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XLIX	Education and Poll Taxes (Repeal)..	31-12-36	1-1-37	144
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TABLE SHOWING THE EFFECT OF THE YEAR'S LEGISLATION
FORMER ORDINANCES (in Chronological Order) REPEALED OR AMENDED BY ORDINANCES OF 1936

Year and No. of Ordinance	Short Title	How Affected	Ordinance of 1936
<i>Revised Edition</i>			
Cap. 9	Evidence	Repeals and replaces sections 105 and 106	30
" 12	British and Colonial Probates	Amends section 2; repeals and replaces section 4 <i>re</i> sealing of probates, etc.; repeals section 3 of amending Ordinance 21 of 1929 and section 9 of <i>Cap. 12 re</i> application of Ordinance and sealing of probates, etc.	8
" 41	King's African Rifles Reserve Forces	Inserts new section 3 <i>a re</i> enlistment of men without previous service; amends section 7(1); replaces section 13(2); amends section 17(3); substitutes "King's African Rifles Ordinance, 1932," for "King's African Rifles Ordinance" throughout	9
" 54	Dangerous Petroleum Tax	Repeals and replaces section 3	48
" 154	Kenya Cotton	Repeals and replaces sections 2 and 4	43
" 159	Branding of Stock	Amends sections 21 and 27	38
33 of 1926	European Education Tax	Repealed	49
34 of 1926	Asiatic Education Tax	Repealed	49
11 of 1927	European Officers' Pensions	Amends section 5	26
19 of 1928	Local Government (Municipalities)	Adds subsection (42) A to section 69	28
20 of 1928	Local Government (Rating)	Repeals and replaces section 9, provisional roll; repeals and replaces section 24, recovery of unpaid rates; repeals and replaces section 28, basis of valuation, Crown Lands; adds new clauses validating rules made under section 28 of No. 20 of 1928 and relating to payment of rates, etc. prior to transfer of premises	16
26 of 1928	Traffic	Repeals and replaces section 8	1
11 of 1929	Registration of Domestic Servants	Repeals and replaces section 14; amends sections 15, 18, 19 and 20	36

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

FORMER ORDINANCES (in Chronological Order) REPEALED OR AMENDED BY ORDINANCES OF 1936

Year and No. of Ordinance	Short Title	How Affected	Ordinance of 1936
35 of 1929	Water	Repeals and replaces definition of riparian in section 1; amends sections 10, 14, 18; adds subsections (3) and (4) to section 20 <i>re</i> rights of holders of pre-existing permits; amends sections 21, 34; repeals and replaces subsection (2) of section 83; amends section 88; re-numbers section 99 as 100; and inserts new section 99 <i>re</i> saving for pre-existing applications	2 23
37 of 1929 10 of 1930	Alteration of Time Penal Code	Repealed Inserts new section 33A; amends section 130(1); repeals section 190; amends section 331; inserts new section 338A; deletes and replaces subsection (3) of section 342; amends section 345	2 31
36 of 1930	Native Liquor	Adds proviso to section 4(6); repeals and replaces section 7 <i>re</i> tapping of trees	6
37 of 1930	Prisons	Inserts new section 13A <i>re</i> salaries of subordinate officers not to be attached for money borrowed or goods supplied	4
53 of 1930 64 of 1930	Northern Frontier Province Poll Tax Police	Amends section 4 Repeals section 37(1)	47 20
2 of 1931 3 of 1931	Education Land and Agricultural Bank	Repeals and replaces section 34(1) Amends section 10; repeals and replaces section 18(a) and (b), section 25(3); adds new section 26A; repeals and replaces section 27(3); amends section 28(2); repeals and replaces section 28(3); repeals section 28(5) and re-numbers (6) as (5); amends section 29(3) and section 32; amends section 45A and adds proviso to (1); amends section 50(1) and First Schedule; repeals and replaces section 3 of No. 4 of 1934, repeals section 4, repeals and replaces section 5; all amendments, etc. relating to advances	10 14

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

FORMER ORDINANCES (in Chronological Order) REPEALED OR AMENDED BY ORDINANCES OF 1936

Year and No. of Ordinance	Short Title	How Affected	Ordinance of 1936
21 of 1931 43 of 1932	Nursing Sisters (Retiring Allowances) Dangerous Drugs	Repeals and replaces section 4 Repeals and replaces section 9, prohibition of importation and exportation of Indian hemp, etc.; repeals and replaces section 10, penalty for selling the plant <i>cannabis sativa</i> , etc.; inserts new section 10A, power to Governor in Council to make rules re Indian hemp, etc. in transit.. . . .	24
45 of 1932	Moneylenders	Amends section 2(1); repeals and replaces section 5(1); adds new clause; repeals Ordinance No. 44 of 1933	7
48 of 1932	King's African Rifles	Amends section 76(2) and 84(3).. . . .	37
48 of 1932	King's African Rifles	Amends sections 2, 73(1), 75(1) and 76(1)	17
53 of 1932	Non-European Officers' Pensions	Amends section 5	45
2 of 1933	Trading in Unwrought Precious Metals	Amends section 2; repeals and replaces section 3; adds new section 4A; amends sections 12(4) and 14	27
14 of 1933	Employment of Women, Young Persons and Children	Amends section 2; inserts new section 5A	39
57 of 1933	Registration of Designs	Repealed	35
61 of 1933	Minning	Amends sections 2, 7, 13, 15, 16, 17; repeals and replaces sections 18 and 25; amends section 27; repeals section 28; amends section 29; repeals and replaces sections 30 and 31; amends sections 32, 33, 34, 35; repeals and replaces sections 36, 37, 40, 47(1); amends section 50 and adds new (g); amends sections 55(1) (a) and 61; repeals and replaces sections 63 and 64; amends sections 65, 66, 67(1), 68(1); repeals and replaces section 69; repeals section 69A; repeals and replaces sections 70 and 76; amends sections 80 and 87; repeals and replaces section 90; repeals section 91; adds new sections 99A and 99B; repeals and replaces section 100; amends section 101; repeals Ordinance No. 13 of 1935	32
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TABLE SHOWING THE EFFECT OF THE YEAR'S LEGISLATION—(Continued)
 FORMER ORDINANCES (in Chronological Order) REPEALED OR AMENDED BY ORDINANCES OF 1936

