) by word of mouth or in writing, or by signals, or otherwise, spreads reports calculated to create unnecessary alarm or despondency;
- (6) in action, or previously to going into action, uses words calculated to create alarm or despondency;
- (7) misbehaves or induces others to misbehave before the enemy in such a manner as to show cowardice,

shall on conviction by court-martial be liable to imprisonment ~~for life or for a term of not less than three years~~ or such less punishment as is in this Ordinance mentioned.

*QJ. 29/34.*  
 Offences punishable more severely on active service than at other times.

7. (1) Every person subject to this Ordinance who treacherously makes known the parole, watchword or countersign to any person not entitled to receive it, or treacherously gives a parole, watchword, or countersign different from what he received shall on conviction by a court-martial, if he commits such offence on active service, be liable to suffer death, or such less punishment as is in this Ordinance mentioned, and, if he commits such offence not on active service, be liable to imprisonment, or such less punishment as is in this Ordinance mentioned.

(2) Every person subject to this Ordinance who commits any of the following offences, that is to say—

- (a) leaves his commanding officer to go in search of plunder;
- (b) forces a safeguard;
- (c) forces or strikes a sentinel;
- (d) breaks into any house or other place in search of plunder;
- (e) being a soldier acting as sentinel sleeps or is drunk at his post;
- (f) without orders from his superior officer, leaves his guard, piquet, patrol or post;

(g) by discharging firearms, drawing swords, beating drums, making signals, using words, or by any means whatever, intentionally occasions false alarms in action, on the march, in the field or elsewhere;

(h) being a soldier acting as sentinel leaves his post before he is regularly relieved,

shall on conviction by a court-martial, ~~if he commits any such offences on active service, be liable to imprisonment for a term of not less than three years or such less punishment as is in this Ordinance mentioned, and, if he commits any such offence not on active service, be liable to imprisonment, or such less punishment as is in this Ordinance mentioned.~~ 2/24

(3) Every person subject to this Ordinance who commits any of the following offences, that is to say—

(a) by discharging firearms, drawing swords, beating drums, making signals, using words, or by any means whatever negligently occasions false alarms in action, on the march, in the field or elsewhere;

(b) makes known the parole, watchword or countersign to any person not entitled to receive it: or, without good and sufficient cause, gives a parole, watchword or countersign different from what he received;

(c) impedes the provost-marshal, or any assistant provost-marshal, or any officer <sup>Warrant Officer</sup> or non-commissioned officer or other person legally exercising authority under or on behalf of the provost-marshal, or when called on refuses to assist in the execution of his duty the provost-marshal, assistant provost-marshal, or any other officer, <sup>Warrant Officer</sup> non-commissioned officer, or other person;

(d) does violence to any person bringing provisions or supplies to the forces, whether His Majesty's forces or forces co-operating therewith; or commits any offence against the property or person of any inhabitant of or resident in the country in which he is serving;

(e) irregularly detains or appropriates to his own corps, battalion, or detachment any provisions or supplies proceeding to any such forces aforesaid, contrary to any orders issued in that respect,

shall on conviction <sup>by Court-martial</sup> be liable to imprisonment, or such less punishment as is in this Ordinance mentioned. 2

*Mutiny and Insubordination.***Mutiny and  
sedition.****8.** Every person subject to this Ordinance who commits any of the following offences, that is to say—

- (1) causes or conspires with any other persons to cause any mutiny or sedition in any forces belonging to His Majesty including any Dominion, Colonial or Protectorate forces;
- (2) endeavours to seduce any person from allegiance to His Majesty, or to persuade any person in any of the forces aforesaid to join in any mutiny or sedition;
- (3) joins in or, being present, does not use his utmost endeavours to suppress any mutiny or sedition in any of the forces aforesaid;
- (4) knowing of any actual or intended mutiny or sedition in any such force as aforesaid does not without delay inform his commanding officer or other superior officer of the same,

shall on conviction by court-martial be liable to suffer death, or such less punishment as is in this Ordinance mentioned.

**Striking or  
threatening a  
superior  
officer.****9.** ~~Every person subject to this Ordinance~~

- (1) who strikes or uses or offers any violence to his superior officer, being in the execution of his office,

shall on conviction by court-martial be liable to imprisonment for a term of not less than <sup>three</sup> years, or such less punishment as is in this Ordinance mentioned;

- (2) who strikes or uses or offers any violence to his superior officer, <sup>or</sup> uses threatening or insubordinate language to his superior officer,

shall on conviction by court-martial, if he commits such offence on active service, be liable to imprisonment for a term of not less than three years or such less punishment as is in this Ordinance mentioned; and if he commits such offence not on active service, be liable to imprisonment or such less punishment as is in this Ordinance mentioned.

**Disobedience  
to superior  
officer.**

**10.** (1) ~~Every person subject to this Ordinance~~ who disobeys, in such manner as to show a wilful defiance of authority, any lawful command given personally by his superior officer in the execution of his office, whether the same is given orally or in writing, or by signal, or otherwise, shall on conviction by court-martial be liable to imprisonment for a term of not less than three years or such less punishment as is in this Ordinance mentioned.

(2) ~~Every person subject to this Ordinance who disobeys any lawful command given by his superior officer, shall on conviction by court-martial, if he commits such offence on active service, be liable to imprisonment for a term of not less than three years, or such less punishment as is in this Ordinance mentioned; and, if he commits such offence not on active service, be liable to imprisonment or such less punishment as is in this Ordinance mentioned.~~

11. Every person subject to this Ordinance who commits any of the following offences, that is to say— Insubordination.

- (1) being concerned in any quarrel, fray, or disorder, refuses to obey any officer (though of inferior rank) who orders him into an arrest, or strikes, or uses or offers violence to, any such officer;
- (2) strikes, or uses or offers violence to, any person whether subject to military law or not, in whose custody he is placed, and whether he is or is not his superior officer;
- (3) resists an escort whose duty it is to apprehend him or to have him in charge;
- (4) breaks out of barracks, camp, or quarters,

shall on conviction by court-martial be liable to imprisonment or such less punishment as is in this Ordinance mentioned.

12. Every person subject to this Ordinance who neglects to obey any general or garrison or other orders, shall on conviction by court-martial be liable to imprisonment or such less punishment as is in this Ordinance mentioned. Neglect to obey garrison or other orders.

*Desertion, Fraudulent Enlistment and Absence  
Without Leave.*

13. ~~(1) Every person subject to this Ordinance who~~ Desertion.  
commits any of the following offences, that is to say—

- (a) deserts or attempts to desert His Majesty's service;
- (b) persuades, endeavours to persuade, procures, or attempts to procure ~~any~~ person subject to this Ordinance to desert from His Majesty's service,

shall on conviction by court-martial, if he committed such offence on active service or under orders for active service, be liable to imprisonment for a term of not less than three years, or such less punishment as is in this Ordinance mentioned; and if he committed such offence under other circumstances be liable for the first offence to imprisonment or such less punishment as is in this Ordinance mentioned;

~~and for the second or any subsequent offence, to imprisonment for a term of not less than three years or such less punishment as is in this Ordinance mentioned.~~

(2) ~~Where any offender has fraudulently enlisted once or oftener he may, for the purposes of trial for the offence of deserting or attempting to desert His Majesty's service, be deemed to belong to any one or more of the corps to which he has been appointed or transferred as well as the corps to which he properly belongs; and it shall be lawful to charge an offender with any number of offences against this section at the same time, and to give evidence of such offences against him, and if he be convicted thereof to punish him accordingly: and further it shall be lawful, on conviction of a person for two or more such offences, to award him the higher punishment allowed by this section for a second offence as if he had been convicted by a previous court-martial of one of such offences.~~

(3) ~~For the purpose of the liability under this section to the higher punishment for a second offence, a previous offence of fraudulent enlistment may be reckoned as a previous offence under this section.~~

Fraudulent  
enlistment.

14. (1) ~~Every person subject to this Ordinance who when belonging to any of His Majesty's Imperial, Dominion Colonial or Protectorate forces, without having first obtained a regular discharge therefrom, or otherwise fulfilled the condition enabling him to enlist, enlists in any other of His Majesty's Imperial, Dominion, Colonial or Protectorate forces, shall be deemed to have been guilty of fraudulent enlistment and shall, on conviction by court-martial, be liable—~~

(i) ~~for the first offence to imprisonment or such less punishment as is in this Ordinance mentioned; and~~

(ii) ~~for the second or any subsequent offence to imprisonment for a term of not less than three years, or such less punishment as is in this Ordinance mentioned.~~

(2) ~~When an offender has fraudulently enlisted on several occasions he may, for the purposes of this section, be deemed to belong to any one or more of the corps to which he has been appointed or transferred, as well as to the corps to which he properly belongs; and it shall be lawful to charge an offender with any number of offences against this section at the same time, and to give evidence of such offences against him, and, if he be convicted thereof, to punish him accordingly; and further it shall be lawful, on conviction of a person~~

~~for two or more offences, to award him the higher punishment allowed by this section for a second offence as if he had been convicted by a previous court-martial of one of such offences.~~

~~(3) Where an offender is convicted of the offence of fraudulent enlistment, then, for the purposes of his liability under this section to the higher punishment for a second offence, the offence of deserting, or attempting to desert, His Majesty's service, may be reckoned as a previous offence of fraudulent enlistment under this section, with this exception, that the absence of the offender next before any fraudulent enlistment, shall not, upon his conviction for that fraudulent enlistment, be reckoned as a previous offence of deserting or attempting to desert.~~

15. Every person subject to this Ordinance who commits any of the following offences, that is to say—

Assistance of  
or connivance  
at desertion.

- subject to military law*
- (1) assists any person ~~subject to this Ordinance~~ to desert His Majesty's service;
  - (2) being cognizant of any desertion or intended desertion of a person ~~subject to this Ordinance~~ does not forthwith give notice to his commanding officer, or take any steps in his power to cause the deserter, or intended deserter, to be apprehended,

shall, on conviction by court-martial, be liable to imprisonment or such less punishment as is in this Ordinance mentioned.

16. Every person subject to this Ordinance who commits any of the following offences, that is to say—

Absence from  
duty without  
leave.

- (1) absents himself without leave;
- (2) fails to appear at the place of parade or rendezvous appointed by his commanding officer, or goes from thence without leave before he is relieved, or without urgent necessity quits the ranks;
- (3) when in camp or garrison, or elsewhere, is found beyond the limits fixed or in any place prohibited by any general, garrison, or other order, without a pass or written leave from his commanding officer;
- (4) without leave from his commanding officer, or without due cause, absents himself from any school when duly ordered to attend there,

shall, on conviction by court-martial, be liable to imprisonment or such less punishment as is in this Ordinance mentioned.

*Disgraceful Conduct.***Extortion.**

**17.** Every person subject to this Ordinance who commits or connives at any extortion, shall, on conviction by court-martial, be liable to imprisonment or such less punishment as is in this Ordinance mentioned.

**Fraud by persons in charge of money or goods.**

**18.** Every person subject to this Ordinance who being charged with or concerned in the care or distribution of any public or regimental money or goods, steals, fraudulently misapplies, or embezzles the same, or is concerned in or connives at the stealing, fraudulent misapplication, or embezzlement thereof, or wilfully damages any such goods, shall, on conviction by court-martial, be liable to imprisonment or such less punishment as is in this Ordinance mentioned.

**Disgraceful conduct.**

**19.** Every person subject to this Ordinance who commits any of the following offences, that is to say—

- (1) malingers, or feigns or produces disease or infirmity ;
- (2) wilfully maims or injures himself or any other soldier whether at the instance of such soldier or not, with intent thereby to render himself or such other soldier unfit for service, or causes himself to be maimed or injured by any person, with intent thereby to render himself unfit for service ;
- (3) is wilfully guilty of any misconduct, or wilfully disobeys, whether in hospital or otherwise, any orders, by means of which misconduct or disobedience he produces or aggravates disease or infirmity or delays cure ;
- (4) steals, or embezzles, or receives knowing them to be stolen or embezzled, any money or goods the property of a comrade or of an officer, or any money or goods belonging to any regimental mess or band, or to any regimental institution, or any public money or goods ;
- (5) is guilty of any offence of a fraudulent nature not before in this Ordinance particularly specified, or of any other disgraceful conduct of a cruel, indecent, or unnatural kind,

shall, on conviction by court-martial, be liable to imprisonment or such less punishment as is in this Ordinance mentioned.

*Drunkeness.*

**20.** Every person subject to this Ordinance who commits the offence of drunkeness, whether on duty or not on duty, shall, on conviction by court-martial, be liable to imprisonment or such less punishment as is in this Ordinance mentioned, and either in addition to or in substitution for any other punishment to pay a fine not exceeding one pound. Drunkeness.

*Offences in Relation to Prisoners.*

**21.** Every person subject to this Ordinance who commits any of the following offences, that is to say— Permitting  
escape of  
person in  
custody.

- (1) when in command of a guard, piquet, patrol or post, releases without proper authority, whether wilfully or otherwise, any person committed to his charge;
- (2) wilfully or without reasonable excuse allows to escape any person who is committed to his charge, or whom it is his duty to keep or guard,

shall, on conviction by court-martial, be liable, if he has acted wilfully, to imprisonment or such less punishment as is in this Ordinance mentioned, and in any other case to imprisonment without hard labour or such less punishment as in this Ordinance mentioned.

**22.** Every person subject to this Ordinance who commits any of the following offences, that is to say— Irregular  
arrest or  
confinement.

- (1) unnecessarily detains a person in arrest or confinement without bringing him to trial or fails to bring his case before the proper authority for investigation;
- (2) being in command of a guard, does not, as soon as he is relieved from his guard or duty, or, if he is not sooner relieved, within twenty-four hours after a person is committed to his charge, give to the officer to whom he may be ordered to report that person's name and offence so far as known to him, and the name and rank of the officer or other person by whom he was charged, accompanied by any account he may have received,

shall, on conviction by court-martial, be liable to imprisonment or such less punishment as is in this Ordinance mentioned.

**23.** Every person subject to this Ordinance who, being in arrest or confinement, or in prison or otherwise in lawful Escape from  
confinement.

custody, escapes, or attempts to escape, shall, on conviction by court-martial, be liable to imprisonment or such less punishment as is in this Ordinance mentioned.

*Offences in Relation to Property.*

Corrupt dealing in respect of supplies to forces.

**24.** Every person subject to this Ordinance who commits any of the following offences, that is to say—

- (1) without proper authority exacts from any person carriage, portorage, or provisions;
- (2) lays any duty upon, or takes any fee or advantage in respect of, or is in any way interested in the sale of provisions or merchandise brought into any garrison, camp, station, barrack, or place, in which he has any command or authority, or the sale or purchase of any provisions or stores,

shall, on conviction by court-martial, be liable to imprisonment or such less punishment as is in this Ordinance mentioned.

Deficiency in and injury to equipment.

**25.** Every person subject to this Ordinance who commits any of the following offences, that is to say—

- (1) makes away with, or is concerned in making away with his arms, ammunition, equipment, instruments, clothing, regimental necessaries, or any animal of which he has charge;
- (2) loses by neglect anything before in this section mentioned;
- (3) makes away with any military decoration granted to him;
- (4) wilfully injures anything before in this section mentioned or any property belonging to a comrade, or to an officer, or to any regimental mess or band, or to any regimental institute, or any public property;
- (5) ill-treats any animal used in the public service,

shall, on conviction by court-martial, be liable to imprisonment or such less punishment as is in this Ordinance mentioned.

*Offences in Relation to False Documents and Statements.*

Falsifying official documents and false declarations.

**26.** Every person subject to this Ordinance who commits any of the following offences, that is to say—

- (1) in any report, return, muster roll, pay list, certificate, book, route, or other document made or signed by him, or of the contents of which it is his duty to

ascertain the accuracy, knowingly makes or is privy to the making of any false or fraudulent statement, or knowingly makes or is privy to the making of any omission with intent to defraud;

- (2) knowingly and with intent to injure any person, or knowingly and with intent to defraud, suppresses, defaces, alters, or makes away with any document which it is his duty to preserve or produce;
- (3) where it is his official duty to make a declaration respecting any matter, knowingly makes a false declaration,

shall, on conviction by court-martial, be liable to imprisonment or such less punishment as is in this Ordinance mentioned.

**27.** Every person subject to this Ordinance who commits any of the following offences, that is to say—

Neglect to report and signing in blank.

- (1) when signing any document relating to pay, arms, ammunition, equipment, clothing, regimental necessaries, provisions, furniture, bedding, blankets, sheets, utensils, forage, or stores, leaves blank any material part for which his signature is a voucher;
- (2) refuses, or by culpable negligence omits, to make or send a report or return which it is his duty to make or send,

shall, on conviction by court-martial, be liable to imprisonment or such less punishment as is in this Ordinance mentioned.

**28.** Every person subject to this Ordinance who commits any of the following offences, that is to say—

False accusation or statement by soldier.

- (1) being a soldier, makes a false accusation against any officer, British warrant or non-commissioned officer, locally enlisted British warrant or non-commissioned officer or soldier, knowing such accusation to be false;
- (2) being a soldier, in making a complaint where he thinks himself wronged, knowingly makes any false statement affecting the character of any officer, British warrant or non-commissioned officer, locally enlisted British warrant or non-commissioned officer or soldier, or knowingly or wilfully suppresses any material facts;

- (3) being a soldier, falsely states to his commanding officer that he has been guilty of desertion or fraudulent enlistment, or has served in and been discharged from any of His Majesty's Imperial, Dominion, Colonial or Protectorate forces;
- (4) being a soldier, makes a wilfully false statement to any military or civil officer in respect of the prolongation of furlough,

shall be liable on conviction by court-martial to imprisonment or such less punishment as is in this Ordinance mentioned.

*Offences in Relation to Courts-Martial.*

Offences in  
relation to  
courts-  
martial.