Year and No. of Ordinance	Short Title	How Affected	Ordinance of 1936
11 of 1934	Sisal Industry	Amends section 2, new definition of "sisal fibre"; adds new section 8A, power to prescribe standard of grading; amends section 9(g); adds Schedule	12
13 of 1934	Special Districts (Administration)	Amends section 4, new definition of tribesman; amends section 18; repeals and replaces section 22, offences	5
18 of 1934	Savings Bank	Repealed	29
22 of 1934	Juveniles	Inserts new section 35A	25
35 of 1934	Agricultural Mortgage Relief	Repeals and replaces section 18	40
40 of 1934	Native Hut and Poll Tax	Amends section 2; repeals and replaces section 4; adds new subsection (3) to section 6	46
54 of 1934	Coffee Industry	Amends sections 2 and 3(1)	13
54 of 1934	Coffee Industry	Amends section 2; amends section 9(2)	34
61 of 1934	Non-Native Poll Tax	Repealed	49
28 of 1935	Marketing of Native Produce	Amends section 4 (1) (a)	41

Colony and Protectorate of Kenya

ORDINANCE No. I of 1936

Assented to in His Majesty's name this tenth day of January, 1936.

J. BYRNE,
Governor.

[10TH JANUARY, 1936.] Date of assent.

An Ordinance to Amend the Traffic Ordinance, 1928.

10th January, 1936.

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 Traffic (Amendment) Ordinance, 1936, and shall be read as one with the Traffic Ordinance, 1928, hereinafter referred to as the Principal Ordinance.

Short title.
No. 26 of 1928.

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

Repeal and replacement of section 8 of the Principal Ordinance.

8. (1) A licence may be issued—

- (a) for one year; or
- (b) for half a year; or
- (c) for a quarter of a year; or
- (d) for any one calendar month in a year.

"Duration of licence.

Provided that licences under paragraph (d) of this sub-section shall be issued only in respect of motor vehicles and at the absolute discretion of the licensing officer.

(2) Licences shall continue in force as follows, from the date of the granting thereof :—

- (a) a yearly licence, until the next following thirty-first day of December;
- (b) a half-yearly licence, until the next following thirtieth day of June or thirty-first day of December, whichever shall first ensue;

- (c) a quarterly licence, until the next following thirty-first day of March, thirtieth day of June, thirtieth day of September or thirty-first day of December, whichever shall first ensue;
- (d) a monthly licence, until the last day of the month in which the licence was granted.

(3) Fees calculated at the following rates, which are expressed as percentages of the yearly licence fees set out in the Schedule to this Ordinance, shall be payable in respect of licences:—

- (a) fifty-five per cent in respect of a half-yearly licence;
- (b) thirty per cent in respect of a quarterly licence;
- (c) twelve-and-a-half per cent in respect of a monthly licence."

ORDINANCE No. II of 1936

Assented to in His Majesty's name this eighteenth day of
January, 1936.

J. BYRNE,
Governor.

[18TH JANUARY, 1936.] *Date of assent.*

**An Ordinance to Amend the Water
Ordinance, 1929.**

18th January, 1936.

*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 Water (Amend- *Short title.*
ment) Ordinance, 1936, and shall be read as one with the *No. 35 of 1929.*
Water Ordinance, 1929, hereinafter referred to as the
Principal Ordinance.

2. Section 2 of the Principal Ordinance is hereby *Amendment of*
amended by the deletion therefrom of the definition of *section 2 of*
"Riparian" and by the substitution therefor of the following *the Principal*
definition :— *Ordinance.*

" 'Riparian' as applied to land means land abutting
on or traversed by a body of water, and includes the
following :—

(a) land, including unalienated Crown land or a
Native Reserve (as defined in section 2 of the *No. 9 of 1930.*
Native Lands Trust Ordinance, 1930), the
situation of which in relation to a body of water
would render it riparian on the first day of
July, 1935 ;

(b) any sub-division of such land made after the first
day of July, 1935, even if such sub-division does
not abut upon or is not traversed by the body
of water."

3. Section 10 of the Principal Ordinance is hereby *Amendment*
amended by the insertion after the word "licence" in the *of section 10 of*
fifth line thereof, of the words "or sanction", *the Principal*
Ordinance.

Amendment
of section 14 of
the Principal
Ordinance.

4. Section 14 of the Principal Ordinance is hereby amended by the insertion after the words "water right" in the third line thereof, of the words "or sanction".

Amendment
of section 18 of
the Principal
Ordinance.

5. Section 18 of the Principal Ordinance is hereby amended in the following respects:—

(a) by the substitution of a comma for the full-stop at the end of the proviso to sub-section (2) of the section, and by the addition to the proviso of the following words—

"and any of the four representatives of the public by one of two alternate members who shall be appointed by the Governor by notice in the Gazette.";

and

(b) by the deletion of sub-section (6) of the section and by the substitution therefor of the following sub-section—

"(6) The four representatives of the public and the two alternate members referred to in sub-section (2) of this section shall hold their respective offices and appointments during the Governor's pleasure."

Amendment
of section 20 of
the Principal
Ordinance.

6. Section 20 of the Principal Ordinance is hereby amended by the addition thereto of the following sub-sections:—

"(3) (a) When a permit or a renewal thereof terminating on the thirty-first day of December, 1934, has been issued, for which no renewal terminating on the thirty-first day of December, 1935, has been issued, and was, during the year 1934, being made use of in conformity with the terms thereof, a sanction may be issued by the Water Board under section 88 of this Ordinance in lieu of the said permit, and the fees payable to the Water Board under the Principal Ordinance, in respect of the application for, and the issue of the sanction shall be one half of the prescribed fees, and any sum paid in excess of one half of such fee shall be refunded by the Director.

(b) This sub-section shall be deemed to have come into force on the first day of July, 1935.

(4) The Water Board may in any particular case under this section waive the necessity of compliance with the requirements of sections 23, 26, 27, 28 and 29 of this Ordinance or any part of such sections."

7. Sub-section (2) of section 21 of the Principal Ordinance is hereby amended by the insertion after the words "water right" in the thirteenth line thereof of the words "or sanction". Amendment of section 21 (2) of the Principal Ordinance.

8. Section 34 of the Principal Ordinance is hereby amended by the deletion of the word "received" from the twelfth line thereof, and by the substitution therefor of the words "conditionally approved". Amendment of section 34 of the Principal Ordinance.

9. Section 83 of the Principal Ordinance is hereby amended by the deletion of sub-section (2) therefrom and by the substitution therefor of the following sub-section :— Amendment of section 83 of the Principal Ordinance.

"(2) The said penalties may be recovered from the person actually committing the offence or from the person in whose employment he is or on whose behalf he is acting, or from both.

For the purposes of this sub-section a native under contract with an occupier under section 4 of the Resident Native Labourers Ordinance, 1925, and the members of the family of such native included in such contract, shall be deemed to be persons in the employment of the occupier with whom such contract has been made." No. 5 of 1925.

10. Section 88 of the Principal Ordinance is hereby amended by the insertion after the word "Ordinance" in the second line thereof of the following words :— Amendment of section 88 of the Principal Ordinance.

"other than the provisions of section 75 thereof".

11. The Principal Ordinance is hereby amended :— Amendment of the Principal Ordinance.
 (a) by renumbering section 99 thereof as section 100; and
 (b) by inserting therein the following additional section as section 99 :—

"99. (1) Notwithstanding anything contained in this Ordinance (other than the provisions of section 75 thereof) or in any Rules made thereunder, in any case where the Water Board is satisfied that an application for a water permit under section 145 of the Crown Lands Ordinance was made at any time during the period between the thirty-first day of Saving for pre-existing applications
 Cap. 140.

December, 1929, and the nineteenth day of May, 1935, the Water Board, if it decides to entertain such application, and in its absolute discretion, may—

- (a) grant a sanction as if such application had been an application for a sanction made on the form prescribed therefor, subject always to the payment of the prescribed fees and to the applicant submitting such further information and plans as the Water Board may require; or
- (b) deem such application to be an application made under this Ordinance for the grant of a water right, subject always to due compliance by the applicant with all the requirements of this Ordinance and of any Rules relating to applications for water rights and to the making of any formal application which the Water Board may direct.

(2) Any application which the Water Board directs the applicant to make in the exercise of its discretion under paragraph (a) or paragraph (b) of the last preceding sub-section shall be made in the form prescribed in this Ordinance and in any Rules made thereunder, and shall be received by the Water Board not later than the thirtieth day of June, 1936: Provided that in any case the Governor in Council may extend the date by which any such application is to be received.

(3) In the exercise of its discretion under this section the Water Board in any case under either paragraph (a) or paragraph (b) of sub-section (1) of this section:—

- (a) may impose such terms and conditions as it thinks fit;
- (b) shall reduce the fees payable to the Water Board in respect of the application for and the issue of the sanction or water right, as the case may be, by an amount equal to three-quarters of the prescribed fees.

(4) Every application considered by the Water Board under paragraph (a) or paragraph (b) of subsection (1) of this section and every subsequent grant of a sanction, right or licence consequent thereon shall in all respects be subject to the provisions of this Ordinance and any Rules made thereunder save where the contrary is expressly provided in this section.

(5) Notwithstanding anything in this section contained, the Water Board may in any particular case under this section waive the necessity of compliance with the requirements of sections 23, 26, 27, 28 and 29 of this Ordinance, or any part of such sections.

(6) This section shall be deemed to have come into force on the 1st day of July, 1935, and any fees paid to the Water Board under the Principal Ordinance in respect of the application for, and the issue of, a sanction or water right, as the case may be, affected by this section, before the passing of this Ordinance, shall be deemed to have been reduced by an amount equal to three-quarters of the prescribed fees, and the Director shall repay such sum accordingly to each person concerned."

VOLUME OF ORDINANCES, 1935.

ERRATUM.

Ordinance No. XV of 1935, which was reserved by His Excellency the Governor for the signification of His Majesty's pleasure, was published in error in the Supplement of the Official Gazette of the 24th December, 1935, and the date of assent and the date of commencement are incorrectly stated therein. The correct dates will be found in Ordinance No. XVII of 1936, which has been published in substitution therefor.

ORDINANCE No. III of 1936

[26TH MAY, 1936.]

Date of assent.
(Proclamation
No. 33 of
1936).

**An Ordinance to Amend the King's African Rifles
Reserve Forces Ordinance.**

26th May, 1936

Date of
commencement
(Proclamation
No. 33 of
1936).

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 King's African Rifles Reserve Forces (Amendment) Ordinance, 1936, and shall be read as one with the King's African Rifles Reserve Forces Ordinance (Chapter 41 of the Revised Edition) hereinafter referred to as the Principal Ordinance.

Short title.

Cap. 41.

2. The Principal Ordinance is hereby amended by inserting therein, next after section 3, the following as section 3A :—

Amendment
of the
Principal
Ordinance.
Enlistment
of men with-
out previous
service.

“3A. (1) Notwithstanding anything in this Ordinance contained, the Governor in Council, upon the recommendation of the officer commanding the troops, may from time to time by notice in the Gazette authorize the enlistment in the reserve of men who have had no previous service in the King's African Rifles.

(2) Every such notice shall specify the period of training and exercises for which men so enlisted shall be liable to be called out in any one year, and it shall not be necessary in any such notice to limit such training and exercises to the maximum period provided for in sub-section (1) of section 7 of this Ordinance.

(3) Save where a contrary intention is in this Ordinance expressed, all the provisions of this Ordinance, in so far as they are not inconsistent with this section, shall apply to men enlisted in the reserve under this section.”

3. Sub-section (1) of section 7 of the Principal Ordinance is hereby amended by inserting after the word “exceeding” in the second line thereof, the words and brackets—

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

“(save in the case of men enlisted under section 3A of this Ordinance)”.

No. III

King's African Rifles (Reserve)

1936

Amendment
of section 13
of the
Principal
Ordinance.

4. Section 13 of the Principal Ordinance is hereby amended by deleting sub-section (2) therefrom and by substituting therefor the following sub-section :—

No. 48 of 1932.