**29.** Every person subject to this Ordinance who commits any of the following offences, that is to say—

- (1) being duly summoned or ordered to attend as a witness before a court-martial, makes default in attending;
- (2) refuses to take an oath or make a solemn declaration or affirmation legally required by a court-martial to be taken or made;
- (3) refuses to produce any document in his power or control legally required by a court-martial to be produced by him;
- (4) refuses, when a witness, to answer any question to which a court-martial may legally require an answer;
- (5) is guilty of contempt of a court-martial by using insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such court,

shall, on conviction by court-martial other than the court in relation to or before whom the offence was committed, be liable to imprisonment or such less punishment as is in this Ordinance mentioned :

Provided that where a person subject to this Ordinance is guilty of contempt of a court-martial by using threatening or insulting language, or by causing any interruption or disturbance in the proceedings of such court, that court, if they think it expedient, instead of the offender being tried by another court-martial, may, by order under the hand of the president, sentence the offender to imprisonment for a period not exceeding twenty-one days.

**30.** Every person subject to this Ordinance who, when examined on oath or solemn declaration or affirmation before a court-martial, or any court or officer authorized by this Ordinance (or by the Army Act) to administer an oath, wilfully gives false evidence, shall be liable on conviction by court-martial to imprisonment or such less punishment as is in this Ordinance mentioned.

False evidence.

*Offences in Relation to Billeting.*

**31.** Every person subject to this Ordinance who commits any of the following offences, that is to say—

Offences in relation to quarters.

- (1) wilfully demands from any person, quarters or accommodation of any sort to which he is not entitled;
- (2) is guilty of any ill-treatment, by violence, extortion, or making disturbance, of the occupier of any house in which any person or animal is billeted,

shall be liable on conviction by court-martial to imprisonment or such less punishment as is in this Ordinance mentioned.

*Offences in Relation to the Impressment of Carriages, Etc.*

**32.** Every person subject to this Ordinance who commits any of the following offences, that is to say—

Offences in relation to the impressment of transport.

- (1) wilfully demands any carriages, animals, vessels, or other form of transport which are not actually required;
- (2) does not discharge as speedily as practicable any carriage, animal, vessel, or other form of transport;
- (3) ill-treats any animal or person performing transport duties;
- (4) uses or offers any menace to or compulsion on any person to make him provide any carriage, animal, vessel, or other form of transport which he is not bound to provide,

shall be liable on conviction by court-martial to imprisonment or such less punishment as is in this Ordinance mentioned.

*Offences in Relation to Enlistment.*

**33.** (1) Every person subject to this Ordinance who having been discharged with disgrace from any part of His Majesty's Imperial, Dominion, Colonial or Protectorate forces, or having been dismissed with disgrace from the Navy, has

Enlistment of soldier discharged with ignominy or disgrace.

afterwards enlisted without declaring the circumstances of his discharge or dismissal, shall, on conviction by court-martial, be liable to imprisonment or such less punishment as is in this Ordinance mentioned.

(2) For the purpose of this section, the expression "discharged with disgrace from any part of His Majesty's Imperial, Dominion, Colonial or Protectorate forces" means discharged with ignominy, discharged for misconduct, or discharged on account of conviction for felony or of a sentence for a term of not less than three years' imprisonment.

False  
answers or  
declarations  
on enlistment.

**34.** Every person having become subject to this Ordinance who is discovered to have made a wilfully false answer to any question set forth in the attestation paper which has been put to him by, or by direction of, the person before whom he appears for the purpose of being attested shall, on conviction by court-martial, be liable to imprisonment or such less punishment as is in this Ordinance mentioned.

General  
offences in  
relation to  
enlisting.

**35.** Every person subject to this Ordinance who commits any of the following offences, that is to say—

(1) is concerned in the enlistment of any man, when he knows or has reasonable cause to believe such man to be so circumstanced that by enlisting he commits an offence against this Ordinance;

(2) wilfully contravenes any enactments or regulations in any matter relating to the enlistment of soldiers, shall, on conviction by court-martial, be liable to imprisonment or such less punishment as is in this Ordinance mentioned.

*Miscellaneous Military Offences.*

Traitorous  
words.

**36.** Every person subject to this Ordinance who uses traitorous or disloyal words regarding the Sovereign, shall, on conviction by court-martial, be liable to imprisonment or such less punishment as is in this Ordinance mentioned.

Injurious  
disclosures.

**37.** Every person subject to this Ordinance who whether serving with any of His Majesty's Forces or not, without due authority, either verbally or in writing, or by signal or otherwise, discloses the numbers or position of any forces, or any magazines or stores thereof, or any preparations for or orders relating to operations or movements of any force, at such time and in such manner as in the opinion of the court to have produced effects injurious to His Majesty's service, shall, on conviction by court-martial, be liable to imprisonment or such less punishment as is in this Ordinance mentioned.

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*Kings African Rifles*

No. XLVIII

*Warrant Officer*  
**38.** Every non-commissioned officer who commits any ill-treating soldier.  
of the following offences, that is to say—

- (1) strikes or otherwise ill-treats any soldier;
- (2) having received the pay of any officer, British warrant or non-commissioned officer, locally enlisted British warrant or non-commissioned officer or soldier, unlawfully detains or unlawfully refuses to pay the same when due,

shall, on conviction by court-martial, be liable to imprisonment or such less punishment as is in this Ordinance mentioned.

**39.** Every person subject to this Ordinance who commits any of the following offences, that is to say— Duelling and attempting to commit suicide.

- (1) fights, or promotes, or is concerned in or connives at fighting, a duel;
- (2) attempts to commit suicide,

shall, on conviction by court-martial, be liable to imprisonment or such less punishment as is in this Ordinance mentioned.

**40.** Every person subject to this Ordinance who, on application being made to him, neglects or refuses to deliver over to the civil magistrate, or to assist in the lawful apprehension of, any officer or soldier accused of an offence punishable by a civil court, shall, on conviction by court-martial, be liable to imprisonment or such less punishment as is in this Ordinance mentioned. Refusal to deliver to civil power soldiers accused of civil offences.

**41.** Every person subject to this Ordinance who is guilty of any act, conduct, disorder, or neglect to the prejudice of good order and military discipline, shall, on conviction by court-martial, be liable to imprisonment or such less punishment as is in this Ordinance mentioned: Conduct to prejudice of military discipline.

Provided that no person shall be charged under this section in respect of any offence for which special provision is made in any other part of this Ordinance, and which is not a civil offence; nevertheless the conviction of a person so charged shall not be invalid by reason only of the charge being in contravention of this proviso, unless it appears that injustice has been done to the person charged by reason of such contravention.

*Offences Punishable by Ordinary Law.*

**42.** Subject to the provisions of this Ordinance relating to the jurisdiction of the civil courts, every person who, while he is subject to this Ordinance, shall commit any of the offences Offences punishable by ordinary law.

in this section mentioned, shall be deemed to be guilty of an offence against military law, and, if charged under this section with any such offence (in this Ordinance referred to as a civil offence) shall be liable to be tried by court-martial, and on conviction to be punished as follows, that is to say—

- (1) if he is convicted of treason, be liable to suffer death, or such less punishment as is in this Ordinance mentioned;
- (2) if he is convicted of murder, be liable to suffer death;
- (3) if he is convicted of manslaughter or treason-felony, be liable to imprisonment for life or such less punishment as is in this Ordinance mentioned;
- (4) if he is convicted of rape, be liable to suffer death, or such less punishment as is in this Ordinance mentioned:

Provided as follows:—

- (a) A person subject to this Ordinance shall not be tried by court-martial for treason, murder, manslaughter, treason-felony, or rape, committed in any place within His Majesty's Dominions, or in a British Protectorate or in a Territory the mandate for which is being exercised by the Government of some part of His Majesty's Dominions, unless such person at the time he committed the offence was on active service, or such place is more than sixty miles as measured in a straight line from any place in which the offender can be tried for such offence by a competent civil court.
- (b) A person subject to this Ordinance may be tried by a competent civil court for any offence for which he would be triable if he were not subject to this Ordinance.

Mode of  
complaint by  
soldier.

**43.** If any soldier thinks himself wronged in any matter by any officer other than his company commander or by any British warrant officer or non-commissioned officer or by a locally enlisted British warrant or non-commissioned officer or by a soldier, he may complain thereof to his company commander, and if he thinks himself wronged by his company commander, either in respect of his complaint not being redressed or in respect of any other matter, he may complain thereof to his commanding officer; and if he thinks himself wronged by his commanding officer either in respect of his

complaint not being redressed or in respect of any other matter, he may complain thereof to the ~~Brigade~~ Commander, and if he thinks himself wronged by the ~~Brigade~~ Commander, either in respect of his complaint not being redressed or in respect of any other matter, he may complain thereof to the Governor; and every officer to whom a complaint is made in pursuance of this section shall cause such complaint to be inquired into, and shall, if on inquiry he is satisfied of the justice of the complaint so made, take such steps as may be necessary for giving full redress to the complainant in respect of the matter complained of.

44. Punishment may be inflicted in respect of offences committed by persons subject to this Ordinance and convicted by court-martial according to the scale following:—

Scale of  
punishments  
by court-  
martial.

- (a) Death.
- (b) Imprisonment for life or for any lesser period.
- (c) Discharge with ignominy from His Majesty's service.
- (d) Reduction in the case of a <sup>non-commissioned officer or</sup> non-commissioned officer to a lower grade, or to the ranks. *Ord. No. 16/45-*
- (e) Corporal punishment not exceeding twenty strokes in lieu of, or in addition to, other punishment under this section. *Ord. 49/46.*
- (f) Forfeitures, fines and stoppages.
- (g) In the case of a <sup>non-commissioned officer or</sup> non-commissioned officer, reprimand or severe reprimand: *Ord. 16/45-*

Provided that:—

- (1) Where in respect of any offence under this Ordinance there is specified a particular punishment, or such less punishment as is in this Ordinance mentioned, there may be awarded in respect of that offence, instead of such particular punishment (but subject to the other provisions of this Ordinance as to punishments, and regard being had to the nature and degree of the offence) any one punishment lower in the above scale than the particular punishment.
- (2) A <sup>non-commissioned officer</sup> non-commissioned officer when sentenced to forfeiture of seniority of rank may also be sentenced to reprimand or severe reprimand. *Ord. 16/45-*
- (3) An offender when sentenced to imprisonment may, in addition thereto, be sentenced to be discharged with ignominy from His Majesty's service.

- (4) In addition to or without any other punishment in respect of any offence, an offender convicted may be subject to forfeiture of any service towards gratuity, military decoration, or military reward.
- (5) In addition to or without any other punishment in respect of any offence, an offender may be sentenced to any deduction <sup>authorized by this Ordinance</sup> to be made ~~from his ordinary pay~~.
- (6) The Governor shall, by regulation, prescribe the instrument with which corporal punishment under this section shall be inflicted.
- (7) Unless the offender be on active service, corporal punishment shall not be awarded except for offences committed on the line of march against the persons or property of inhabitants of the country.
- (8) Where a soldier on active service is guilty of any offence, it shall be lawful for a court-martial to award for that offence such field punishment as may be directed by rules to be made from time to time by the Governor, and such field punishment shall be of the character of personal restraint or of hard labour, but shall not be of a nature to cause injury to life or limb.
- (9) For the purpose of commutation of punishment the field punishments above mentioned shall be deemed to stand in the scale of punishment next below imprisonment.

*Arrest.*

**Arrest.**

**45.** The following regulations shall be enacted with respect to persons subject to this Ordinance when charged with offences punishable under this Ordinance:—

- (1) Every person subject to this Ordinance when so charged may be taken into military custody:

Provided that in every case where any offender remains in such military custody for a longer period than eight days without a court-martial for his trial being ordered to assemble, a special report of the necessity for further delay shall be made by his commanding officer in manner prescribed; and a similar report shall be forwarded every fourteen days until a court-martial is assembled or the offender is released from custody.

- (2) Military custody means, according to the usages of His Majesty's service, the putting the offender under arrest or the putting him in confinement.
- (3) An officer, British warrant or non-commissioned officer or locally enlisted British warrant or non-commissioned officer may order into military custody any soldier of the regiment or any follower, and any such order shall be obeyed, notwithstanding the person giving the order and the person in respect of whom the order is given do not belong to the same corps, arm or branch of the service.
- (4) An officer, British warrant or non-commissioned officer, locally enlisted British warrant or non-commissioned officer <sup>Warrant Officer or</sup> of a non-commissioned officer commanding a guard, or a provost-marshal or assistant provost-marshal, shall not refuse to receive or keep any person who is committed to his custody by any officer, British warrant or non-commissioned officer, locally enlisted British warrant or non-commissioned officer, or non-commissioned officer, but it shall be the duty of the officer, British warrant or non-commissioned officer, locally enlisted British warrant or non-commissioned officer, or non-commissioned officer <sup>Warrant Officer or</sup> who commits any person into custody to deliver at the time of such committal or as soon as practicable, and in every case within twenty-four hours thereafter, to the officer, British warrant or non-commissioned officer, locally enlisted British warrant or non-commissioned officer, non-commissioned officer, provost-marshal, or assistant provost-marshal into whose custody the person is committed, an account either verbal or in writing of the offence with which the person so committed is charged.
- (5) The charge made against every person taken into military custody shall without unnecessary delay be investigated by the proper military authority, and, as soon as may be, either proceedings shall be taken for punishing the offence, or such person shall be discharged from custody.

*Ord No 16/45*  
*Ord No 16/45*  
*Ord No 16/45*

*Powers of Commanding Officer.*

46. The commanding officer shall, upon an investigation being had of a charge made against a person subject to this Ordinance of having committed an offence under this

Power of commanding officer.

Ordinance, dismiss the charge, if he in his discretion thinks that it ought not to be proceeded with, but where he thinks the charge ought to be proceeded with, he may take steps for bringing the offender to a court-martial or in the case of a soldier or a follower he may deal with the case summarily.

Where he deals with the case summarily—

(1) If the offender is a soldier not being a non-commissioned officer, the commanding officer may:—

A.—Save in the case of absence without leave or of drunkenness, impose on the offender any one or more of the following punishments:—

- (a) Award to the offender imprisonment for any period not exceeding forty-two days.
- (b) Dismiss the offender from the regiment.
- (c) Impose a fine not exceeding twenty-one days' pay, to be levied by stoppages from the offender's pay;
- (d) Order the offender to suffer any deduction from his ordinary pay to make good the amount of any loss or damage he may have caused.
- (e) Order confinement to barracks for any period not exceeding twenty-eight days, such confinement involving the taking of all duties in regular turn, attending parades and punishment drills, not exceeding one hour at a time nor four hours in all on the same day, exclusive of ordinary parades, and also liability to employment on duties of fatigue.
- (f) Order extra guards and piquets, but only for minor offences or irregularities when on or parading for guard or piquet.
- (g) ~~Award corporal punishment not exceeding twenty strokes in lieu of or in addition to other punishment under this section, provided that, unless the offender be on active service, corporal punishment shall not be awarded except for offences committed on the line of march against the persons or property of the inhabitants of the country; and provided further that each case in which corporal punishment is awarded shall be reported at the time by the Brigade Commander to the Governor with a statement of the circumstances.~~
- (h) On active service award field punishment within the meaning of section 44 (8) of this Ordinance for any period not exceeding twenty-eight days.

- (i) On active service, in addition to, or without any other punishment, order that the offender forfeit all ordinary pay for a period commencing on the day of the sentence and not exceeding twenty-eight days.

B.—In the case of absence without leave by a soldier not being a non-commissioned officer, the commanding officer may deal with the case summarily, and may award imprisonment, up to any period not exceeding forty-two days or confinement to barracks, provided that the term of imprisonment awarded, if exceeding seven days, shall not exceed the term of absence.

A soldier not being a non-commissioned officer shall also forfeit one day's pay for every day of absence in the same way as is laid down in the Royal Warrant for Pay for the Army.

C.—The offence of drunkenness by a soldier not being a non-commissioned officer may be dealt with and summarily punished by the commanding officer as follows:—

Punishments  
for drunken-  
ness.

- (a) For the first offence the offender shall be admonished or confined to barracks, but no fine shall be inflicted.
- (b) For the second and every subsequent offence as follows:—

If within three months of the previous offence, by fine to the amount of nine days' pay with or without confinement to barracks.

If over three months and within six months of the previous offence, by fine to the amount of six days' pay with or without confinement to barracks.

If over six months and within nine months of the previous offence, by fine to the amount of three days' pay with or without confinement to barracks.

If over nine months of the previous offence, by admonition or confinement to barracks.

Such fines to be levied by stoppages from the offender's pay.

- (c) Where a soldier not being a non-commissioned officer is liable to a fine, and four preceding instances of drunkenness have been recorded against him within the previous twelve months, an amount of three days' pay shall be added to the amount of the fine laid down.

Ord No 16/45

Ord No 16/45

Ord No 16/45

*Ord. 29/34*

(d) For an act of drunkenness on duty, ~~as defined by section 20,~~ or when an act of drunkenness is accompanied by any other offence, the offender may be sentenced, as provided by sub-section (1) of this section to imprisonment or confinement to barracks in addition to the fine.

(2) A.—If the offender is a warrant or non-commissioned officer, the commanding officer may impose on the offender any one or more of the following punishments, that is to say, he may :—

- (a) Reprimand, severely reprimand, or reduce any warrant or non-commissioned officer to a lower rank or to the ranks.
- (b) Dismiss the offender from the regiment.
- (c) Impose a fine not exceeding twenty-one days' pay, to be levied by stoppages from the offender's pay.
- (d) Order the offender to suffer any deduction from his ordinary pay to make good the amount of any loss or damage he may have caused.

B.—A warrant or non-commissioned officer shall also forfeit one day's pay for every day of absence without leave in the same way as is laid down in the Royal Warrant for Pay for the Army.

C.—A warrant or non-commissioned officer convicted of drunkenness may be fined as laid down in sub-section (1) C of this section in addition to any of the punishments laid down in sub-section (2) A of this section.