“(2) Any reservist who commits an offence under this section or under sections 13, 14, 15 or 16 of the King's African Rifles Ordinance, 1932, whether otherwise subject to that Ordinance or not, shall be liable—

No. 48 of 1932.

(a) to be tried by court-martial and, if convicted, to suffer imprisonment or such less punishment as is mentioned in the King's African Rifles Ordinance, 1932; or

No. 48 of 1932.

(b) to be dealt with summarily by his commanding officer according to section 46 of the King's African Rifles Ordinance, 1932; or

(c) to be dealt with by a magistrate and, if convicted, to be sentenced to imprisonment for a period not exceeding two years or to a fine not exceeding fifteen pounds.”

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

5. Sub-section (3) of section 17 of the Principal Ordinance is hereby amended in the following respects—

(a) by deleting the word “forty” from the fourth line thereof and by substituting therefor the figures “46”; and

(b) by deleting the words “of either description” from the sixth line thereof and by substituting therefor the words “for a period”.

Amendment
of the
Principal
Ordinance.

6. The Principal Ordinance is hereby amended by deleting the words “King's African Rifles Ordinance” wherever they occur therein and by substituting therefor in each case the words and figures “King's African Rifles Ordinance, 1932”.

ORDINANCE No. IV of 1936

Assented to in His Majesty's name this tenth day of June, 1936.

J. BYRNE,
Governor.

[10TH JUNE, 1936.] **Date of assent.**

An Ordinance to Amend the Prisons Ordinance, 1930.

10th June, 1936.

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 Prisons (Amendment) Ordinance, 1936, and shall be read as one with the Prisons Ordinance, 1930, hereinafter referred to as the Principal Ordinance.

Short title.

No. 37 of 1930.

2. The Principal Ordinance is hereby amended by inserting therein, immediately after section 13 thereof, the following new section :—

Amendment of the Principal Ordinance.

“13A. No salary or other allowance paid to a subordinate officer shall be liable to be attached sequestered or levied upon for or in respect of any debt or claim for any money borrowed by him or any goods supplied to him or to any person on his behalf while such subordinate officer is serving as a prison officer appointed under and subject to the provisions of the Prisons Ordinance, 1930, or any law amending or replacing the same.”

Salary of subordinate officers not to be attached for money borrowed or goods supplied.

ORDINANCE No. V of 1936

Assented to in His Majesty's name this tenth day of
June, 1936.

J. BYRNE,
Governor.

Date of assent.

[10TH JUNE, 1936.]

**An Ordinance to Amend the Special Districts
(Administration) Ordinance, 1934.**

Date of
commencement

10th June, 1936.

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

Short title.

No. 13 of 1934.

Amendment
of section 4
of the
Principal
Ordinance.

Amendment
of section 18
of the
Principal
Ordinance.

Repeal and
replacement
of section 22
of the
Principal
Ordinance.

Offences.

1. This Ordinance may be cited as the Special Districts (Administration) (Amendment) Ordinance, 1936, and shall be read as one with the Special Districts (Administration) Ordinance, 1934, hereinafter referred to as the Principal Ordinance.

2. Section 4 of the Principal Ordinance is hereby amended by the deletion therefrom of the definition of "tribesman" and by the substitution therefor of the following definition—

" 'tribesman' means any male person who by birth or adoption belongs to any tribe resident or being within a district or an area to which this Ordinance has been applied, and includes a Somali."

3. Section 18 of the Principal Ordinance is hereby amended by the deletion of the word "person" from the first and second lines thereof and by the substitution therefor, in each case, of the word "tribesman".

4. Section 22 of the Principal Ordinance is hereby repealed and the following section is substituted therefor :—

"22. (1) Any person who contravenes or fails to comply with any of the provisions of this Ordinance or of any Rules made thereunder, or who fails to observe the conditions or restrictions subject to or upon which any

permit, order, licence, passport or other document has been issued under such Ordinance or Rules, shall be guilty of an offence against this Ordinance.

(2) Any person who is guilty of an offence against this Ordinance for which no penalty is specially provided shall be liable, on conviction by a subordinate court of the first or second class, to a fine of one hundred pounds or to imprisonment for a period not exceeding one year, or to both such fine and imprisonment.”

**General
penalty.**

ORDINANCE No. VI of 1936

Assented to in His Majesty's name this tenth day of
June, 1936.

J. BYRNE,
Governor.

Date of assent.

[10TH JUNE, 1936.]

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

Date of
commencement

10th June, 1936.

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

Short title.

No. 36 of 1930.

Amendment of
section 4
of the
Principal
Ordinance.

Repeal and
replacement of
section 7
of the
Principal
Ordinance.

Tapping of
trees.

1. This Ordinance may be cited as the Native Liquor (Amendment) Ordinance, 1936, and shall be read as one with the Native Liquor Ordinance, 1930, hereinafter referred to as the Principal Ordinance.

2. Sub-section (6) of section 4 of the Principal Ordinance is hereby amended by the addition thereto of the following proviso :—

“Provided that the provisions of sub-section (1) of section 5 of this Ordinance shall not apply in any case where the powers and duties of a licensing board are so exercised and performed by a District Commissioner in a Native Reserve.”

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

“7. (1) No person, unless he holds a licence in that behalf from the District Commissioner, shall tap trees for palm wine.

(2) Such licence shall authorise the holder thereof to tap trees for palm wine in such area, within such hours and under such conditions as the District Commissioner may approve and specify on the licence.

(3) There shall be payable in respect of any licence issued under this section such fee as the Governor in Council may from time to time fix by notice in the Gazette :

Provided always that no fee shall be payable in respect of any licence to tap trees for palm wine in any case where the licensing board or the District Commissioner, as the case may be, is satisfied that such palm wine is intended not for purposes of sale but for private consumption by the owner of the trees or by his household or dependents.

(4) Notwithstanding anything in this Ordinance contained a District Commissioner in a Native Reserve may grant to the holder of a tapping licence granted under this section permission to sell palm wine to the holder of a wholesale or retail licence issued under this Ordinance. No such permission shall in any case so be granted unless the District Commissioner is satisfied that—

- (a) local conditions are such as to make the grant of such permission desirable; and
 - (b) the person to whom the permission is to be granted has paid a fee in respect of his tapping licence."
-

ORDINANCE No. VII of 1936

Assented to in His Majesty's name this tenth day of
June, 1936.

J. BYRNE,
Governor.

Date of assent. [10TH JUNE, 1936.]

**An Ordinance to Amend the Dangerous Drugs
Ordinance, 1932.**

Date of commencement 10th June; 1936.

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 Dangerous Drugs
(Amendment) Ordinance, 1936, and shall be read as one with
the Dangerous Drugs Ordinance, 1932, hereinafter referred to
as the Principal Ordinance.

No. 43 of 1932.

Repeal and replacement of section 9 of the Principal Ordinance. **2.** Section 9 of the Principal Ordinance is hereby repealed
and the following is substituted therefor :—

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 export 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.”

Repeal and replacement of section 10 of the Principal Ordinance. **3.** Section 10 of the Principal Ordinance is hereby
repealed and the following is substituted therefor :—

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

“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.

ORDINANCE No. VIII of 1936

Assented to in His Majesty's name this tenth day of
June, 1936.

J. BYRNE,
Governor.

Date of assent.

[10TH JUNE, 1936.]

**An Ordinance to Amend the British and Colonial
Probates Ordinance.**

Date of
commencement

10th June, 1936.

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 British and Colonial Probates (Amendment) Ordinance, 1936, and shall be read as one with the British and Colonial Probates Ordinance (Chapter 12 of the Revised Edition) hereinafter referred to as the Principal Ordinance.

Amendment
of section 2
of the
Principal
Ordinance.

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

(a) by deleting therefrom the definition of "Probate and letters of administration" and by substituting therefor the following definition—

" 'Probate' and 'letters of administration' include confirmation in Scotland and any instrument having in any other part of His Majesty's dominions the same effect which under English law is given to probate and letters of administration respectively ;"

(b) by deleting the word "and" from the second line of the definition of "Probate duty" therein and by substituting therefor the word "or";

(c) by deleting therefrom the definition of "British possession" and by substitution therefor the following definition—

" 'His Majesty's dominions' includes any British Protectorate or protected State and any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty."

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

Repeal and replacement of section 4 of the Principal Ordinance.

“4. Where a Court of Probate in any part of His Majesty’s dominions, or a British Court in a foreign country has, either before or after the passing of this Ordinance, granted probate or letters of administration in respect of the estate of a deceased person, the probate or letters of administration so granted may, on being produced to, and a copy thereof deposited with, the Supreme Court, be sealed with the seal of that Court, and thereupon shall be of like force and effect, and have the same operation in the Colony as if granted by that Court.”

Sealing of probates and letters of administration granted outside the Colony.

4. Section 3 (as amended by the British and Colonial Probates (Amendment) Ordinance, 1929) and section 9 of the Principal Ordinance are hereby repealed.

Repeal of sections 3 and 9 of the Principal Ordinance.

ORDINANCE No. IX of 1936

Assented to in His Majesty's name this tenth day of June, 1936.

J. BYRNE,
Governor.

Date of assent.

[10TH JUNE, 1936.]

An Ordinance to make Provision for Raising a Loan of Six Hundred and Twenty-five Thousand Pounds Sterling for Certain Public Purposes.

Date of commencement

10th June, 1936.

WHEREAS it is expedient to raise a loan of six hundred and twenty-five thousand pounds sterling for the purposes specified in the Schedule hereto :

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

Short title.

1. This Ordinance may be cited as the Specific Loan Ordinance, 1936.

Interpretation.

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

the expression 'Governor' means the person for the time being administering the Government of the Colony and Protectorate of Kenya ;

the expression the 'Crown Agents' means the person or persons acting for the time being as Crown Agents for the Colonies in England.

Authority to raise loan.

3. The Governor or the Crown Agents acting on his behalf may raise by loan in London an amount sufficient to produce as nearly as may be the sum of six hundred and twenty-five thousand pounds sterling and such further sum as may be necessary to defray the expenses of issue.

Loan to be charge upon general revenue.

4. The principal moneys and interest represented by the loan issued under the provisions of this Ordinance are hereby charged upon and shall be payable out of the general revenue and assets of the Colony.

Application of loan.

5. The money to be borrowed under the authority of this Ordinance shall be appropriated and applied to the purposes specified in the Schedule hereto.

6. The loan hereby authorized or any part of it may be raised under the provisions of the General Loan and Inscribed Stock Ordinance or, notwithstanding anything to the contrary contained in the said Ordinance, independently of that Ordinance, as the Governor or the Crown Agents acting on his behalf may decide.

Loan may be raised under Cap. 46 or independently of that Ordinance. Cap. 46.

7. If the loan hereby authorized shall be issued under the provisions of the General Loan and Inscribed Stock Ordinance then the contribution to Sinking Fund, as contemplated by the provisions of sections 14 and 28 of the said Ordinance, shall commence in respect of any debentures or stock issued under this Ordinance not later than three years after the date from which the interest on such debentures or stock shall commence to run.

Commencement of contribution to Sinking Fund, if loan issued under Cap. 46.

8. If it should be decided to issue the loan hereby authorized independently of the General Loan and Inscribed Stock Ordinance then the following provisions shall apply:—

Provision where issue of loan independently of Cap. 46.

- (a) So long as any portion of the loan remains outstanding the Governor shall in each half-year ending with the day on which the interest on the loan falls due appropriate out of the general revenues and assets of the Colony a sum equal to one half-year's interest on the whole of the loan outstanding and shall remit that sum to the Crown Agents at such time as will enable them to pay thereout the then current half-year's interest on the day on which it falls due;
- (b) The Governor shall also in each half-year ending as aforesaid appropriate out of the said revenues and assets of the Colony for the formation of a sinking fund for the repayment of the loan at par an additional sum in respect of the total nominal amount of the loan outstanding equal to one-half of the annual contribution to be decided upon by the Governor on the issue of the loan and shall remit that sum to the Crown Agents with the remittance hereinbefore mentioned provided that the said contribution shall in respect of any money raised under this Ordinance commence not later than three years after the date from which the interest on such money shall commence to run.