(3) If the offender is a follower, the commanding officer may, for an offence under this Ordinance :—

Award to the offender any one or more punishments described in clauses (a), (b), (d) or (g) of Part A of sub-section (1) of this section ; and in addition to or without any other punishment, impose a fine not exceeding twenty shillings.

*Powers of Officer Commanding a Detachment.*

Punishments which officers commanding detachments, etc., may award.

~~47. Any officer commanding a detachment, or the administrative officer resident at and in charge of any station where there is a detachment but no officer of the regiment, may examine into the truth of any charge against a soldier~~

*Repealed by Ord. 29/34*

Punishments  
which officers  
commanding  
detachments, etc.,  
may award.

“47. (1) Any officer, or British warrant officer, in command of a detachment, or the administrative officer resident at and in charge of any station where there is a detachment but where there is no officer or British warrant officer in command of such detachment, may examine into the truth of any charge against a soldier or follower, and if his decision is against the accused, he may impose on him any one or more of the following punishments:—”

~~or follower, and if his decision is against the accused, he may impose on him any one or more of the following punishments:—~~

- (1) If a soldier not being a <sup>Warrant Officer</sup> non-commissioned officer, <sup>Order</sup> save in the case of absence without leave or of drunkenness:—
- (a) Imprisonment for any period not exceeding fourteen days.
  - (b) Fine not exceeding ten days' pay, to be levied by stoppages from the offender's pay.
  - (c) Confinement to barracks for any period not exceeding twenty-one days, such confinement involving the taking of all duties in regular turn, attending parades and punishment drills, not exceeding one hour at a time, nor four hours in all on the same day, exclusive of ordinary parades, and also liability to employment on duties of fatigue.
  - (d) In addition to or without any other punishment, deduction from ordinary pay to make good the amount of any loss or damage he may have caused.
  - (e) Extra guards and piquets, but only for minor offences or irregularities when on or parading for guard or piquet.
- (2) If a <sup>Warrant Officer</sup> non-commissioned officer:— <sup>C.O. No. 16/41</sup>
- (a) Fine not exceeding ten days' pay to be levied by stoppages from the offender's pay.
  - (b) Reprimand.
  - (c) Deduction from his ordinary pay to make good the amount of any loss or damage he may have caused.
- (3) If a follower:—
- (a) Imprisonment for any period not exceeding fourteen days.
  - (b) Fine not exceeding ten shillings.
- (4) (A) The offence of drunkenness by a soldier may be dealt with and summarily punished, as laid down in section 46 (1) (C) and section 46 (2) (C) of this Ordinance, by such officer or administrative officer.

- (B) In the case of absence without leave, the soldier may be dealt with as laid down in section 46 (1) (B) and section 46 (2) (B).

Delegation of powers of commanding officer to officer commanding detachment.

*Ord. No. 16/40*

**48.** (1) It shall be lawful for the commanding officer by writing under his hand to confer the powers of a commanding officer, as defined by section 46 of this Ordinance, on the officer commanding any detachment, under such restrictions and for such period as he may think fit, and to revoke the same. Any sentence of reduction in the case of a <sup>non-commissioned officer or</sup> non-commissioned officer, and any sentence of dismissal from the service, imposed under this section, shall be subject to the approval of the commanding officer.

Cases of ~~aggravation~~ or repeated offence to be reported to commanding officer.

(2) Whenever it shall appear to the officer commanding a detachment or administrative officer as aforesaid that the offence which any soldier or follower has committed would, by reason of its <sup>aggravation</sup> ~~aggravation~~ or by reason of previous offences of the accused, not be adequately punished with any of the aforesaid punishments, or combinations of punishments, he shall delay passing sentence, and shall report the whole proceeding in the case to the commanding officer who may send back such report for any further inquiry he considers requisite, or make any other or further order, or may rehear the case as he may see fit.

Remission of punishment.

(3) Any awards of punishment under this section shall be subject to any remission the commanding officer may order, but cannot be increased.

*Powers of Officer Commanding a Company.*

Punishments which officers commanding companies may award.

**49.** Any officer commanding a company may examine into the truth of any charge against a soldier or follower; and, if his decision is against the accused, he may impose upon him one or more of the following punishments:—

*Cyph. 10/40*

- (1) If a soldier not being a <sup>non-commissioned officer</sup> non-commissioned officer, save in the case of absence without leave or drunkenness:—
- (a) Confinement to barracks for any period not exceeding seven days.
  - (b) Extra guards and piquets, but only for minor offences or irregularities when on, or parading for, guard or piquet.
  - (c) Deduction from his ordinary pay to make good the amount of any loss or damage he may have caused.

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- (2) If a non-commissioned officer, reprimand. *Ord. No. 10*
- (3) If a follower, a fine not exceeding five shillings.
- (4) In the case of absence without leave, the soldier may be dealt with as laid down in the second subparagraph of section 46 (1) B and section 46 (2) B.
- (5) In the case of drunkenness, the soldier may be dealt with as laid down in section 46 (1) C and section 46 (2) C.

Similar powers may, at the discretion of the commanding officer, be given to any other officer temporarily in command of a company.

Any award of punishment under this section shall be subject to any remission the commanding officer may order, but cannot be increased.

*Courts-martial.*

50. (1) For the purposes of this Ordinance, there shall be two kinds of courts-martial, that is to say—

- (a) General courts-martial;  
(b) District courts-martial.

Description  
constitution  
and powers  
of courts-  
martial.

(2) A general court-martial shall be convened by the Governor or some officer deriving authority to convene a general court-martial from the Governor.

(3) A district court-martial shall be convened by an officer authorized to convene general courts-martial or some officer deriving authority to convene a district court-martial from an officer authorized to convene general courts-martial.

(4) A general court-martial shall consist of not less than five officers, each of whom must have held a commission in His Majesty's service for not less than three years, unless the officer convening the court-martial is of opinion that five officers are not available, having due regard to the public service, in which case the court-martial may consist of three officers, in which case also the convening officer may preside.

(5) A district court-martial shall consist of not less than three officers, each of whom must have held a commission in His Majesty's service for not less than two years, unless the officer convening the court-martial is of opinion that three officers are not available, having due regard to the public service, in which case the court-martial may consist of two officers.

(6) A general court-martial shall have power to try all persons subject to this Ordinance, and to pass sentence of death or such less punishment as is in this Ordinance mentioned: Provided that if the court-martial consists of less than five members, sentence of death shall not be passed on any prisoner without the concurrence of all the members.

(7) A district court-martial shall not award the punishment of death or of imprisonment in excess of two years; but, subject as aforesaid, any offence under this Ordinance committed by a person subject to this Ordinance may be tried and punished by a district court-martial.

(8) The president of a court-martial shall be appointed by order of the authority convening the court, and, in the case of a district court-martial, the convening officer may appoint himself as president.

Constituent  
members of  
court-martial.

(9) (a) One of the members of the court shall, if possible, be an officer of the battalion in which the person accused is serving, and the other members of the court may be officers of the regiment, or officers of His Majesty's Army or Royal Marine Forces, Royal Navy or Royal Air Force, or officers of any of His Majesty's naval or military services.

(b) In case of emergency, or when a sufficient number of military officers is not available, it shall be lawful for public officers of the Colony to sit as members of a court-martial, but in no case shall they sit as presidents, unless they are entitled to do so in virtue of their military rank in His Majesty's service.

Proceedings,  
how regulated.

(10) In all cases or matters before the court, the proceedings of the court shall be as nearly as may be in accordance with the Rules of Procedure made under the Army Act, *and*  
*The ... see Ord. 59/50*

*Field General Courts-martial.*

Field general  
courts-  
martial.

51. (1) Where a complaint is made to any officer in command of any detachment or portion of troops outside the Colony, or to the commanding officer of any corps or portion of a corps on active service, or to any officer in immediate command of a body of forces on active service, that an offence has been committed by any person subject to this Ordinance, then, if in the opinion of such officer it is not practicable that such offence should be tried by an ordinary general court-martial, it shall be lawful for him, although not authorized

rd. 59/1950.

S.50(10) amended):

"and the following provisions of the Army Act, that is to say, section 128 (relating to rules of evidence in proceedings before courts-martial) and of section 163 (relating to evidence in proceedings under the Army Act) and section 164 (relating to evidence of civil conviction or acquittal) and section 165 (relating to evidence of conviction by court-martial), shall apply in all respects as if such provisions were incorporated in and formed part of this Ordinance."

to convene general courts-martial, to convene a court-martial, in this Ordinance referred to as a field general court-martial, for the trial of the person charged with such offence, provided as follows :—

- (a) An officer in command of a detachment or portion of troops not on active service shall not convene a field general court-martial for the trial of any person unless that person is under his command, nor unless the offence with which the person is charged is an offence against the property or person of an inhabitant of or resident in the country in which the offence is alleged to have been committed.
- (b) A field general court-martial shall consist of not less than three officers, unless the officer convening the same is of opinion that three officers are not available, having due regard to the public service, in which case the court-martial may consist of two officers.
- (c) The convening officer may preside; but he shall, whenever he deems it practicable, appoint another officer as president, who may be of any rank, but shall, if practicable in the opinion of the convening officer, be not below the rank of captain.
- (d) Where a field general court-martial consists of less than three officers, the sentence shall not exceed such field punishment as is allowed by this Ordinance, or imprisonment.
- (2) ~~Section 50 of this Ordinance shall not apply to a field general court-martial; but sentence of death~~ <sup>Ref. 29/34</sup> ~~not be passed on any prisoner by a field general court-martial without the concurrence of all the members.~~
- (3) A field general court-martial may, notwithstanding the restrictions enacted by this Ordinance in respect of the trial by court-martial of civil offences within the meaning of this Ordinance, try any person subject to this Ordinance, who is under the command of the convening officer, and is charged with any such offence as is mentioned in this section, and may award for such offence any sentence which a general court-martial is competent to award for such offence: Provided always that no sentence of any such court-martial shall be executed until confirmed as provided by this Ordinance.

Confirmation  
and approval  
of sentences.

52. (1) The following authorities shall have power to confirm the findings and sentences of courts-martial, that is to say—

- (a) in the case of a district court-martial; the officer having authority to convene such a court-martial at the date of the submission of the finding and sentence thereof : Provided that in the case of a sentence of imprisonment being passed, the period of imprisonment does not exceed six months.

If the sentence of imprisonment exceeds six months, it shall be confirmed by the Governor, or by some officer having authority from him to confirm the findings and sentences of general courts-martial :

Provided that the president of a court-martial shall not have authority to confirm the finding or sentence of that court-martial; but shall refer the finding and sentence of that court-martial to the Governor or to some officer having authority from him to confirm the findings and sentences of courts-martial.

- (b) in the case of a general court-martial, the Governor or some officer deriving authority from him to confirm the findings and sentences of general courts-martial.

(c) added by Ord. 29/34 S.N. 880/40. p. 776.

(2) The confirming authority may, when confirming the sentence of any court-martial, mitigate or remit the punishment thereby awarded, or commute such punishment for any less punishment or punishments to which the offender might have been sentenced by the said court-martial.

(3) Sentence of death shall not be carried into effect, unless, in addition to the confirmation otherwise required by this Ordinance, it is approved by the Governor.

(4) When the sentence imposed by a court-martial exceeds six months' imprisonment, the proceedings of the court shall be forwarded to the Governor.

(5) When a sentence passed by a court-martial has been confirmed, the Governor shall have power to mitigate or remit the punishment thereby awarded, or to commute such punishment for any less punishment or punishments to which the offender might have been sentenced by the said court-martial.

23.4

- see Look up *Army Regulations, 1935, G.O. 813/35, p. 482*

“54. (1) No pay shall accrue or become due to any soldier or follower in respect of any day during which he is absent on desertion or without leave or undergoing any sentence of imprisonment, or field punishment, or is under detention awaiting any trial by a civil court or court martial which results in his conviction for any offence or is on a charge of absence without leave for which he is afterwards awarded imprisonment, or field punishment by competent authority.

Pay not to accrue during absence without leave or imprisonment.

(2) Any such period of absence or imprisonment or field punishment or detention lasting six hours or upwards, whether wholly in one day or partly in one day and partly in another, may be deemed for the purposes of this section to constitute a day of absence or a day of imprisonment or detention :

*And*  
*56/34*

Provided that where the soldier has been thereby prevented from fulfilling any military duty which was consequently thrown upon some other person, any such period of absence or imprisonment or field punishment or detention may for the purposes of this section be deemed to constitute a day, notwithstanding that the duration thereof was less than six hours.”

or in any military prison or detention barracks established in any place under the provisions of No. 132 & 133 of the Army Act

Execution of Sentences.

53. (1) Any sentence of imprisonment imposed upon any person subject to this Ordinance may be carried out in any military or civil prison established within the Colony or, where the sentence of imprisonment imposed does not exceed forty-two days, in any lock-up house or cells which for that purpose the Governor may think fit to attach to any fort or barracks. The Governor may from time to time make regulations for the government of such prisons and of any lock-up house or cells attached by him to any fort or barracks, and with regard to the admission, discharge, custody, removal, safeguarding, diet, labour, occupation, discipline, instruction and offences of any persons confined therein, and with regard to any and every other matter or thing relating to and connected with the carrying out and management of imprisonment in any such prison, lock-up house or cells: Provided that no person shall be imprisoned in any such prison, lock-up house or cells unless and until such regulations as aforesaid shall have been made, and provided that any person, notwithstanding that his sentence exceeds forty-two days, may, whilst awaiting removal to a prison, be temporarily imprisoned in any such lock-up house or cells.

Execution of sentences of imprisonment.

38/13

(2) A sentence passed upon any person subject to this Ordinance shall be in no respect affected by such person ceasing to be subject to this Ordinance by discharge or otherwise.

(3) Every gaoler shall receive into his custody and carry out the sentence upon any person subject to this Ordinance sentenced to imprisonment for any offence under this Ordinance, upon an order in writing in that behalf being delivered to him under the hand of the commanding officer or of the officer or administrative officer imposing the sentence, which order shall specify the offence and the period and description of imprisonment.

Gaolers to carry out sentences on order of commanding officer, etc.

(4) Every person whilst undergoing any such sentence of imprisonment shall be deemed to be and be dealt with as a criminal prisoner.

Persons undergoing sentences deemed criminal prisoners.

Also see Ord. 25/42

~~54. No pay shall accrue or become due to any soldier or follower in respect of any period during which he is absent by reason of absence, or without leave, or during which he is undergoing any sentence of imprisonment or is in custody on a charge for an offence of which he is afterwards convicted~~

Pay not to accrue during absence without leave or imprisonment.

~~by a civil court or court-martial or on a charge of absence without leave for which he is afterwards awarded imprisonment by competent authority.~~

Fines to be recovered by stoppages.

55. (1) All fines imposed upon soldiers or followers for offences under this Ordinance shall be recovered by stoppages from the offender's pay due at the time of committing such offence, or thereafter accruing due, and not from any other source or in any other manner.

Amount of stoppages.

(2) The amount of stoppage shall be in the discretion of the officers authorized to impose fines, in no case exceeding one-half of the daily pay of the offender; and whenever more than one order of stoppage for any cause is in force against the same person, so much only of his pay shall be stopped as shall leave him a residue of at the least one-half of his daily pay.

Accumulated stoppages.

(3) When more than one order of stoppage is made upon the same person, the order or orders later in date shall, if necessary, be postponed as to their enforcement until the earlier orders are discharged.

Disposal of fines on soldiers.

56. (1) All fines recovered within the Colony from soldiers or followers shall be paid over to the <sup>Colony</sup> ~~Treasurer~~ of the Colony to be placed to the credit of a fund to be styled the "Military Fines Fund."

(2) No payment shall be made from the Military Fines Fund except on the authority of the Governor.

(3) The Governor may, on the recommendation of the ~~Brigade Commander~~, sanction payments from the Military Fines Fund for any of the following purposes, that is to say—

- (a) assistance to the wives or families of deceased soldiers or followers, or soldiers or followers discharged as invalids, who may be in immediate want;
- (b) contributions towards prizes to be given at athletic meetings, assaults-at-arms, and similar events, organized by or for the benefit of the soldiers of the regiment;
- (c) purchase of ammunition for the encouragement of rifle shooting;
- (d) payments to soldiers of the regiment as rewards for special services when such payments cannot otherwise be met out of Colonial funds;

(h) contributions towards the funds of the East African  
Army Benevolent Fund.  
~~added~~ by section 3 of Ordinance No.4/1948, page 1.

1932

Kings African Rifles

No. XLVIII

- (e) provision of any articles for the use of the regiment, when the cost of such provision cannot otherwise be met out of Colonial funds;
- (f) as a reward to the apprehender or apprehenders of a deserter, and as a reward for recruiting;
- (g) provision of medal ribbons and brooches for discharged soldiers who are attending a parade as such.
- (h) ~~Annual statements of receipts and expenditure on account of the Military Fines Fund shall be rendered by the ~~Brigade Commander~~ to the Governor.~~

*Supplemental Provisions as to Discipline.*

ord. 49/46 57. The sentence on a non-commissioned officer for any offence shall in no case include ~~corporal punishment, or imprisonment, unless it also includes reduction of the offender to the rank of a private, and in such case the sentence of reduction shall precede and be carried out before that of corporal punishment or imprisonment.~~

Restrictions as to punishment of non-commissioned officers.

ord. 49/46

58. No sentence of corporal punishment shall be carried out until a period of twenty-four hours has elapsed since the award, except on the line of march or on active service, and no such sentence shall in any case be carried out unless under the superintendence of a medical officer, or in case no medical officer is available, a European Government officer, nor until such medical officer or European Government officer shall certify the physical fitness of the offender to undergo the same, and in relation thereto the said medical officer or European Government officer may give and shall cause to be carried out such orders for preventing injury to health as he may deem necessary, and, in case the said medical officer or European Government officer shall order the punishment to be discontinued, it shall be immediately discontinued accordingly.