- (c) The Crown Agents shall invest so much of the money so remitted to them as aforesaid as shall not be required for the payment of interest for the current half-year in the purchase of such securities as may be approved by the Secretary of State as a sinking fund for the final extinction of the debt and the Crown Agents shall also invest the dividends, interest or produce of such investments in the purchase of like securities and may from time to time with the approval of the Secretary of State change any such investments and shall hold such funds in trust for the repayment of the principal moneys for the time being represented by the loan.
- (d) In case the sinking fund provided for by this Ordinance shall be insufficient for the payment of all the principal moneys borrowed under the authority of this Ordinance at the time the same shall have become due the Governor shall make good the deficiencies out of the general revenues and assets of the Colony.

SCHEDULE.

No. 18 of 1936.	1. Land and Agricultural Bank (of which £200,000 may be placed at the disposal of Farmers Conciliation Board, constituted under the provisions of the Farmers Assistance Ordinance, 1936)	£500,000
	2. Loans to Local Authorities—Nairobi Water Supply	£112,000
	3. Such further items as the Governor may, with the approval of the Legislative Council signified by resolution, and of the Secretary of State, determine ...	£13,000
	TOTAL ...	£625,000

ORDINANCE No. X of 1936

Assented to in His Majesty's name this tenth day of June, 1936.

J. BYRNE,
Governor.

[10TH JUNE, 1936.] *Date of assent.*

An Ordinance to Amend the Education Ordinance, 1931.

10th June, 1936.

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 Education Short title. (Amendment) Ordinance, 1936, and shall be read as one with the Education Ordinance, 1931, hereinafter referred to as the No. 2 of 1931. Principal Ordinance.

2. Sub-section (1) of section 34 of the Principal Ordinance is hereby repealed and the following sub-section is substituted therefor :—

Repeal and replacement of section 34 (1) of the Principal Ordinance.

“ 34. (1) (a) The Director or an inspector or any person specially authorized by the Director may from time to time visit any private school.

Inspection and closing of private schools.

(b) If it appears to the Director on the report of an inspector, or of a person specially authorized or from his own inspection that a private school is conducted in a manner which is in the opinion of the Director calculated to be detrimental to the physical, mental or moral welfare of the pupils attending thereat, he may order the premises on which such school is held to be closed for school purposes, or he may give notice to the manager ordering such alteration in the structure of the premises or the conduct of the school as he may think necessary to be made within a time fixed by such order and if the same be not made to his satisfaction within the time prescribed, he may order the premises to be closed, provided that the manager may appeal within seven days to the Governor in Council against such order to close a school. Pending the decision of the Governor in Council the school may remain open.

(c) If, in the case of any private school for the education of Africans, it appears to the Director on the report of an inspector, or of a person specially authorized or from his own inspection either that the curriculum approved as required by section 33 (1) (c) of this Ordinance is not being effectively applied or that the school is not being properly conducted, he may, after consulting the District Education Board appointed under the District Education Boards Ordinance, 1934, or if there be no such Board, after consulting the Advisory Council on African Education, order such school to be closed."

No. 38 of 1934.

ORDINANCE No. XI of 1936

Assented to in His Majesty's name this tenth day of June, 1936.

*Assented to by
A.D. 21/36*

A. DE V. WADE,
Governor's Deputy.

[1ST JUNE, 1936.] Date of assent.

An Ordinance to Regulate the Control of Belligerents who during the Neutrality of the Colony have taken Refuge therein.

1st June, 1936

Date of commencement

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

1. This Ordinance may be cited as the Control of Fugitive Belligerents Ordinance, 1936. Short title.

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

“belligerent” means any member of the Abyssinian or Italian troops who, during the period of hostilities between Abyssinia and Italy, crosses the neutral frontier and takes refuge in the Colony;

“Commandant” means the officer in charge of an internment camp;

“Commander” means the Commander of the Northern Brigade of the King's African Rifles;

“internee” means a belligerent who has been placed in an internment camp in accordance with the provisions of this Ordinance;

“officer” means any administrative officer, officer of the King's African Rifles, officer of the King's African Rifles Reserve of Officers, or police officer of or above the rank of Assistant Inspector.

GENERAL PROVISIONS.

3. All belligerents shall, in accordance with the custom, practice and usage of International Law, be disarmed and their military equipment and papers shall be taken from them. Disarming of belligerents in accordance with International Law.

Belligerents not permitted to leave Colony to resume hostilities.

4. No belligerent shall be permitted to leave the Colony in order to resume hostilities.

Belligerents to declare their name, rank and regimental number.

5. Every belligerent shall if interrogated by an officer declare his true name, rank and regimental number.

ESTABLISHMENT OF INTERNMENT CAMPS.

Establishment of internment camps.

6. If in the opinion of the Governor it is necessary, in order to maintain law and order in the Colony or to prevent belligerents from resuming hostilities, to intern such belligerents, he may establish an internment camp or camps for that purpose.

Control of internment camps.

7. (1) The Commander shall be in charge of any internment camp established in accordance with the provisions of the last preceding section and shall be responsible for the discipline of internees.

(2) The Commander may, with the approval of the Governor, appoint a Commandant to be in charge of an internment camp, and may ^{select} ~~select~~ such other persons as may be necessary to ensure proper control of internment camps ~~to serve under such Commandant.~~

Equal treatment of all internees.

8. Save in the case of internees suffering from mental or physical disability, internees of the same rank shall be accorded equality of treatment.

Standard of internment camp buildings.

9. An internment camp, whether consisting of buildings, huts, or tents, shall be established with due regard to hygiene, sanitation and cleanliness.

WELFARE OF INTERNEES.

Supply of clothing, water and food.

10. All internees shall be supplied with an adequate amount of clothing, and with a ration of drinking water and food corresponding in quantity and quality to that supplied to regular troops of equivalent rank in the Colony.

Provision for bodily cleanliness, night conveniences and physical exercise.

11. (1) All internees shall be provided with sufficient water for bodily cleanliness and shall have for their use day and night conveniences which conform to the rules of hygiene and are maintained in a constant state of cleanliness.

(2) Adequate facilities for engaging in physical exercises shall be afforded to all internees.

12. A medical officer shall from time to time make a medical inspection of such camp and of all internees.

Medical inspection of internment camps.

13. Any internee who, in the opinion of a medical officer, has contracted a serious malady or whose condition necessitates surgical treatment shall be removed as soon as possible to hospital.

Removal of internees to hospital in case of serious illness.

14. Internees shall be permitted complete freedom in the performance of their religious duties in so far as it is consistent with the routine and regulations of the camp.

Freedom in performance of religious duties.

15. Internees shall be allowed to communicate with friends and to receive communications, presents, books or other relief in accordance with the Rules made under this Ordinance.

Internees may receive letters, presents, books, etc.

WORK OF INTERNEES.

16. Internees other than officers may be employed according to their rank and ability, and shall be paid a rate of wages corresponding to that paid to ordinary persons in the Colony doing equivalent work :

Employment of internees.

Provided that they shall not receive pay for work in connection with the administration, internal arrangement and maintenance of the camp.

17. No internee shall be employed on work for which he is physically unsuited or on unhealthy or dangerous work.

Internees not to be employed on unsuitable or dangerous work.

DISCIPLINE.

18. Internees shall be subject to the laws, regulations and orders applicable to the regular troops in the Colony, and any act of insubordination shall render them liable to the punishment prescribed by section 20 of this Ordinance.

Internees to be subject to laws applicable to regular troops

19. Any internee who—

(a) ^{tries to} attempts to escape;

(b) disobeys the order of any person in whose charge he is placed;

(c) fails to declare his true name, rank, or number on interrogation,

Offences against discipline.

shall be deemed to have committed an offence against discipline.

Punishment for offences against discipline.

Ord. 21/36

20. (1) The Commander, ~~or~~ the Commandant ~~may~~ inquire into any act of insubordination or any offence against discipline and thereupon punish the offender by—

- (a) solitary confinement not exceeding thirty days; or
- (b) reduction of rations,

or both.

(2) In awarding punishment the period during which an internee is under arrest awaiting trial or punishment shall be deducted from the sentence.

(3) A statement of the facts constituting the act of insubordination or the offence against discipline shall be drawn up in writing without delay by the officer inquiring into such offence.

Internees may be proceeded against in the ordinary way.

21. Nothing in section 18 or section 19 contained shall be construed to exempt an internee from being proceeded against for any offence by the ordinary course of law.

Arrest and use of force when internees attempt to escape.

22. (1) Any internee ^{who begins or attempts} attempting to escape from an internment camp may be arrested.

(2) If such internee refuses to surrender when called upon it shall be lawful for an officer to use or to order any person or persons under his command to use such degree of force as may be necessary in the circumstances of each case to ~~ensure his surrender~~ ^{secure his capture or to prevent his escape}

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Provided that resort shall not be had to the use of force unless such officer has reasonable ground to believe that he cannot otherwise ^{prevent the escape} ~~prevent the escape~~ ^{prevent his escape}

MISCELLANEOUS PROVISIONS.

Power to make Rules.

23. The Governor may from time to time make Rules providing for all or any purposes whether general or to meet particular cases that may be convenient for the administration of this Ordinance or that may be necessary or expedient for carrying out the objects or purposes of this Ordinance, and where there may be in this Ordinance no provision or no sufficient provision in respect of any matter or thing necessary or expedient for giving full effect to this Ordinance providing for or supplying such omission or insufficiency and, without prejudice to the foregoing powers, providing for all or any of the matters following—

- (1) the internal discipline of internment camps;
- (2) the relations of internees with the exterior;

- (3) the appointment by internees of representatives ;
- (4) the liberation and repatriation of internees at the end of hostilities ;
- (5) the establishment of information bureaux ;
- (6) the burial of internees who have died during internment and any other matters arising out of the death of internees.

24. All acts heretofore done by the Governor or by any officer of the Government or by any person acting under the direction of the Governor or of any officer of the Government in regard to any matter relating to the ~~treatment of internees~~ are hereby made and declared to be lawful and are confirmed as on and from the time of the performance of such acts, and the Governor and every such officer or person as aforesaid are hereby freed, acquitted, discharged and indemnified as well against the King's Most Gracious Majesty his heirs and successors as against all and every person and persons whatever from all legal proceedings of any kind whatsoever whether civil or criminal in respect of any such acts as aforesaid.

Validation of acts previously done and indemnity therefor.

*Application of Ordinance to persons
informed after cessation of
hostilities - Oct 21/38*

ORDINANCE No. XII of 1936

Assented to in His Majesty's name this tenth day of June, 1936.

J. BYRNE,
Governor.

Date of assent.

[10TH JUNE, 1936.]

An Ordinance to Amend the Sisal Industry Ordinance, 1934.

Date of commencement

10th June, 1936.

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 Sisal Industry (Amendment) Ordinance, 1936, and shall be read as one with the Sisal Industry Ordinance, 1934, hereinafter referred to as the Principal Ordinance.

No. 11 of 1934.

Amendment of section 2 of the Principal Ordinance.

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

" 'sisal fibre' means the fibrous product derived from the plant *Agave rigida* var. *sisalana* and allied species, and includes any rope or cord manufactured in the Colony therefrom."

Amendment of the Principal Ordinance.

3. The Principal Ordinance is hereby amended by the insertion therein, between sections 8 and 9 thereof, of the following new section :—

Power to prescribe standard of grading.

" 8A. (1) Any sisal grower, who satisfies the Committee that he grades the sisal fibre produced by him in accordance with a standard of grading which may from time to time be prescribed by the Committee, may be granted a certificate to that effect by the Committee.

(2) Such certificate shall be in such form as may be prescribed by the Committee, and shall entitle any sisal grower to whom it is granted to use on any sisal fibre produced by him a mark in the form set out in the Schedule hereto.

(3) The Committee may, if it is satisfied that a sisal grower to whom a certificate has been granted under the

provisions of this Ordinance is not maintaining the standard of grading prescribed by the Committee, cancel such certificate.