Restrictions as to corporal punishment.

59. (1) Upon reasonable suspicion that any person is a deserter, any soldier or follower of the regiment or other person may apprehend him, and forthwith bring him before the administrative officer of the district wherein he was found, who shall deal with the suspected deserter as if he were brought before him by warrant under the laws in force in the Colony.

Apprehension of deserters.

(2) Upon its appearing to such administrative officer by the testimony of one or more witnesses, or by his own confession, that the accused is a deserter, he shall cause him to be

Procedure thereupon.

conveyed to the nearest detachment of the regiment, and delivered over to the officer in command thereof, together with an office copy of the proceedings and of the evidence taken by him; and such officer shall deal with the case in accordance with the provisions of this Ordinance.

Forfeiture of good conduct badges and pay consequential on certain sentences.

60. (1) Forfeiture of one good-conduct badge shall be deemed a part of any sentence of—

- (a) confinement to barracks for more than seven days;
- (b) imprisonment for any term;
- (c) Fine of any sum exceeding seven days' pay;
- (d) ~~corporal punishment~~;
- (e) or, in the case of a non-commissioned officer, severe reprimand,

and every such forfeiture shall be entered on the offender's defaulter sheet and in the guard report or punishment return.

Upon reduction of rank.

(2) If a non-commissioned officer be reduced to the rank of a private, or reduced in degree of rank, he shall forfeit one good-conduct badge, should he be in possession of the same: Provided that in the case of a non-commissioned officer being reduced to private, or in degree of rank, for inefficiency, he shall not forfeit a good-conduct badge.

In ~~aggravated~~ offences.

(3) The commanding officer may, in any case of ~~aggra-  
vated~~ offence, recommend that the offender forfeit all or any good-conduct badges and pay that he may be in possession of or may have earned, and all or any decorations or honorary rewards, and any advantage as to gratuity on discharge which he may have earned by past service, and such effect shall be given to such recommendation as the Governor may determine.

Restoration of forfeited service.

61. Any soldier who has forfeited any period of past service qualifying towards good-conduct badges and pay or gratuity may have such service restored to him by the Governor, on the recommendation of the ~~Brigade~~ Commander, at any time as a reward for conspicuous gallantry in the field or other notable service, or when he has served with uninterrupted good conduct, as shown by his having no entries in his regimental conduct sheet, for two years in case of a first conviction entailing loss of service, for five years in case of a second conviction of the same nature, and for seven years in case of a third conviction of the same nature, or should circumstances of an aggravated character have attended the

"Provided that a cadre battalion shall be in  
command of an officer with the rank of major." )

offence on account of which his service was forfeited. Such period of probation shall be reckoned from the release of the person convicted from imprisonment or other completion of his punishment and his return to duty.

62. (1) Every officer hereinbefore empowered to inquire concerning offences under this Ordinance shall in any matter touching such inquiries have the powers of a magistrate under the Criminal Procedure Code of summoning and examining witnesses on oath or affirmation, and calling for documents in any matter before him under this Ordinance, and of adjourning any hearing from time to time.

Power of  
summoning  
witnesses.

No. 11 of 1930.

(2) In every inquiry in which evidence is taken on oath or affirmation the proceedings and evidence shall be recorded in writing, and the course of proceeding with respect to the taking of evidence and the conduct of the inquiry shall be as nearly as may be in conformity with the practice prescribed in the Rules of Procedure made under the Army Act.

Form of  
proceedings.

### PART III.—GOVERNMENT.

63. (1) A battalion shall consist of an officer with the rank of ~~major~~ <sup>lieutenant-colonel</sup> in command and such other officers, British warrant and non-commissioned officers, locally enlisted British warrant and non-commissioned officers, non-commissioned officers and soldiers, as the Governor, subject to the approval of the Secretary of State, shall from time to time determine.

Organization.

*Ord. 35/38.*

(2) Officers shall be appointed by the Secretary of State.

(3) Officers, British warrant and non-commissioned officers, locally enlisted British warrant and non-commissioned officers, non-commissioned officers and soldiers shall receive such rates of pay as the Governor, subject to the approval of the Secretary of State, shall determine.

(4) The officers, British warrant and non-commissioned officers, ~~and~~ locally enlisted British warrant and non-commissioned officers, non-commissioned officers and soldiers of the battalion shall stand with each other in order of precedence and command as they have been here named.

(5) The Governor may from time to time fill up all vacancies that may occur amongst the native ranks from removal, death, absence, incapacity, or other cause, by promotion or fresh appointments, and may at any time enlist fit men as soldiers of the regiment, and every such enlistment shall be an appointment under this Ordinance.

Precedence  
of officers.

**64.** Officers of the same rank shall stand with each other in order of precedence and command in accordance with any order which may be signified by any of His Majesty's Principal Secretaries of State, and where no such order is signified, then according to their seniority reckoned by the dates of their respective appointments to the rank in the British Army for the time being held by them.

Inspector-  
General:  
duties of, etc.

**65.** (1) The Inspector-General shall be appointed by the Secretary of State, who may prescribe his duties.

(2) The Inspector-General shall inspect and report to the Secretary of State upon all officers, British warrant and non-commissioned officers, locally enlisted British warrant and non-commissioned officers and soldiers of the regiment, whether within or without the Colony, and upon the organization, interior economy, and drill of the battalions, and upon all matters appertaining to their welfare and efficiency.

(3) The Inspector-General may, whether within or without the Colony, issue instructions with regard to the organization, interior economy, and drill of the regiment or any part thereof, and the officers, British warrant and non-commissioned officers, locally enlisted British warrant and non-commissioned officers and soldiers of the regiment shall conform to all such instructions.

(4) The Colony shall make such contribution towards the expenses of the Inspector-General and to the expenses of the Colonial battalion or battalions serving out of the Colony as the Secretary of State may determine.

Duties of  
Brigade  
Commander.

**66.** The ~~Brigade~~ Commander, subject to the orders and directions of the Governor, shall have the direction and general superintendence of all troops in the Colony.

Duty of  
commanding  
officer.

**67.** A commanding officer, subject to the orders and directions of the ~~Brigade~~ Commander, shall have the command, direction and general superintendence of his battalion.

Duties of  
officers.

**68.** The officers of the regiment, when posted to any station or district, shall be charged with the command, direction and superintendence of the British warrant and non-commissioned officers, locally enlisted British warrant and non-commissioned officers and soldiers of the regiment from time to time posted within such station or district, subject to the

orders of the commanding officer and of the Governor. When not posted to a station or district, the officers shall have such command and such duties as the commanding officer, subject to the orders of the Governor, may direct.

**69.** (1) The ~~Brigade~~ Commander shall be charged with, and accountable for, all unissued public stores of whatever description.

Responsibility of ~~Brigade~~ Commander and commanding officers for stores.

(2) The commanding officer shall be charged with, and accountable for, all public stores of whatever description belonging to or appertaining to the battalion under his command in case of their being lost, spoiled or damaged, otherwise than by unavoidable accident, theft, robbery or actual use.

**70.** Every officer in command of any detachment of the regiment shall be charged with the arms, accoutrements, ammunition, clothing, and all other public stores, and with all public moneys issued and delivered for the use of the detachment of the regiment under his command, and shall account for such arms, accoutrements, ammunition, clothing, and stores to the commanding officer in case of their being lost, spoiled, or damaged otherwise than by unavoidable accident, theft, robbery, or actual use, and to the staff paymaster for such public moneys in case of their being lost, otherwise than by unavoidable accident, theft or robbery.

Responsibility of officers commanding detachments for stores.

**71.** The staff paymaster shall be charged with such duties in connexion with the accounts of the brigade as may be entrusted to him by the ~~Brigade~~ Commander. The staff quartermaster shall have the immediate custody of, and account to the ~~Brigade~~ Commander for, all unissued arms, accoutrements, clothing, necessaries, ammunition, and other Government stores in his charge appertaining to the brigade, and he shall issue the same upon the requisition of the Brigade Commander, or according to such regulations as the Governor may from time to time prescribe.

Duty and responsibility of staff pay- and staff quartermaster.

**72.** The Governor may from time to time, in consultation with the ~~Brigade~~ Commander, make such rules and regulations, consistent with this Ordinance and subject to the provisions thereof, relative to any unit as may be necessary for the purpose of preventing the spread of contagious disease, and to render the force efficient in the discharge

Governor to make regulations, etc.

of its duties, and for the discipline, good order, and guidance of the force, for the form and method of enlistment of the persons constituting the same, and for their general government, the services required of them, their conduct in the performance thereof, their distribution, posting, and removal from station to station, and their inspection, and for the description, supply, use, and disposal of arms, accoutrements, clothing, necessaries, and other warlike stores, to be furnished to them, and also with relation to the fiscal duties to be performed by the pay- or quarter-masters and other officers with relation to the regiment, and generally for the better carrying out of the provisions of this Ordinance.

PART IV.—ENLISTMENT, DISCHARGE, AND SERVICE.

First term of engagement.

73. (1) Every locally enlisted British warrant and non-commissioned officer shall be enlisted for ~~a first term of three years.~~

(2) Every soldier other than a ~~clerk, medical orderly, sycce, sweeper or boy,~~ <sup>person mentioned in rule 74</sup> shall be enlisted for a first term of engagement to serve in the regiment in one or other of the following categories:—

- (a) For three years with the colours and six years with the reserve.
- (b) For six years with the colours and six years with the reserve.
- (c) For nine years with the colours and six years with the reserve.

(3) ~~Clerks, medical orderlies, sycces and sweepers shall be enlisted for such term as may from time to time be fixed by the Governor.~~ <sup>(e) (f) (g) added by Ord. 4/32</sup>

(4) Boys shall be enlisted for a first term of engagement to serve in the regiment for nine years with the colours and six years with the reserve.

Rules for reckoning service.

74. In reckoning the service of any soldier for discharge or re-engagement, there shall be excluded therefrom all periods during which he has been absent from his duty from any of the following causes:—

- (a) Imprisonment for any cause save that of detention awaiting any trial which results in the acquittal or discharge of the prisoner.
- (b) Desertion for any period.
- (c) Absence without leave exceeding forty-eight hours.

Ord. 45/36.  
3: 43

75. (1) Every locally enlisted British warrant or non-commissioned officer who at any time has completed or is within three months of completing the term of his engagement may, with the approval of his commanding officer, re-engage for a further term of ~~three years~~ *service not exceeding five years.* Re-engage-ment and continuance in service.

(2) Any soldier of good character who at any time has completed, or is within ~~three~~ *three* months of completing, the term of his engagement with the colours may, with the approval of his commanding officer, re-engage to serve in the next highest category as from the date of his original enlistment. 66/48

(3) Any soldier of good character who has completed at least nine years' service with the colours may, with the approval of the commanding officer, re-engage for such further periods of three years each as shall complete a total period of eighteen years' colour service, reckoning from the time of his first enlistment: Provided that, at the expiration of fifteen years' colour service, all reserve service due by him shall be deemed to have been completed.

(4) And upon completing such period of eighteen years' service he may, if he shall so desire, and with the approval of the ~~Brigade~~ Commander and of the Governor, continue in the regiment in the same manner in all respects as if his term of service were still unexpired, except that it shall be lawful for him to claim his discharge at the expiration of any period of three months after he has given notice to the officer under whose command he is serving of his wish to be discharged.

*(5) added by Ord. 56/56*

76. (1) Every locally enlisted British warrant or non-commissioned officer who has completed his engagement shall, with the approval of his commanding officer, be entitled to be granted leave as though he were serving on a Government agreement *for the Kenya European Local Unit Service.* Conditions of furlough.

~~(2) Any soldier other than a bandsman who has completed three years' service with the colours shall, if not being discharged, with the approval of his commanding officer, be allowed to proceed on furlough for such period on full pay or half pay, at the discretion of his commanding officer, as may be prescribed by regulations made under this Ordinance.~~ *He engaged for a further term to serve with the colours.* 66/39

(3) A bandsman shall be allowed to proceed on furlough for one month in each year.

(4) If a soldier offers to re-enlist within six months after having received a certificate of discharge, he shall, on re-appointment or re-enlistment, be entitled to the advantages to which he was entitled with regard to rank, good-conduct badges, pay and gratuity at the time of his discharge. If, however, a longer period than six months from the date of his discharge has elapsed, then it shall be discretionary with the ~~Brigade~~ Brigade Commander to allow the service, or part of the service of such person previous to the date of such re-appointment or re-enlistment to reckon towards rank, good-conduct badges, pay, and gratuity.

(5) In the event of soldiers of non-combatant rank being attested as privates, it shall be discretionary with the commanding officer to allow the service, or part of the service, of such person, whilst a soldier of non-combatant rank, up to a maximum of three years, to reckon towards good-conduct badges, pay and gratuity.

Declaration  
on enlistment,  
etc.

**77.** Every locally enlisted British warrant or non-commissioned officer and soldier who is enlisted, re-enlisted, or re-engaged, shall, previous to his being enlisted, re-enlisted, or re-engaged, make the following declaration, and, being a native, shall confirm such declaration by oath in his language in such manner as he may declare to be most binding upon his conscience :—

“ I, A.B., do hereby solemnly and sincerely declare and promise that I will be faithful and bear true allegiance to His Majesty King George V., his heirs and successors, and that I will faithfully serve and defend His Majesty the King, his heirs and successors, for a period of ..... years with the colours and ..... years with the reserve, and will obey all orders of His Majesty and of the officers placed over me, and subject myself to all ordinances, rules and regulations relating to the King's African Rifles now in force, or which may from time to time be in force within the said period.”

*Signature or mark.*

Declared at ..... this ..... day  
of ....., 19....., before me :

*Signature of officer.*

78. Any locally enlisted British warrant or non-commissioned officer or any soldier whose period of service expires during a state of war, insurrection or hostilities, may be detained, and his service prolonged for such further period, ~~not exceeding twelve months~~, as the Governor may direct.

Prolongation of service terminating during war.

*78A added by S.N. 1045/40 to 649 Ord. 16/46*  
 79. Subject to the provisions of ~~section 73 and of the last preceding section~~, every locally enlisted British warrant or non-commissioned officer or soldier who has completed his period or periods of engagement or service according to the provisions of this Ordinance, shall be discharged by his commanding officer, unless at the expiration of any period he is undergoing punishment for, or stands charged with, the commission of any offence under this Ordinance, and in case he is undergoing such punishment, or is charged with any such offence, his service shall be prolonged and his discharge deferred until such punishment shall have terminated, or until he has undergone his trial and any punishment awarded in respect of the offence with which he is charged, ~~unless his sentence carries with it dismissal from the regiment.~~

S.N. 843/40  
 6-659  
 Discharge on completion of service.

80. Every locally enlisted British warrant or non-commissioned officer or soldier, ~~until he has received his certificate of discharge~~, shall remain subject to all the provisions of this Ordinance and to all rules and regulations made in pursuance thereof.

Certain officers and soldiers are subject to all regulations until formal discharge.

81. (1) A locally enlisted British warrant or non-commissioned officer may be discharged by ~~his commanding officer~~ at any time during the currency of any term of engagement—

Discharge when unfit for service or on being dismissed.

(a) when pronounced by the medical officer mentally or physically unfit for further service;

(b) when sentenced to be dismissed the regiment for misconduct;

(c) on reduction of establishment;

*(1) for inefficiency*  
 (2) A soldier may be discharged by his commanding officer at any time during the currency of any term of engagement—

(a) when pronounced by the medical officer mentally or physically unfit for further service;

(b) when sentenced to be dismissed the regiment for misconduct;

(c) if within two years from the date of attestation his commanding officer shall consider that he is unlikely to become an efficient soldier;

(d) on reduction of establishment.

Consequence  
of discharge or  
dismissal.

82. <sup>(e) Deleted by 6N/104/53/23</sup> When any locally enlisted British warrant or non-commissioned officer or soldier ceases to belong to the regiment, either by being dismissed therefrom or by being discharged on the termination of his period of engagement or as unfit for further service or on reduction of establishment, all powers and authorities vested in him shall, upon a certificate of discharge being given to him, immediately cease and determine. He shall, before a certificate of discharge is delivered to him, deliver over his arms, ammunition, accoutrements, uniform, and other appointments which are the property of the Government of the Colony to such person and at such time and place as shall be directed by the officer under whose command he may be at the time of ceasing to belong to the regiment: Provided that a soldier discharged before the expiration of one year for any fault, or as not likely to make an efficient soldier, shall not take away with him any arms or any articles of uniform or equipment described by any rules or regulations as personal property of soldiers.

Good-conduct  
pay.

83. (1) Every non-commissioned officer under the rank of sergeant, and every private, driver, signaller, and medical orderly, and enlisted machine-gun and Lewis-gun porter, who shall have served for three years without having been convicted of any offence by a court-martial or civil court, and without having incurred a sentence of—

- (a) imprisonment, or confinement, to barracks, for more than seven days;
- (b) fine or forfeiture in any sum exceeding seven days' pay;
- (c) corporal punishment;
- (d) or, in the case of a non-commissioned officer, severe reprimand;
- (e) or, in the case of a non-commissioned officer, reduction in rank, or to the ranks, or deprivation of lance-stripe,

shall be entitled to bear one good-conduct badge, and receive extra pay at the rate of Sh. 1/50 per month; and for every subsequent period of three years which he shall have served under like conditions he shall be entitled to bear one additional good-conduct badge, and to receive extra pay at the

rate of an additional Sh. 1/50 per month for each badge : Provided that no non-commissioned officer, private, driver, signaller and medical orderly or enlisted machine-gun and Lewis-gun porter shall receive more than six good-conduct badges.

(2) Any non-commissioned officer, private, driver, signaller and medical orderly or enlisted machine-gun and Lewis-gun porter who shall have forfeited a good-conduct badge shall, after having served for twelve months without having been convicted of any offence by a court-martial or civil court and without having incurred a sentence of—

- (a) imprisonment for any term ;
- (b) confinement to barracks for more than seven days ;
- (c) fine or forfeiture in any sum exceeding seven days' pay ;
- (d) corporal punishment ;
- (e) or, in the case of a non-commissioned officer, severe reprimand ;
- (f) or, in the case of a non-commissioned officer, reduction in ranks, or to the ranks, or deprivation of lance-stripe,

be entitled to have his good-conduct badge restored to him and to receive the extra pay in respect thereof as hereinbefore provided, and his service towards a further good-conduct badge shall be reckoned from the date of such restoration.

84. (1) On the recommendation of the ~~Brigade~~ Commander, and with the sanction of the Governor, gratuities at the following rates, in lieu of pension, may be granted to enlisted personnel on discharge, viz :—

Gratuities on discharge, etc

S.N. 612/32  
to 624

	£	s.
(a) To every soldier enlisted on or after the 1st day of January, 1933, after continuous good service extending to a period of nine years ...	7	10
(b) And at the following rates after a total continuous good service extending to a period of twelve years, viz :—		
To native regimental sergeant-majors, company sergeant-majors, clerks or artisans ...	30	00

*Ord. 30/38*

	£	s.
To sergeants ... ..	15	00
To corporals ... ..	12	00
To lance-corporals, privates, drivers, mechanics, vulcanizers, signal- lers, medical orderlies, and <del>machine gun and Lewis-gun</del> porters ... ..	9	00
To soldiers other than those men- tioned above ... ..	4	00

(c) And at the following rates after a total continuous good service extending to eighteen years, viz:—

*Ord. 30/38*

To native regimental sergeant- majors, company sergeant- majors, clerks or artisans ...	45	00
To sergeants ... ..	22	10
To corporals ... ..	18	00
To lance-corporals, privates, drivers, mechanics, vulcanizers, signal- lers, medical orderlies, and <del>machine gun and Lewis-gun</del> porters ... ..	13	10
To soldiers other than those men- tioned above ... ..	6	00

(d) In addition to the gratuities payable on discharge under paragraphs (b) and (c) of this sub-section, a gratuity of ten pounds may be granted to every soldier who has been enlisted on or after the first day of January, 1933, less any gratuity paid under paragraph (a) hereof.

For the purpose of this sub-section, service under the provisions of section 76 (4) and 76 (5) shall be deemed to be continuous with previous continuous service.

(A) ~~Section 76 (4) and (5) of the 1920 Act~~ *Revised by L.A. 188/57*  
 (2) No gratuity shall be paid in respect of any period of service in excess of a total service of eighteen years; and no soldier who has received a gratuity on discharge shall, in the event of his afterwards being re-appointed or re-enlisting, as the case may be, receive in respect of his service after such re-appointment or re-enlistment any higher gratuity than may, together with such first gratuity, be equal to the gratuity which he might have earned by continuous service for eighteen years.

(3) Where any soldier, whose terms of engagement and re-engagement combined shall amount to a continuous period of not less than twelve years, is discharged <sup>as unfit for further service</sup> ~~as inefficient~~, or on account of reduction of establishment, he may, at the discretion of the ~~Brigade~~ Commander, and subject to the sanction of the Governor, receive the whole or a part of such proportion of the gratuity which he might have earned under paragraph (c) of sub-clause (1) hereof if he had completed a period of eighteen years' service as the number of years actually served by him bears to eighteen.

(4) Where any soldier, whose terms of engagement and re-engagement combined shall amount to a continuous period exceeding nine years, and who shall have actually completed a period of not less than nine years' continuous good service, is dismissed for misconduct, he may receive such proportion of the gratuity which he would have earned if he had taken his discharge after the completion of the period of service immediately preceding the period of service he is then passing through as the ~~Brigade~~ Commander may in his discretion, subject to the sanction of the Governor, determine.

(5) In the event of the death of any soldier before the receipt by him of any such gratuity as is mentioned in this section, it shall be lawful for the Governor to direct and cause the amount to be paid to, or for the benefit of, the widow or widows, or child or children, or to any next-of-kin of the soldier so dying, on such conditions and, if to or for the benefit of more than one person, in such proportions as to the Governor shall seem fit.

(6) Where any soldier, whose terms of engagement and re-engagement combined shall amount to a continuous period of twelve years, dies while serving in the regiment before completing such continuous period, it shall be lawful for the Governor to direct and cause such proportion of the gratuity which he would have earned if he had completed the full period of twelve years' service as the number of years actually served by him bears to twelve, to be paid to, or for the benefit of, the widow or widows, or child or children, or to any next-of-kin of the soldier so dying, on such conditions and, if to or for the benefit of more than one person, in such proportions as to the Governor shall seem fit.

(7) Where any soldier whose terms of engagement and re-engagement combined shall amount to a continuous period exceeding twelve years, dies while serving in the regiment before completing such continuous period, it shall be lawful for the Governor to direct and cause such proportion of the gratuity which he would have earned if he had completed a period of eighteen years' service as the number of years actually served by him bears to eighteen, and if he shall have actually served for eighteen or more years the full gratuity which he would have earned if he had taken his discharge after the completion of a continuous period of eighteen years' service, to be paid to, or for the benefit of, the widow or widows, or child or children, or to any next-of-kin of the soldier so dying, on such conditions and, if to or for the benefit of more than one person, in such proportions as to the Governor shall seem fit.

(8) Every soldier who has been enlisted on or before the thirty-first day of December, 1932, and subject to such recommendation and sanction as aforesaid, shall, after nine years' continuous good service, be exempted from paying hut tax for one hut for life, or alternatively from paying poll tax in respect of himself for life :

Provided that any such soldier to whom exemption from paying hut tax or poll tax is granted under this sub-section may, at his option exercisable at the time of discharge, be paid in lieu of such exemption, a gratuity, viz :—

	£	s.
(a) In the case of a soldier on discharge after a continuous good service extending to a period of nine years ... ..	7	10
(b) In the case of a soldier on discharge after a continuous good service extending to twelve years ... ..	10	00
less any gratuity paid under paragraph (a) hereof.		

For the purpose of this sub-section, service under the provisions of section 76 (4) and 76 (5) shall be deemed to be continuous.

(9) Any soldier, being in possession of the Victoria Cross or the medal for Distinguished Conduct in the Field, shall, subject to such recommendation and sanction as aforesaid, irrespective of the amount of his service, be exempted from paying hut tax for three huts for life in the case of the

Victoria Cross and for one hut in the case of the medal for Distinguished Conduct in the Field, or alternatively shall be entitled to such equivalent exemption from taxation as may be determined by the Governor.

*84A - Insulated by Ord. 56/56*  
 85. Any gratuity that might have been received by any soldier had he taken his discharge under the provisions of this Ordinance shall, in the event of his re-engaging for a further term and dying in the service before the completion of such term, and subject to the recommendation of the commanding officer and the sanction of the Governor as aforesaid, be deemed for the purposes of this Ordinance to be his personal property in the charge of the ~~Treasurer~~ *Adjutant* for the time being, and shall be paid out and distributed by the ~~Treasurer~~ *Adjutant* or such other person as he may appoint in accordance with the provisions and conditions of this Ordinance.

Gratuities on  
decease

86. It shall be lawful for the Governor, subject to the directions of the Secretary of State, when occasion arises, to enrol for a limited period such number of officers, British warrant and non-commissioned officers and soldiers as he shall deem necessary; the period or number limited by such order may from time to time be prolonged, shortened, increased, reduced, or varied by any subsequent order of the Governor: Provided that no man shall be compelled to serve for a longer period than that for which he was enrolled under this section, except with his own consent.

Regiment  
may be  
temporarily  
increased.

87. Save as hereinafter enacted, all the provisions of this Ordinance, and of any Ordinance amending or extending the same, and of the rules and regulations which may from time to time be in force, shall, so far as they may be applicable, apply to all officers, British warrant and non-commissioned officers and soldiers enrolled under the last preceding section; and such officers, British warrant and non-commissioned officers and soldiers shall be deemed to be for all purposes part of the regiment as long as they shall be serving therein:

Condition of  
service of  
persons  
temporarily  
enrolled.

Provided always that when any officers, British warrant or non-commissioned officers or soldiers who are enrolled in, belong to, or are in the service of any Colony, Protectorate or Territory shall be enrolled for temporary service in the Colony under this Ordinance, the rate of pay to be given them, the mode and time of payment, and all other matters relating to the pay and remuneration of such officers, British warrant and

non-commissioned officers and soldiers may be arranged between the Governor and the Officer Administering the Government of the Colony, Protectorate or Territory in which the said officers, British warrant or non-commissioned officers and soldiers may be previously enrolled, or in the service of which they may be; but subject to this proviso, all officers, British warrant and non-commissioned officers and soldiers temporarily enrolled under this Ordinance shall receive the rates of pay respectively drawn by officers, British warrant and non-commissioned officers and soldiers of equal rank in the regiment.

Oath on temporary enrolment.

88. Every British warrant or non-commissioned officer or soldier temporarily enrolled under this Ordinance shall make the following declaration, and, being a native, shall confirm such declaration by oath in his language in such manner as he may declare to be most binding upon his conscience :—

“ I, A.B., do hereby solemnly and sincerely declare and promise that I will be faithful and bear true allegiance to His Majesty King George V, his heirs and successors, and that I will faithfully serve and defend His Majesty the King, his heirs and successors, and the Government of the Colony until I am discharged, and will obey all orders of His Majesty and of the officers placed over me, and subject myself to all Ordinances, rules and regulations relating to the King's African Rifles now in force, or which may from time to time be in force during my service.”

*Signature or mark.*

Declared at ....., this ..... day  
of ....., 19....., before me :

*Signature of officer.*

#### PART V.—GENERAL PROVISIONS.

##### *Enforcements of Civil Contracts.*

Soldier not to be taken from service except for criminal charge or debt of £20 or upwards.

89. (1) Any soldier shall be liable to be taken out of the King's African Rifles only by process or execution on account of any criminal charge, or on account of an original debt proved by affidavit of the plaintiff, or of someone on his behalf, to the value of twenty pounds at the least over and above all cost of suit, but not for any original debt not amounting to twenty pounds, nor for the breach of any covenant, agreement or other engagement, nor for having left or deserted his employer

or master, or his contract, work, or labour; and all warrants or other process of execution on account of the matters for which it is herein declared that such soldier is not liable to be taken out of the said service shall be null and void.

(2) Any plaintiff, upon notice of the cause of action first given in writing to the officer under whose command the defendant is serving at the date of service of the writ of summons, may proceed in any action or suit to judgment, and have execution other than against the body of any soldier or other than (except as next after mentioned) against the pay due or accruing due to him.

Plaintiff may have execution other than personal.

(3) The pay of any soldier due or accruing to him at the date of any judgment, or afterwards, shall not be liable to be arrested upon any civil process except in respect of any debt or liability which he may have incurred within three years next before being appointed to the regiment, and for such debt or liability, when constituted by decree, his pay may be arrested to an extent not exceeding one-third thereof. Where an order for such arrestment is made, the court making the order shall give notice thereof to the paymaster, and thereupon the amount ordered shall be stopped out of the judgment debtor's pay until the amount of the decree is made good.

Pay of soldiers not arrestable for debt: exception.

90. (1) Nothing in this Ordinance shall be construed to exempt any person subject to this Ordinance from being proceeded against by the ordinary course of law when accused of any crime or offence punishable under any other law in force in the Colony, and whenever any person subject to this Ordinance is accused of any capital crime or of violence or of any offence against person or property punishable by the law of the Colony, the officers, British warrant and non-commissioned officers, locally enlisted British warrant and non-commissioned officers and soldiers shall use their utmost endeavours to cause such persons to be discovered and secured and delivered over to be tried in the ordinary course of justice.

Ordinary course of law not to be interfered with.

(2) No person subject to this Ordinance shall be tried by court-martial for an offence against the State within the meaning of Chapter VII of the Penal Code, murder, manslaughter, or rape, unless the place at which the offence was committed is approximately more than sixty miles as measured in a straight line from any place in which the offender can be tried for such offence by a competent civil court.

No. 10 of 1930.

Exemption  
from second  
trial or  
punishment  
for same  
offence.

91. (1) An offender shall not be liable to be tried by court-martial for any offence which has been dealt with summarily by his commanding officer, and shall not be liable to be tried by court-martial or to be punished by his commanding officer for any offence of which he has been acquitted or convicted by a competent civil court or by a court-martial. An offender shall not be liable to be tried by a civil court for any offence which has been dealt with summarily by his commanding officer or for which he has been tried by court-martial.

(2) *Substituted by Ord. 37/37*  
~~If any person subject to this Ordinance has been convicted by a competent civil court of any crime or offence he shall not be liable to be punished for the same under this Ordinance, otherwise than by loss of pay under section 54, and in the case of a non-commissioned officer by reduction to an inferior rank or to the rank of a private, by order of the Governor, or by dismissal from the regiment, or by the loss of the whole or any period of his previous service reckoning towards discharge, or by the loss of all or any good-conduct badges which he may possess, together with forfeiture of the whole or any part of any good-conduct pay of which he is in receipt, by order of the Governor.~~

Unlawful  
possession of  
arms, etc., of  
the regiment.

92. (1) Every person who—

- (a) buys, exchanges, takes in pawn, detains, or receives from any person, on any pretence whatever; or
- (b) solicits or entices any person to sell, exchange, pawn, or give away; or
- (c) assists or acts for any person in selling, exchanging, pawning, or making away with,

any of the property following, namely : any arms, ammunition, equipment, instruments, regimental necessaries, or clothing, issued for the use of officers or soldiers, or any military or air force decorations of an officer or soldier, or any furniture, bedding, blankets, sheets, utensils, or stores in regimental charge, or any provisions or forage issued for the use of an officer or soldier or his horse or of any horse employed in the Government service, shall, unless he proves either that he acted in ignorance of the same being such property as aforesaid or that the same was sold by order or with the consent of the Governor or some competent military authority, or that the same was the personal property of an officer who has retired or ceased to be an officer, or of a soldier who has been

discharged, or of the legal personal representatives of an officer or soldier who had died, be liable on summary conviction to a fine not exceeding eighty pounds, together with double the value of any property of which such offender has become possessed by means of his offence, or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

(2) Where any such property as above in this section mentioned is found in the possession or keeping of any person, such person may be taken or summoned before a subordinate court of the first or second class, and, if such court have reasonable cause to believe that the property so found was stolen, or was bought, exchanged, taken in pawn, obtained, or received in contravention of this section, then, if such person does not satisfy the court that he came by the property so found lawfully and without any contravention of this Ordinance, he shall be liable on summary conviction to the same penalties as are prescribed in the case of contravention of the last preceding sub-section.

(3) A person found committing an offence against this section may be apprehended without warrant, and taken, together with the property which is the subject of the offence, before a subordinate court of the first or second class; and any person to whom any such property as above mentioned is offered to be sold, pawned or delivered, who has reason to suppose that the same is offered in contravention of this section may, and if he has the power shall, apprehend the person offering such property and forthwith take him, together with such property, before a subordinate court of the first or second class.

(4) A subordinate court of the first or second class, if satisfied on oath that there is reasonable cause to suspect that any person has in his possession, or on his premises, any property on or with respect to which any offence in this section mentioned has been committed, may grant a warrant to search for such property, as in the case of stolen goods; and any property found on such search shall be seized by the officer charged with the execution of such warrant, who shall bring the person in whose possession the same is found before some subordinate court of the first or second class, to be dealt with according to law.

(5) For the purpose of this section, property shall be deemed to be in the possession or keeping of a person if he

knowingly has it in the actual possession or keeping of any other person, or in any house, building, lodging, apartment, field, or place, open or enclosed, whether occupied by himself or not, and whether the same is so had for his own use or benefit or for the use or benefit of another.

(6) Every person who—

(a) receives, detains, or has in his possession, any identity certificate, life certificate, or other certificate, or official document evidencing or issued in connexion with the right of any person to a military pension, pay, or reserve pay, or to any bounty, allowance, gratuity, relief, benefit, or advantage granted in connexion with military service, as a pledge or security for debt, or with a view to obtaining payment from the person entitled thereto of a debt due either to himself or to any other person; or

(b) without lawful authority or excuse (the proof whereof shall lie on the accused) has in his possession any such certificate or document, or any certificate of discharge, or any other official document issued in connexion with the mobilization or demobilization of any of His Majesty's Forces or any member thereof,

shall be liable to the like penalty as for an offence under sub-section (1) of this section, and any such certificate or other document shall be deemed to be property within the meaning of this section.

*Legal Penalties in Matters Respecting Regiments.*

Inducing  
members of  
the corps to  
desert.

**93.** Any person who by any means whatsoever directly or indirectly procures or persuades, or attempts to procure or persuade, any soldier of the regiment to desert, or who aids, abets, or is accessory to the desertion of any soldier of the regiment, or who, having reason to believe that any man is a deserter, harbours such deserter or aids him in concealing himself, or aids or assists in his rescue, shall be liable to imprisonment for a term not exceeding six months, and shall in addition be liable to a fine not exceeding twenty pounds.

Inciting to  
mutiny, etc.

**94.** Any person who aids, abets, or is accessory to any mutiny, sedition, or disobedience to any lawful command of a superior officer by any soldier of the regiment, or maliciously endeavours to seduce any soldier of the regiment from his allegiance or duty, shall be liable to imprisonment for a term not exceeding two years, and shall in addition be liable to a fine not exceeding eighty pounds.

95. Whoever, not being a member of the regiment, or being a deserter therefrom, puts on the dress or accoutrements of a person serving in the regiment, or part thereof, or any dress intended to simulate that of the regiment, or part thereof, or any medal or badge which he is not authorized to wear, or takes the name, designation or character of a person appointed to or serving in the regiment, for the purpose of thereby doing or obtaining to be done any act which he would not be entitled to do or procure to be done of his own authority, or for any other unlawful purpose, shall be liable to imprisonment for a term not exceeding two years, or to a fine not exceeding eighty pounds, or to both such fine and imprisonment.

Personating:  
penalty.

96. All offences under this Ordinance committed by persons not being subject to Part II of this Ordinance shall be prosecuted, and all sentences imposed on such persons shall be carried into effect, in the manner provided by the laws in force in the Colony, and the amount of any fines recovered shall be paid to the <sup>Ad. G.</sup> ~~Treasurer~~ and form part of the public revenue.

Procedure  
where offences  
committed by  
other persons.

Disposal of  
fines.

*Wills and Distribution of Property.*

97. (1) Every soldier on enlistment shall declare the name of the person or persons to whom, in the event of his decease without having made a valid will, any money or personal property due or belonging to him should be paid or delivered, and the name of such person or persons shall be recorded at the headquarters of the soldier's battalion. The record shall be verified periodically, and it shall be the duty of the soldier to report any alteration in the record which he wishes made.

Soldier on  
enlistment to  
register name  
of person to  
whom estate is  
to be paid in  
the event of  
his dying  
intestate.

(2) The paymaster or any officer of the regiment, or of the Treasury, or other public department, having in his charge or control any pay, accumulations of pay, gratuity, or other allowance, or any personal property or money belonging to any soldier dying intestate who has complied with the above conditions, may pay or deliver the same to the person or persons whose name or names has or have been recorded by the soldier in the manner prescribed.

98. (1) Any will made by a soldier of the regiment shall be valid for disposing of any money or personal property which shall be due or belonging to him at his decease:—

Form of will

If it is in writing and signed or attested by his mark and acknowledged by him in the presence of, and in his

presence attested by, one witness, being an officer of the regiment or public officer of the Colony; or

If it is executed with the formalities required by any law now or hereafter in force in the Colony.

Such will shall be deemed well made for the purpose of being admitted to probate, and the person taking out representation to the testator under such will shall exclusively be deemed the testator's representative with respect to the money or personal property thereby bequeathed.

Accumulation of pay, etc., if less than £75, may be paid without probate.

(2) The paymaster or any officer of the regiment, or of the Treasury or other public department, having in his charge or control any pay, accumulations of pay, gratuity, other allowance, or any personal property, or money belonging to such testator not exceeding in the aggregate the value of seventy-five pounds, may pay or deliver the same to any person entitled thereto under the will, or to the person entitled to procure probate of, or administration under, such will, although probate or administration may not have been taken out.

Probate to be taken if value exceeds £75.

If the value of the said money and personal property exceeds the said sum of seventy-five pounds, the paymaster or other officer as aforesaid, having the same in his charge or control, shall require probate or administration to be taken out, and thereupon pay and deliver the said money and effects to the legal representative of the deceased.

Distribution in cases of intestacy.

**99.** In case any soldier of the regiment dies without having complied with the requirements stated in section 97 of this Ordinance, and without having made any valid will under this or any law or ordinance regulating wills for the time being in force, the paymaster or other officer having in his charge or control money or personal property of the deceased as aforesaid may, with the concurrence of the Governor, pay or deliver such money or personal property to any claimant showing herself or himself to the satisfaction of the Governor to be the widow of the deceased or to be the child or any near relative of the deceased, according to the rules of kinship of the tribe to which the deceased belonged, and where there are more such claimants than one, then in such shares and proportion as the claimants would be entitled to receive under the rules of succession prevailing among such tribe or as nearly as may be.

As to payment of debts.

**100.** Notwithstanding anything hereinbefore contained, if in cases where probate of the will or administration to the

estate of the deceased is not taken out, the paymaster or other officer aforesaid, before disposing of the money and personal property of the deceased in manner aforesaid has notice of any debt due by the deceased, he shall apply such money and property so far as remaining in his charge or control, or so much thereof as may be requisite, in or towards payment of such debt, subject to the following conditions :—

- (1) That the debt accrued within three years before the death.
- (2) That payment of it is claimed within one year after the death.
- (3) That the claimant proves the debt to the satisfaction of the paymaster.

Any person claiming to be a creditor of the deceased shall not be entitled to obtain payment of his debt out of any money that may be in the hands of the paymaster or any officer of the regiment, or of the Treasury or other public department, except by means of a claim on the paymaster or commanding officer or some administrative officer, and proceeding thereon under and according to this Ordinance.

**101.** In all cases where the money or personal property of the deceased or any part thereof is paid or delivered to any person as being interested therein by reason of his or her name having been recorded in accordance with section 97 of this Ordinance, or under the will of the deceased, or as his widow or child or near relative, or in any other manner under this Ordinance, any creditor of the deceased shall have the same rights and remedies against such person as if he or she had received the same as a legal personal representative of the deceased.

Property distributed subject to rights of creditors.

**102.** If the money or personal property belonging to the deceased, or any part thereof, remains for one year undisposed of or unappropriated, and without any valid claim thereto having been made, then the paymaster or other officer having the charge or control thereof shall apply and make over the same towards any fund for the benefit of the regiment which may be prescribed by the Governor :

Money undisposed of applied to regiment fund.

Provided that the application under this section of any such money or property or part thereof, undisposed of or unappropriated as aforesaid, shall not be deemed to bar any claim of any person to the same, or any part thereof, that may be established at any time after such application.

Medals and decorations excepted.

**103.** Medals, uniforms, and decorations shall not be considered to be comprised in the personal estate of any deceased with reference to claims of creditors, or for any of the purposes of administration under this Ordinance or otherwise, and the same shall be delivered to and held by the company commander, and disposed of according to regulations made by the ~~Brigade~~ Commander under the authority of the Governor.

Application of money, etc., in case of desertion.

**104.** In every case of desertion the money or property of the deserter in the charge or control of the paymaster, or any other officer as aforesaid, shall be disposed of according to regulations made by the Governor :

Provided that in every such case the provisions of section 99 of this Ordinance shall, *mutatis mutandis*, apply as nearly as may be.

PART VI.—APPLICATION OF MILITARY LAW AND MISCELLANEOUS PROVISIONS.

Application of the Army Act.

**105.** The Army Act and any Articles of War or rules made in pursuance of such Act, and for the time being in force, shall, as to the provisions therein contained respecting discipline, apply :—

- (a) At all times to officers and British warrant or non-commissioned officers and locally enlisted British warrant or non-commissioned officers appointed to or attached to the regiment.
- (b) ~~To soldiers and followers when on active service,~~ within the meaning of the said Act : Provided that any soldier or follower who is guilty of any offence named in Part II of this Ordinance or in the Army Act when on <sup>active service</sup> within the meaning of that Act, may be punished as provided by this Ordinance.

Sec. 99. 49/10

- (c) To soldiers during their residence in the United Kingdom when sent there for the purpose of undergoing instruction or training, or other duty or employment.

105A - Added by Ord No 16/38 for 10/38

Application of this Ordinance.

**106.** This Ordinance shall apply to locally enlisted British warrant or non-commissioned officers and soldiers and followers—

- (a) when in the Colony; and

- (b) when employed out of and beyond the Colony in accordance with section 4 (4) of this Ordinance, in so far as it may be applicable.

**107.** A person subject to this Ordinance shall, if such interpretation be not inconsistent with the context, be deemed to be on active service whenever he is attached to or forms part of a force which is engaged in operations in a country or place wholly or partly occupied by the enemy, or is in military occupation of any country, or is engaged in any punitive patrol, patrol, or escort in any unsettled or disturbed area, or in any area declared by the Governor to be an unsettled or disturbed area.

Interpreta-  
tion of active  
service.

**108.** The King's African Rifles Ordinance, 1930, is hereby repealed :

Repeal.  
No. 31 of 1930.

Provided that all officers, British warrant or non-commissioned officers, locally enlisted British warrant or non-commissioned officers and soldiers serving with the King's African Rifles at the date of the commencement of this Ordinance shall be deemed to have been appointed, enlisted, or enrolled under this Ordinance, but shall not be required to serve with the King's African Rifles for a longer period than that for which they were required to serve at the time of appointment, enlistment or enrolment.

**AN ORDINANCE.****No. XLIX of 1932**

Assented to in His Majesty's name this thirty-first day of December, 1932.

J. BYRNE,  
Governor.

Date of assent.

[31ST DECEMBER, 1932.]

**An Ordinance to Amend the Game Ordinance.**

Date of commencement.

31st December, 1932

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 Game (Amendment) Ordinance, 1932 ", and shall be read as one with the Game Ordinance (Chapter 161 of the Revised Edition), as amended by the Game (Amendment) Ordinance, 1928, herein together referred to as " the Principal Ordinance."

No. 25 of 1928.

Amendment of section 17 (9) of the Principal Ordinance.

2. Sub-section (9) of section 17 of the Principal Ordinance, as amended by the Game (Amendment) Ordinance, 1928, is hereby amended by inserting after the word " Forces " the words " or in the Public Service of His Majesty in India."

Amendment of section 36 of the Principal Ordinance.

3. Section 36 of the Principal Ordinance is hereby amended by inserting the word " leopard " after the word " lion " in the third line of the section, and by deleting the words " or within five miles of any railway " which appear in the tenth and eleventh lines thereof and by inserting after sub-section (c) thereof the following proviso :—

" Provided that nothing in this section contained shall be deemed to permit the setting on land other than private land of traps, gins, or snares capable of catching any animal mentioned in any of the Schedules to the Principal Ordinance."

Prohibition of sale of traps, gins or snares.

4. (1) No person shall sell or barter or attempt to sell or barter any trap, gin, or snare which is capable of catching any animal mentioned in any of the Schedules to the Principal Ordinance without the permission in writing of the game warden.

Any person found in possession of any such trap, gin, or snare in such circumstances as to make it appear that such person is selling or bartering or about to sell or barter

any such trap, gin, or snare, shall be liable to be arrested by any magistrate, justice of the peace, police officer, tribal police officer, game warden, or commissioned or non-commissioned officer of the King's African Rifles, and thereafter to be proceeded against and punished for committing a breach of the Principal Ordinance, unless such person can produce a permit in writing from the game warden permitting such person to sell or barter any such trap, gin, or snare.

(2) No person shall set, elsewhere than on private land, any trap, gin, or snare which is capable of catching any animal mentioned in any of the Schedules to the Principal Ordinance, without the permission in writing of the game warden.

Any person found in possession of any such trap, gin, or snare in such circumstances as make it appear that such trap, gin, or snare has been or is about to be set on land other than private land shall be liable to be arrested by any magistrate, justice of the peace, police officer, tribal police officer, game warden, or commissioned or non-commissioned officer of the King's African Rifles, and thereafter to be proceeded against and punished for committing a breach of the Principal Ordinance, unless such person can produce a permit in writing from the game warden permitting such person to set any such trap, gin, or snare :

Provided that where, in the opinion of a district officer a case of urgency or emergency exists, such district officer shall have power to sign and issue a permit under this sub-section on behalf of the game warden, and in every such case a copy of such permit shall be sent to the game warden as soon as possible.

(3) Any person who contravenes any of the provisions of this section for which no penalty is provided shall be guilty of an offence and shall be liable to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months, and any trap, gin, or snare in respect of which any offence under this section may be committed shall be confiscated.

5. Section 35A of the Principal Ordinance is hereby amended by the insertion of the word "leopard" after the word "lion" in the tenth line thereof.

Amendment of section 35A of the Principal Ordinance.

*Revised with  
Ord. 54/34***AN ORDINANCE.****No. L of 1932**

Assented to in His Majesty's name this thirty-first day  
of December, 1932.

J. BYRNE,  
Governor.

Date of assent.

[31ST DECEMBER, 1932.]

**An Ordinance to Make Provision for the Advance-  
ment and Control of the Coffee Industry.**

Date of commencement.

*18th January, 1933* By Proclamation.

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

Short title  
and commence-  
ment.*Nov 8/33*

Interpretation.

1. This Ordinance may be cited as "the Coffee Industry  
Ordinance, 1932", and shall come into operation on such date  
as the Governor may by proclamation appoint.

2. In this Ordinance unless the context otherwise  
requires—

"Board" means the Board established under this  
Ordinance;

"buni" means coffee dried in the fruit or cherry;

"coffee" means the fruits or parts thereof of *Coffea*  
species and includes "clean coffee", "parchment coffee",  
"buni" and roasted and/or ground berries;

"coffee dealer" includes any person who buys or sells,  
cleans or grades commercially in a factory other than on the  
plantation, or otherwise deals in, unroasted coffee;

"coffee plantation" includes any area of land on which  
coffee is grown for the production of berries, or for the growing  
and sale of coffee plants;

"coffee planter" includes any person who owns, manages  
or occupies a coffee plantation;

"conference" means any meeting of delegates appointed  
by farmers' associations or similar bodies in coffee-producing  
districts and by organizations representing trade interests con-  
vened for the purpose of election of members of the Board as  
provided under section 3 of this Ordinance and for the con-  
sideration of any other matters affecting the coffee industry;

"Director" means the Director of Agriculture;

"export" means export from the Colony to a place  
outside the limits of the Uganda Protectorate or Tanganyika  
Territory or of the Colony;

“ Inspector ” means any magistrate, European Police Officer or any European officer of the Department of Agriculture ;

“ trade samples ” means samples of coffee not exceeding ten pounds in weight.

3. (1) There shall be constituted a Board to be known as “ the Coffee Board ”, which shall consist of—

Constitution of  
the Board.

- (a) the Director, who shall be the first chairman ;
- (b) two members, to be appointed by the Governor, of whom one shall be a member of the Department of Agriculture ;
- (c) two licensed coffee dealers to be elected at the Conference by delegates from organizations representing trade interests ;
- (d) three coffee planters who shall be elected at the Conference by coffee planters who own, occupy or manage coffee plantations situated to the east of the Meridian of longitude thirty-six degrees twenty-five minutes east of Greenwich ;
- (e) three coffee planters who shall be elected at the Conference by coffee planters who own, occupy and manage coffee plantations situated to the west of the Meridian of longitude thirty-six degrees twenty-five minutes east of Greenwich.

(2) The first appointments of members of the Board under paragraphs (c), (d) and (e) of sub-section (1) of this section shall be made by the Governor on the recommendation of the Director. The Board shall convene a Conference in the ~~first~~ <sup>second</sup> half of each calendar year after the passing of this Ordinance at which elections of such members to the Board as is provided in sub-section (5) of this section shall be made.

Ord. 24/33.

(3) Subject to the provisions of sub-section (1) (a) of this section the Board shall elect a chairman and vice-chairman annually.

(4) Members of the Board other than those referred to in paragraphs (c), (d) and (e) of sub-section (1) of this section shall hold office during the Governor's pleasure.

(5) With respect to the members elected at each Conference, the following provisions shall apply :—

- (a) Of the two members of the Board elected under sub-section (1) (c) of this section, one shall retire annually;
  - (b) Of the three members of the Board elected under sub-section (1) (d) of this section, one shall retire annually;
  - (c) Of the three members of the Board elected under sub-section (1) (e) of this section, one shall retire annually;
  - (d) The order of retirement of members under sub-section (5) (a) (b) and (c) of this section shall be decided by ballot by the Board;
  - (e) Any member retiring as aforesaid shall be eligible for re-election.
- (6) In any case in which the Board is satisfied that any member of the Board is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office the Board may appoint some fit person to be a deputy to act for that member during such incapacity; and any deputy shall, while he acts as such, have all the powers and authorities of the member for whom he is so acting.
- (7) In the absence of the chairman and vice-chairman from any meeting of the Board a chairman for such meeting shall be chosen by the members present.
- (8) The chairman of a meeting shall have a casting vote in addition to a deliberative vote.
- (9) At its first meeting the Board shall fix the number required for a quorum and make rules for the conduct of its business.
- (10) The chairman shall within one month convene a meeting of the Board upon receipt of a requisition signed by three members of the Board calling upon him to do so.
- (11) The Board shall be a body corporate having perpetual succession and a common seal, and shall be capable in law of suing and being sued, and of purchasing, holding and alienating land and other property movable or immovable.

(12) The Board shall meet not less than once in three Meetings. months.

4. (1) No person shall conduct the business of a coffee dealer unless and until he is licensed in that behalf by the District Commissioner of the district in which his principal business premises are situated : Licence to deal in coffee.

Provided that no retail seller of provisions shall require a licence for the purchase of clean coffee from a licensed coffee dealer or coffee planter or for the sale of such coffee in retail quantities not exceeding five pounds in weight, and that such retail seller shall keep a register of all purchases of such coffee.

And provided further that no licence shall be required by any person who deals only in coffee grown outside the Colony.

(2) The issue of such licence shall be in the discretion of the District Commissioner who, before issuing any such licence, shall consult the Director thereon. It shall be competent for the District Commissioner to prescribe as a condition of the issue of a licence that it shall be endorsed by the District Commissioner of every district in which business under the licence is to be carried on.

(3) Every such licence shall specify the premises on which such business may be carried on.

(4) Every licence under this section shall be issued annually and, subject to any cancellation which may be imposed under section 15, shall remain in force until the thirtieth day of June next following the date on which it was issued.

(5) There shall be payable in respect of every such licence and every renewal thereof a fee of ten pounds :

Provided that only one licence fee shall be payable in respect of any or all premises in which the business of the licensee is carried on throughout the Colony.

5. (1) Every licensee under section 4 of this Ordinance shall keep on his licensed premises a register in English or Kiswahili of all purchases or sales of coffee made in pursuance of his licence, and shall within forty-eight hours of each such sale or purchase insert in such register the name and address of each vendor or purchaser of coffee, as the case may be, the quantity purchased or sold and the date of the transaction : Licensee to keep books.

Provided that if the method of dealing in or disposing of coffee be otherwise than by purchase or sale the licensee shall enter in the register the method of such dealing or disposal and the date thereof.

(2) It shall be lawful for an Inspector to enter upon the premises of any coffee planter or coffee dealer or retail seller of provisions and inspect all coffee kept therein and to demand the production of and inspect any licence or any register kept in pursuance of this section, and any obstruction or denial of entry and any refusal to produce such licence or register shall be deemed to be an offence.

Licensee to exhibit his name, etc.

6. Every licensee under section 4 of this Ordinance shall always keep, exhibited in English characters not less than three inches deep, over the outer door of his shop or place of business, his name and the words "licensed coffee dealer," in English or Kiswahili.

Licensee to submit return

7. Every licensed dealer shall submit such returns at such periods to such persons as the Governor by rule may prescribe.

Nothing for sale to licensed dealer.

8. Nothing in section 4 of this Ordinance contained shall be deemed to prohibit any licensed coffee planter from selling the produce of his own plantation to a licensed coffee dealer, or to any person for his own consumption, or for planting, or from exporting the same from the Colony:

Provided that such licensed coffee planter shall enter in a book to be kept for that purpose a full and true account of all such sales and dealings and shall produce such book for inspection upon demand made by an Inspector:

Provided further that any person may without a licence buy from a licensed coffee dealer or licensed coffee planter coffee for his own consumption or for planting, but for no other purpose.

Coffee planters licences.

9. (1) No person shall plant or maintain any coffee plantation unless and until he is in possession of a licence issued to him in that behalf by the District Commissioner of the district in which such coffee plantation is situated.

(2) There shall be payable in respect of every licence issued under this section a fee of thirty shillings.

(3) Every licence under this section shall be issued annually and shall expire on the thirtieth day of June next following the date on which it was issued.

(4) The issue of licences under this section shall be in the discretion of the District Commissioner who, before issuing any such licence, shall consult the Director thereon: Provided that no such opinion shall be necessary in the case of coffee planters previously licensed under the Registration of Coffee Plantations and Coffee Dealers Ordinance.

Cap. 152.

(5) The provisions of this section shall not apply to any coffee plantation in any native reserve.

**10.** (1) It shall be lawful for the Governor on the recommendation of the Board from time to time by proclamation in the Gazette to impose a levy on all coffee produced in and exported from the Colony, hereinafter referred to as "the levy": Provided that the amount of such levy shall in no event exceed one shilling per one hundredweight or part of a one hundredweight of coffee, and provided also that no levy shall be imposed in respect of buni:

Levy.

Nov. 9/33

Provided further that during the first year of its being in operation the amount of such levy shall not exceed fifty cents per one hundredweight or part of a one hundredweight of coffee:

Provided also that nothing in this section contained shall prohibit any licensed coffee planter or coffee dealer or the Board from exporting trade samples without payment of such levy.

(2) No levy shall become operative until two months after the date of the proclamation imposing it.

(3) As from the date on which a levy becomes operative under sub-section (1) of this section no coffee produced in the Colony shall be exported from the Colony unless the levy has been paid to the Commissioner of Customs in respect of such coffee and any person who exports or attempts to export any such coffee from the Colony without paying such levy thereon shall be guilty of an offence.

**11.** (1) There shall be established a fund, to be known as "the coffee levy fund" which shall consist of all moneys paid in respect of the levy, and licences issued under section 4 of this Ordinance, and of such sums as the Legislative Council may from time to time vote for the purpose.

Coffee levy fund.

(2) The coffee levy fund shall be in the custody of the Treasurer, who as soon as possible after the last day of each month, shall pay the amount of such fund into an account

opened in the name of the Board with a bank approved by the Governor, and the receipt of such bank for sums so paid shall be a full and effectual discharge to the Treasurer.

(3) The Board shall apply such moneys as follows:—

- (a) in payment of the expenses, commission, and other charges incurred by the Board or for which the Board may become liable in the course of its business;
- (b) to the cost of advertising the merits of Kenya coffee and increasing its sale by efforts to extend existing markets and exploiting new markets, and any matters incidental thereto;
- (c) to the payment of travelling and out-of-pocket expenses to the members of the Board at rates to be approved by the Governor;
- (d) to the employment of such staff as the Board may think fit for the purpose of carrying out its functions;
- (e) with the approval of the Governor in Council, to any other service which in the opinion of the Board is calculated to promote the welfare of the coffee industry or the more economic production or preparation of coffee.

Audit and publication of accounts.

**12.** The accounts of the coffee levy fund shall be audited in such manner as the Governor may direct, and shall, as soon as may be after the close of each year and after audit as aforesaid, be published in such manner as the Governor may direct.

Annual report.

**13.** The Board shall prepare annually a report of its operations which shall be submitted to the Conference and be published in such manner as the Governor may direct.

Liability of member of the Board.

**14.** No member of the Board shall be personally liable for any act or default of the Board done or omitted to be done in good faith in the course of the operations of the Board.

Penalty.

**15.** Any person who is guilty of an offence against this Ordinance or who contravenes or fails to comply with any of the provisions of this Ordinance shall be liable, on conviction before a magistrate of the first or second class, for every such offence, contravention or failure to comply with the provisions of this Ordinance to a fine not exceeding one hundred pounds

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*Coffee Industry*

No. L

or to imprisonment for a period not exceeding six months or to both such fine and imprisonment; and if the magistrate thinks fit, to the cancellation of any licence issued under section 4 of this Ordinance.

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

Offences  
cognizable to  
police.

**17.** The Governor in Council may make Rules—

Power to make  
rules.

(a) prescribing the returns and the form thereof to be made by licensed coffee dealers;

(b) generally for the better carrying out of the provisions of this Ordinance.

**18.** The Registration of Coffee Plantations and Coffee Dealers Ordinance (Chapter 152 of the Revised Edition) is hereby repealed :

Repeal.

Provided that a coffee dealer's licence issued to any person under section 7 of the said Ordinance shall remain in force until the thirtieth day of June next following the date on which it was issued, and it shall not be necessary for any person to whom such licence was issued to take a licence under this Ordinance until after the said thirtieth day of June.

**AN ORDINANCE.****No. LI of 1932**

Assented to in His Majesty's name this thirty-first day  
of December, 1932.

J. BYRNE,  
*Governor.*

Date of assent.

[31ST DECEMBER, 1932.]

**An Ordinance to Amend the Native Lands Trust  
Ordinance, 1930.**

Date of  
commencement.

*31st December, 1932*

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 Native Lands  
Trust (Amendment) Ordinance, 1932," and shall be read as  
one with the Native Lands Trust Ordinance, 1930, hereinafter  
referred to as " the Principal Ordinance."

No. 9 of 1930.

Amendment of  
section 15 of  
the Principal  
Ordinance.

**2.** Section 15 of the Principal Ordinance is hereby  
amended by the substitution of the word " Governor " for the  
word " Govenor " in the first line of the section, and by the  
addition of the following sub-section as sub-section (4) :—

"(4) Land may be excluded temporarily from a native  
reserve under this section for the purpose of granting a  
lease for the development of the mineral resources of  
the Colony, and in such cases it shall not be obligatory  
on the Governor during the period of the currency of such  
lease or of any renewals thereof to add to such native  
reserve any land as is provided under sub-section (2) of  
this section : Provided that at the final expiration of the  
currency of such lease, the land so excluded shall revert  
to the native reserve concerned : Provided further that no  
such land shall be excluded from such native reserve  
unless compensation shall have been paid in money to  
the local native fund concerned entitled thereto, or, where  
there is no local trust fund, to the natives trust fund :  
And provided also that the amount of compensation to  
be paid under this sub-section shall be not less than such  
sum as would be payable if the land to be excluded were  
private land situated outside the boundaries of a native  
reserve, and the owner were transferring such land to the  
Governor in full ownership.

Notwithstanding anything to the contrary contained in sub-section (1) of this section where land is excluded from a native reserve under this sub-section it shall not be necessary for the Central Board to bring the proposed exclusion to the notice of the Local Native Council or of the natives concerned."

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**AN ORDINANCE.****No. LII of 1932**

Assented to in His Majesty's name this thirty-first day of December, 1932.

J. BYRNE,  
*Governor.*

Date of assent.

[31ST DECEMBER, 1932.]

**An Ordinance to Amend the Mining Ordinance, 1931, and the Amendments thereto.**

Date of commencement.

31st December, 1932

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 Mining (Amendment) (No. 2) Ordinance, 1932," and shall be read as one with the Mining Ordinance, 1931, as amended by the Mining (Amendment) Ordinance, 1932, hereinafter referred to as " the Principal Ordinance."

No. 1 of 1931.  
No. 15 of 1932.

Amendment of section 2 of the Principal Ordinance.

2. Section 2 of the Principal Ordinance is hereby amended by deleting the definitions of "claim," "shaft" and "pit" and inserting the following definitions :—

" 'claim' means a portion of land lawfully taken possession of for the purpose of prospecting and mining and forms the unit of a mining location ;

'coal location' means a portion of land lawfully taken possession of for the purpose of prospecting and mining coal ;

'mining location' means a registered block of claims in respect of which mining rights may be acquired under a prospecting right ; "

Amendment of section 8 of the Principal Ordinance.

3. Section 8 of the Principal Ordinance is hereby amended by deleting the words "and such other officers, to be known as" in the third line of the section, and by inserting the words "and such other officers" after the word "Registrars" in the fifth line of the section.

Amendment of section 12 of the Principal Ordinance.

4. Section 12 of the Principal Ordinance is hereby amended by deleting sub-section (2) of the section and substituting therefor the following :—

" (2) A prospecting right may be granted to an individual as agent for another individual if such agent is the lawfully constituted attorney of such individual." ;

by inserting the words "body of persons" after the word "company" wherever such word appears in sub-section (3) of the section; and

by deleting all the words after the word "issue" in sub-section (4) of the section.

5. Section 13 of the Principal Ordinance is hereby amended by deleting the word "made" in the last line of paragraph (d) of the section and by substituting therefor the words "accepted for consideration"; by substituting the word "stipulated" for the word "prescribed" at the end of paragraph (i) of the section; and by the insertion at the end of the said paragraph (i) of the words: "The Governor, at the request of the Native Lands Trust Board, may appoint any Provincial Commissioner to be the delegate within his province of the Native Lands Trust Board for the purposes of giving the consent in writing required by this paragraph."

Amendment of section 13 of the Principal Ordinance.

6. Section 15 of the Principal Ordinance is hereby amended by deleting sub-section (6) of the section and substituting therefor the following:—

Amendment of section 15 of the Principal Ordinance.

"(6) apply for an exclusive prospecting licence and peg and apply for the registration of claims and locations and apply for a mining lease."

7. Section 18 of the Principal Ordinance is hereby amended by inserting the words "by methods approved by him" after the word "prospecting" in the fourth line of sub-section (2) of the section; by deleting sub-section (5) of the section and substituting therefor the following:—

Amendment of section 18 of the Principal Ordinance.

"(5) An exclusive prospecting licence shall be valid for one year from the date thereof, subject, on submission of a programme of further development, to renewal, at the discretion of the Governor, for further terms of one year each up to a maximum of three years."

and by adding the following after sub-section (7):—

"(8) On the granting of an exclusive prospecting licence a fee of such amount as the Governor in each case may determine, not exceeding in any case five shillings per square mile, shall be payable in addition to all other fees due."

Amendment of section 20 of the Principal Ordinance.

8. Section 20 of the Principal Ordinance is hereby amended by inserting in the second line thereof after the words "sole right of prospecting" the words "and, with the consent of the Commissioner, of alluvial mining, subject to such fee as the Commissioner may determine, not exceeding in any case two shillings for every 10,000 square feet"; and by deleting sub-section (2) of the section and substituting therefor the following :—

" (2) An exclusive prospecting licence shall confer upon the holder the sole right during the currency of the licence to peg claims as prescribed."

Repeal and re-enactment of section 24 of the Principal Ordinance.

Obligations of the holder of exclusive prospecting licence.

9. Section 24 of the Principal Ordinance is hereby repealed and the following section substituted therefor :—

" 24. (1) The holder of an exclusive prospecting licence shall during the continuance of the licence diligently follow the programme of prospecting operations submitted to the Commissioner at the time of his application :

Provided that the Commissioner may, on the application of the holder and for good cause shown, by writing under his hand suspend the obligation imposed by this section in respect of any licence for such time as to the Commissioner may seem proper.

(2) Failure to exercise due skill and due diligence shall be a ground for cancellation of the licence.

(3) Whether due skill or due diligence is being shown shall be a matter within the discretion of the Commissioner, whose decision shall be final."

Amendment of section 26 of the Principal Ordinance.

10. Section 26 of the Principal Ordinance is hereby amended by inserting in the second line of the section after the words "prospecting licence" the words "or of a mining location"; by inserting in the first line of sub-section (5) of the section after the words "prospecting right or" the words "the right to work a location"; by deleting in the fourth line of the same sub-section the word "or" between the words "right" and "licence"; and by inserting the words "or location" after the word "licence"; and in the last line but one of the same sub-section by deleting the word "or" between the words "right" and "exclusive" and inserting in the last line the words "or location" after the words "prospecting licence".

- 11.** Section 28 of the Principal Ordinance is hereby repealed and the following substituted therefor :—
- Repeal and re-enactment of section 28 of the Principal Ordinance.
- “ 28. Mining shall be lawful for the holder of a location or mining lease or for the holder of an exclusive prospecting licence duly authorized under section 20 (1) of this Ordinance.”
- Mining: when lawful.
- 12.** Section 33 of the Principal Ordinance is hereby amended by deleting the words “The claim shall be granted” in the first line of the section, and substituting therefor the words “A mining location shall be valid”.
- Amendment of section 33 of the Principal Ordinance.
- 13.** Section 37 of the Principal Ordinance is hereby repealed.
- Repeal of section 37 of the Principal Ordinance.
- 14.** Section 39 of the Principal Ordinance is hereby amended by inserting after the words “A claim” in the first line of the section the words “or location”.
- Amendment of section 39 of the Principal Ordinance.
- 15.** Section 40 of the Principal Ordinance is hereby amended by substituting the words “registration notice” for the words “location beacon” in the second sub-section of the section.
- Amendment of section 40 of the Principal Ordinance.
- 16.** Section 43 of the Principal Ordinance is hereby repealed and the following section substituted therefor :—
- Repeal and re-enactment of section 43 of the Principal Ordinance.
- “ 43. The Governor may grant a lease to the holder of a mining location or of a coal location in respect to the whole or any part of his location.”
- Grant of leases.
- 17.** Section 47 of the Principal Ordinance is hereby amended by the deletion of the proviso thereto.
- Amendment of section 47 of the Principal Ordinance.
- 18.** Section 67 of the Principal Ordinance is hereby repealed and the following section substituted therefor :—
- Repeal and re-enactment of section 67 of the Principal Ordinance.
- “ 67. The owner of any plant, machinery, engines or tools on any forfeited or surrendered lease or location may within three months from the date of forfeiture or surrender, or within such further period as the Commissioner may allow, remove such plant, machinery, engines or tools, but shall not remove or interfere with any timber in any mine. If such plant, machinery, engines or tools
- Owner may remove plant, etc., on surrender.

are not so removed, they may be sold by auction by order of the Commissioner at the risk of the former lessee or the holder of a location. The net proceeds of such sale, after deducting the costs thereof, shall be paid into the Treasury and held until applied for by such former lessee or holder of a location. Any person who in breach of this provision removes or interferes with any timber in a mine shall be guilty of an offence against this Ordinance."

Repeal and re-enactment of section 74 of the Principal Ordinance.

Minerals to which this Part applies.

Amendment of section 82 of the Principal Ordinance.

Amendment of various sections of the Principal Ordinance.

**19.** Section 74 of the Principal Ordinance is hereby repealed and the following section substituted therefor :—

" 74. The minerals referred to in this Part shall be any mineral in the unmanufactured state to which the Governor in Council may, by notice, apply this Part."

**20.** Section 82 of the Principal Ordinance is hereby amended by deleting paragraph (iv) of the section and substituting therefor the following :—

" (iv) examine and take extracts from all books, accounts, vouchers and documents relating to prospecting or mining operations or to any minerals obtained by such operations, and examine and take samples of any material being mined."

**21.** The Principal Ordinance is hereby further amended by substituting the word "location" for the word "claim" wherever such word occurs in sections 29, 42, 61, 62, 78, 83, 84, 88, 91, 92 and 93 of the Principal Ordinance, and the words "mining location" for the word "claim" wherever such word occurs in sections 36 and 38 of the Principal Ordinance.

Replaced by  
Ord. 31 of 1950

Amended by

**AN ORDINANCE.**

Ord. 47/34.

**No. LIII of 1932.**

4/35

27/36

4/41

Assented to in His Majesty's name this thirty-first day of December, 1932.

J. BYRNE,  
Governor.

[31ST DECEMBER, 1932.] Date of assent.

**An Ordinance for Regulating Pensions, Gratuities and Other Allowances to be granted in respect of the Service of non-European Officers in the Colony and Protectorate of Kenya.**

31st December, 1932

Date of commencement.

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

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 non-European Officers' Pensions Ordinance, 1932." Short title.

2. In this Ordinance and the Regulations made hereunder :— Definitions.

" non-European officer " means any officer who is not within the meaning of the definition of European Officer in the European Officers' Pensions Ordinance, 1927 ~~but excludes a native of Africa unless appointed under the conditions of service ordinarily applicable to Asiatics, and also excludes Arabs unless appointed under the conditions of service ordinarily applicable to Asiatics.~~ 4/35  
In case of any question or dispute arising as to whether an officer is to be regarded as a non-European officer for the purpose of this Ordinance or of any Regulations made hereunder the decision of the Governor shall be final ;

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

at any time by the Governor in Council, with the sanction of the Secretary of State, by a notification published in the Gazette, to be no longer pensionable, due regard being had to existing rights; (b) in respect of other public service an office which is a pensionable office under the laws or regulations in force in such service :

Provided further that such non-European officers to whom the Governor in Council with the sanction of the Secretary of State may decide to grant pensionable status, although they are not holders of a pensionable office, shall be deemed to be holders of a pensionable office ;

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

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

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

“ salary ” means the salary attached to an office ;

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

“ house allowance ” means the estimated value of free quarters as defined in Regulation 6 (2) in the Schedule to this Ordinance or any Regulation hereafter made amending or substituted for the same ;

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

" East African Dependencies " means Kenya, the Uganda Protectorate, the Zanzibar Protectorate, the Nyasaland Protectorate, the Somaliland Protectorate, and the Tanganyika Territory;

" East African Service " means service in a civil capacity under the administration of one or more of the East African Dependencies;

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

" other public service " means public service not under the Government of Kenya.

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

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

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

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

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

5. (1) No non-European officer shall have an absolute right to compensation for past services or to pension, gratuity, or other allowance; nor shall anything in this Ordinance contained limit the right of the Crown to dismiss any officer without compensation. Pensions, etc., not of right.

*Amended by Ord. 77/310*  
 (2) ~~No non-European officer shall be granted a pension, gratuity or other allowance without a certificate from the head of his department to the effect that he has discharged~~

~~the duties of his office with such diligence and fidelity as to justify the grant to him of such pension, gratuity or other allowance.~~

② Where it is established to the satisfaction of the Governor in Council that a non-European officer has been guilty of negligence, irregularity or misconduct, the pension, gratuity or other allowance may, ~~with the approval of the Secretary of State,~~ be reduced or altogether withheld.

Service not qualifying for pension.

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

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

Circumstances in which pension may be granted.

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

- (a) on or after attaining the age of fifty years, or, in the case of transfer to other public service, on or after attaining the age at which a non-European officer is permitted by the law or regulations of the service in which he is last employed to retire on pension or gratuity;
- (b) on the abolition of his office;
- (c) on compulsory retirement for the purpose of facilitating improvement in the organization of the department to which he belongs, by which greater efficiency and economy can be effected;
- (d) on medical evidence to the satisfaction of the Governor in Council that he is incapable by reason of some infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent;
- (e) in the case of removal on the ground of inefficiency as hereinafter provided;

- (f) after completing thirty years' East African service; provided that no such service shall be counted if it is not in itself pensionable or allowed to be reckoned for pension.

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

Retirement for  
inefficiency.

9. It shall be lawful for the Governor in Council to require a non-European officer to retire from the service of Kenya at any time after he attains the age of fifty years or completes thirty years East African service, whichever is the earlier.

Age of  
compulsory  
retirement.

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

Maximum  
pension  
grantable

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

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

(3) In a case falling under the limitation laid down by sub-section (2), the amount of the pension to be drawn from the funds of Kenya shall be subject to the approval of the

Secretary of State, in order that it may be determined with due regard to the amount of any pension or pensions similarly to be drawn in respect of other public service.

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

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

**11.** Every pension granted to a non-European officer shall be subject to the following condition:—

Unless or until he has attained the age of fifty years or has completed thirty years East African service he may, if physically fit for service, be called upon by the Secretary of State to accept, in lieu of his pension, an office not less in value, due regard being had to circumstances of climate, than the office which he had at the date of the grant of his pension.

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

Gratuity affected by re-employment.

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

Pensions, etc., not to be assignable.

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

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

Pensions,  
etc., to cease  
on bank-  
ruptcy.

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

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

Pensions,  
etc., to cease  
on conviction.

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

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

Pensions,  
etc., to  
cease on  
accepting  
certain  
appointments.

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

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

Gratuity to  
estate where a  
non-European  
officer dies  
in the service.

17. (1) Where a non-European officer holding a pensionable office who is not on probation or agreement dies while in the service of Kenya, and during the five years preceding his death has continuously held pensionable office in Kenya or offices in other public service which were, when he held them, pensionable under the pensions regulations applicable to such service, it shall be lawful for the Governor in Council, to grant to his legal personal representative a gratuity of an amount not exceeding one year's pensionable emoluments.

Pensions,  
etc., to  
dependents  
when a  
non-European  
officer is  
killed on duty.

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

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

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

- (i) if the deceased officer leaves a widow, a pension to the widow, while unmarried and of good character at a rate not exceeding ten-sixtieths of his pensionable emoluments at the date of the injury or £10 a year, which-

ever be the greater, and also a gratuity not exceeding twenty shillings multiplied by the total number of their years, starting from their ages at the time of their father's death and ending with fifteen years, to each child alive at the date of the father's death, and a gratuity not exceeding £15 to any posthumous child :

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

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

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

Provided that—

(a) if the mother is a widow at the time of the grant of the pension and subsequently remarries such pension shall cease as from the date of remarriage ; and

(b) if the mother is not a widow and it appears that the deceased's father is in a position to support her, such pension shall cease from such date as the Governor in Council may determine.

(2) When a non-European officer who is not qualified for either pension or gratuity dies in the circumstances mentioned in subsection (1) of this section, it shall be lawful for the Governor in Council to grant the pension or gratuities which might have been granted if his case had fallen under subsection (1), but no grant shall be made under section 17 of this Ordinance.

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

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(3) All questions as to who shall be entitled to be deemed a widow, mother or child of a deceased officer, and all disputes as to the claim of any such person to a pension or the amount of such pension shall be referred to the Governor whose decision shall be final and binding on all persons and shall not be questioned or revised by any Court of Law.

Scope of Ordinance.

15/41 ←  
19. The provisions of this Ordinance shall apply to all non-European officers who on the 30th day of April, 1932, were in the service of Kenya and to all those who having been in the service of Kenya have on or before the 30th day of April, 1932, been transferred to other public service and are still in other public service at the commencement of this Ordinance :

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

#### SCHEDULE.

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

##### *Part I.*

Pensions to whom and at what rates to be granted.

1. Subject to the provisions of the non-European Officers' Pensions Ordinance, 1932, hereinafter called "the Ordinance," and of these Regulations, every non-European officer holding a pensionable office in Kenya, who has been in the service of Kenya in a civil capacity for ten years or upwards, may be granted a pension at the rate of one seven-hundred-and-twentieth of his pensionable emoluments for each complete month of pensionable service, subject to the limit described in section 10 of the Ordinance.

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

Gratuities where length of service does not qualify for pension.

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

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

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

Service to be unbroken.

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

Computation of pensions and gratuities. Leave of absence.

- (a) any periods during which he has been on duty;
- (b) any period during which he received half salary from Kenya funds while proceeding to Kenya on first appointment;
- (c) any periods during which he has been absent from duty on leave with full ~~or~~ <sup>or</sup> half salary;
- (d) any periods during which he has been absent from duty on leave without salary, granted on grounds of public policy with the approval of the Governor, and during which he has not qualified for pension or gratuity in respect of other public service;

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

A.N. 247/34  
h. 228

6. (1) For the purpose of computing the amount of a non-European officer's pension or gratuity—

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

- (a) in the case of an officer who has held one office for a period of three years immediately preceding

the date of his retirement, the full pensionable emoluments payable to him at that date in respect of that office shall be taken;

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

Provided that if such average is less than the full pensionable emoluments which were payable to him at the date of the first transfer within such period of three years, the Governor in Council may grant him a pension calculated upon the full pensionable emoluments payable to him at that date.

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

Provided that—

- (a) the point in any scale of salary at which an efficiency bar occurs shall for this purpose be regarded as the initial salary of the appointment in the case of any officer who has passed such efficiency bar;
- (b) the estimated value of free quarters shall not be reckoned as less than £24 per annum nor as more than £72 per annum.

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

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

Non-pensionable service followed by pensionable service.

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

Acting  
service.

Provided that—

(1) the period of such acting service was not part of the pensionable service of the previous holder of the office and does not fall to be reckoned as part of the non-European officer's own pensionable service in other public service ;

(2) this period of service is immediately preceded or followed by service in a substantive capacity in a pensionable office in Kenya.

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

Abolition or  
reorganization  
of office.

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

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

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

10. (1) Where a non-European officer has been permanently injured—

Non-European  
officers  
retiring on  
account of  
injuries.

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

(b) without his own default, and

(c) by some injury specifically attributable to the nature of his duty,

and his retirement is thereby necessitated or materially accelerated, he may, if he is qualified for a pension under

Regulation 1 be granted, in addition to the pension granted to him under that Regulation, an additional pension at the rate of the proportion of his actual pensionable emoluments at the date of his injury appropriate to his case as shown in the following table :—

When his capacity to contribute to his own support is—	
slightly impaired :	five-sixtieths.
impaired :	ten-sixtieths.
materially impaired :	fifteen-sixtieths.
totally destroyed :	twenty-sixtieths.

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

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

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

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

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

(4) Added by S.N. 485/41, p. 165

11. If any non-European officer to whom a pension has been granted under this Ordinance is appointed to another office in the service of Kenya, and subsequently retires in circumstances in which he may be granted a pension, he may be granted in lieu of his previous pension a pension computed as if the periods of his service had been continuous, and such pension may be based on his pensionable emoluments on his previous or final retirement from the service of Kenya, whichever may be the greater :

Computation of pensions. Re-employed pensioners.

Provided that if on his previous retirement he was paid a gratuity and reduced pension, the gratuity to be paid to him on final retirement shall be reduced by the amount of the gratuity already paid.

12. (1) In special cases a non-European officer holding a non-pensionable office may—

Gratuities to non-European officers who have served in a non-pensionable office.

- (a) if he has served for not less than seven years and is removed in consequence of the abolition of his office, or for the purpose of facilitating improvements in the organization of the department to which he belongs, by which greater efficiency and economy can be effected; or
- (b) if he has served for not less than fifteen years and he retires in any of the cases set out in section 7 of the Ordinance,

be granted a compassionate gratuity not exceeding twenty shillings or one week's pay, whichever is the greater, for each year of his service.

(2) Where a non-European officer has been transferred from a pensionable to a non-pensionable office and subsequently retires either from a pensionable or a non-pensionable office in circumstances in which he might have been granted a pension if he had continuously held a pensionable office, he may, with the approval of the Secretary of State, be allowed to count his service in the non-pensionable office as though it were service in the pensionable office which he held immediately prior to such transfer, and at the pensionable emoluments which were payable to him at the date of transfer.

13. (1) Any non-European officer to whom a pension is granted under the Ordinance may, at his option exercisable as hereinafter provided, be paid in lieu of such pension a

Gratuity and reduced pension.

pension at the rate of three-fourths of such pension together with a gratuity equal to ten times the amount of the reduction so made in the pension.

(2) The option referred to in subsection (1) shall be exercisable—

(a) in the case of a non-European officer who, if he had been retired on grounds of ill-health at the date of the publication of the Regulations—

*See G.N. 1093/45  
.534*

GOVERNMENT NOTICE No. 1093 - Page 534

THE NON-EUROPEAN OFFICERS' PENSIONS (AMENDMENT) REGULATIONS, 1945

IN EXERCISE of the powers conferred upon him by section 3 of the Non-European Officers' Pensions Ordinance, 1932, and all other powers thereunto enabling him, His Excellency the Governor in Council, with the sanction of the Secretary of State, has been pleased to make the following Regulations:—

1. These Regulations may be cited as the Non-European Officers' Pensions (Amendment) Regulations, 1945, and shall be read as one with the Regulations contained in the Schedule to the Non-European Officers' Pensions Ordinance, 1932, hereinafter referred to as the principal Regulations.

2. Regulation 13 of the principal Regulations is hereby amended by deleting sub-regulation (2) thereof and by substituting therefor the following sub-regulation:—

“(2) The option referred to in sub-regulation (1) of this Regulation shall be exercisable, and if it has already been exercised may be revoked, not later than the day immediately preceding the date of such officer's retirement:

Provided that if the non-European officer does not exercise the option prior to the day preceding the date of his retirement, the Governor may, if it appears to him in all the circumstances equitable so to do, allow him to exercise the option at any time between that date and the actual date of award of pension under the Ordinance.

(3) Subject to the provisions of sub-regulation (2) of this Regulation, if a non-European officer has exercised the option his decision shall be irrevocable so far as concerns any pension to be granted to him under the Ordinance.

(4) If any non-European officer who has not exercised the option dies after he has finally retired but before a pension has been awarded under the Ordinance, it shall be lawful for the Governor in Council to grant a gratuity and a reduced pension as provided in sub-regulation (1), as if the officer before his death had exercised the option.”

3. These Regulations shall be deemed to have come into operation on the 1st day of July, 1945.

By Command of His Excellency the Governor in Council.

Nairobi,  
10th December, 1945.

J. L. H. WEBSTER  
Clerk to Executive Council

*(iv) added by S.N. 85/37, p. 38*

*Part II.**Special Regulations for non-European Officers with other Public Service.*

14. For the purpose of these Regulations—

**Definitions.**

“Scheduled Government” means any Government or Service included in the Schedule to these Regulations.

“service in the group” means service under the Government of the Colony and Protectorate of Kenya and under a Scheduled Government or Governments.

15. Subject to the succeeding Regulations, the provisions of Regulations 7, 11, 12 and 13 shall apply to the case of a non-European officer who has been transferred to or from the service of Kenya from or to other public service and the provisions of Regulations 3, 4, 5, 6 and 8 shall apply to the case of a non-European officer so transferred as if his whole service had been in Kenya.

**Application of Regulations in Part I.**

Provided that in the application of Regulation 13 to cases falling under the limitation of section 10 (2) of the Ordinance the words “such pension” in that Regulation shall mean the amount of pension which he might have drawn from the funds of Kenya if he had not elected for a gratuity and reduced pension.

16. (1) Where the other public service of a non-European officer has been wholly under one or more of the Scheduled Governments and he has held a pensionable office in Kenya for a period of at least twelve months, and his aggregate service would have qualified him had it been wholly in Kenya for a pension under the Ordinance, he may, on his ultimate retirement from the public service in circumstances in which he is permitted by the law or regulations of the service in which he is last employed to retire on pension or gratuity, be granted a pension from Kenya of such an amount as shall bear the same proportion to the amount of pension for which he would have been eligible had his service been wholly in Kenya, as the aggregate amount of his pensionable emoluments during his service in Kenya shall bear to the total amount made up of such aggregate amount together with the aggregate amount of his pensionable emoluments from any of the Scheduled Governments :

**Pension for service wholly within the group.**

Provided that in determining the pension for which he would have been eligible if his service had been wholly in Kenya—

- (a) the final pensionable emoluments taken shall be those of his last period of service in the group;
- (b) no regard shall be had to Regulation 10;
- (c) regard shall be had to the condition that pension may not exceed two-thirds of the final pensionable emoluments:

Provided further that any period of other public service in respect of which pension is not granted by the Scheduled Government concerned shall not be taken into account either in determining the amount of the pension for which he would have been eligible if his service had been entirely in Kenya or in calculating the aggregate amount of his pensionable emoluments.

*S.A. 297/34*

(2) ~~The aggregate amount of his pensionable emoluments shall be taken as the total amount of salary which the non-European officer would have drawn, and the total amount of the other pensionable emoluments, including any allowance authorized for an officer who is not provided with free quarters, which he would have enjoyed had he been on duty on full pay in his substantive office or offices throughout his period of service under each of the Scheduled Governments concerned.~~

Pension where other service not within the group.

17. Where the other public service of a non-European officer has not included service under any of the Scheduled Governments, and he has held a pensionable office in Kenya for a period of at least twelve months, and his aggregate service would have qualified him, had it been wholly in Kenya, for a pension under these Regulations, he may, on his ultimate retirement from the public service in circumstances in which he is permitted by the law or regulations of the service in which he is last employed to retire on a pension or gratuity, be granted in respect of his service in Kenya a pension at the rate of one seven hundred and twentieth part of the amount of his pensionable emoluments at the date of his transfer or retirement, as the case may be, from the service of Kenya for each calendar month of his pensionable service in Kenya.

18. Where a part only of the other public service of a non-European officer has been under one or more of the Scheduled Governments, the provisions of Regulation 16 shall apply; but in calculating the amount of pension, regard shall be had only to service in the group.

Pension when other service both within and not within the group.

19. Where a non-European officer who has been transferred from other public service, and whose aggregate service would have qualified him, had it been wholly in Kenya, for a pension under these Regulations, is compulsorily retired from the public service in the circumstances mentioned in Regulation 10, he may, if at the time he is in the service of Kenya, be granted from the funds of Kenya the additional pension allowed by that Regulation, in addition to the pension granted under Regulations 16, 17 or 18 as the case may be.

Additional pension to non-European officers retiring on account of injury.

20. Where by reason of the fact that a non-European officer whose case falls under Regulation 19 has held a pensionable office in Kenya for less than twelve months, he is not eligible for a pension under Regulation 16, 17 or 18, as the case may be, he may, nevertheless, if at the time of his retirement he is in the service of Kenya, be granted from the funds of Kenya a pension of the same amount as the additional pension allowed by Regulation 19.

Pension in respect of injury after less than twelve months' service in Kenya.

21. (1) Where a non-European officer has been transferred to or from the service of Kenya from or to other public service, retires from the public service in circumstances in which he is permitted by the law or regulations of the service in which he is last employed to retire on pension or gratuity, but has not completed in the aggregate the minimum period of ten years' service qualifying him for a pension, he may be granted from the funds of Kenya a gratuity not exceeding five times the annual amount of the pension which, if there had been no qualifying period, might have been granted to him under Regulation 16, 17 or 18, as the case may be.

Gratuities where length of service does not qualify for pension.

(2) Where such a non-European officer is compulsorily retired from the public service in the circumstances mentioned in Regulation 10, he may, if at the time he is in the service of Kenya, be treated as if he had no other public service, but he shall not be granted, in addition, the gratuity for which he is eligible under sub-section (1) of this Regulation.

Non-European officers transferred to other public service and retiring after less than twelve months' employment in last service.

22. Where a non-European officer who is transferred to other public service is not granted a pension or gratuity in respect of his employment in the service in which he is last employed, solely by reason of the fact that he has not completed twelve months' service therein, he shall not, on that account, be disqualified from receiving a pension or gratuity from the funds of Kenya, if otherwise eligible therefor.

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SCHEDULE.

(REGULATION 14).

Uganda Protectorate.

Tanganyika Territory.

*Mauritius*

*S.N. 228/34.*