(4) Any person who uses such mark on any sisal fibre without having first obtained a certificate in accordance with the provisions of this section, or any person who uses such mark on any sisal fibre after his certificate has been cancelled under the provisions of this section shall be guilty of an offence and shall, on conviction before a magistrate of the first or second class, be liable to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding six months."

4. Paragraph (g) of section 9 of the Principal Ordinance is hereby amended by the deletion of the word "and" which occurs in the third line thereof, and the substitution therefor of the word "or".

Amendment of section 9 of the Principal Ordinance.

5. The Principal Ordinance is hereby amended by the addition thereto of the following Schedule:—

Addition of Schedule to the Principal Ordinance.

" SCHEDULE.

E.A.

SISAL

ASSOCIATION."

ORDINANCE No. XIII of 1936

Assented to in His Majesty's name this tenth day of
June, 1936.

J. BYRNE,
Governor.

Date of assent.

[10TH JUNE, 1936.]

**An Ordinance to Amend the Coffee Industry
Ordinance, 1934.**

Date of
commencement

10th June, 1936.

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 Coffee Industry
(Amendment) Ordinance, 1936, and shall be read as one with
the Coffee Industry Ordinance, 1934, hereinafter referred to as
the Principal Ordinance.

No. 54 of 1934.

Amendment
of section 2
of the
Principal
Ordinance.

2. The definition of "Conference" which occurs in sec-
tion 2 of the Principal Ordinance is hereby amended by the
insertion in the third line thereof after the word "Ordinance"
of the words "and by organizations representing trade in-
terests".

Amendment of
section 3 (1)
of the Princi-
pal Ordinance.

3. Sub-section (1) of section 3 of the Principal Ordina-
nce is hereby amended by the substitution of the word "or"
for the word "and" which occurs in the second line of
paragraph (e) thereof.

ORDINANCE No. XIV of 1936

Assented to in His Majesty's name this tenth day of June, 1936.

J. BYRNE,
Governor.

[10TH JUNE, 1936.] Date of assent.

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

10th June, 1936.

Date of commencement

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

- | | |
|---|---|
| <p>1. This Ordinance may be cited as the Land and Agricultural Bank (Amendment) Ordinance, 1936, and shall be read as one with the Land and Agricultural Bank Ordinance, 1930, hereinafter referred to as the Principal Ordinance.</p> | <p>Short title.
No. 3 of 1931.</p> |
| <p>2. Section 10 of the Principal Ordinance is hereby amended by the deletion of the words "deputed thereto by the Board in each case," which occur in the fourth and fifth lines thereof.</p> | <p>Amendment of section 10 of the Principal Ordinance.</p> |
| <p>3. Paragraphs (a) and (b) of section 18 of the Principal Ordinance are hereby repealed and the following paragraphs are substituted therefor :—</p> <p style="margin-left: 40px;">(a) to advance money to farmers, on mortgage of land within the Colony which is used for agricultural or pastoral purposes and on which no part of the purchase price, if any, payable to the Crown remains outstanding ;</p> <p style="margin-left: 40px;">(b) to advance money to farmers holding land from the Crown on titles providing for the payment of the purchase price or stand premium by instalments".</p> | <p>Amendment of section 18 of the Principal Ordinance.</p> |
| <p>4. (1) Sub-section (3) of section 25 of the Principal Ordinance is hereby repealed and the following sub-section is substituted therefor :—</p> <p style="margin-left: 40px;">“(3) An advance not exceeding three thousand five hundred pounds may be made for the purpose of reducing or discharging an existing first mortgage if in the opinion of the Board such mortgage is onerous :</p> | <p>Repeal and replacement of section 25 (3) of the Principal Ordinance.</p> |

Provided that no advance shall be made for the purpose of reducing any such existing mortgage unless the mortgagee executes a waiver of priority in accordance with the provisions of section 13 of the Land and Agricultural Bank (Amendment) Ordinance, 1934."

No. 4 of 1934.

(2) This section shall be deemed to have come into operation on the 3rd day of March, 1931.

Amendment of the Principal Ordinance.

5. The Principal Ordinance is hereby amended by inserting therein, next after section 26, the following as section 26A :—

Advances for preventing soil erosion.

"26A. (1) Notwithstanding anything in this Ordinance contained a special advance not exceeding two hundred pounds in amount may be made at any time by the Bank to a person who makes application therefor for the purpose of ~~obtaining assistance~~ in preventing soil erosion :

deleted by Ord. 1932

Provided that the total amount of such advance and of all other advances made by the Bank upon the same security shall not exceed seventy-five per centum of the value of such security as determined by the Board.

(2) The Bank may in its discretion make such an advance upon the security of property already encumbered by a mortgage or by a charge in favour of a person other than the Bank and may permit the advance to rank in respect of such security subsequent to such mortgage or charge, but in any such case the Bank, before making the advance, shall call for further and adequate security in addition to the security so mortgaged or charged."

Repeal and replacement of section 27 (3) of the Principal Ordinance.

6. Sub-section (3) of section 27 of the Principal Ordinance is hereby repealed and the following sub-section is substituted therefor :—

"(3) No advance under the provisions of paragraphs (a) and (b) of section 18 of this Ordinance shall be made of a sum less than fifty pounds except in special cases and no advance shall be made to any one farmer of a sum greater than five thousand pounds or of sums which in the aggregate exceed five thousand pounds."

Amendment of section 28 of the Principal Ordinance.

7. (1) Sub-section (2) of section 28 of the Principal Ordinance is hereby amended by deleting the first line of the sub-section and by substituting therefor the following :—

"(2) Save where provision to the contrary is expressly made, no advance under the provisions of paragraph (a)".

(2) Sub-section (3) of section 28 of the Principal Ordinance is, subject to the proviso contained in this sub-section, hereby repealed and the following sub-section is substituted therefor :—

“(3) Except in the case of Government settlement schemes in accordance with which advances and interest thereon are specifically guaranteed by the Government, no advance under the provisions of paragraph (b) of section 18 of this Ordinance upon the security of Crown land, the purchase price thereof not being fully paid, shall be made except with the prior consent of the Governor and no such advance shall exceed fifty per centum of the amount already paid as part of the purchase price, but the Board may, with the prior consent of the Governor, advance an additional amount up to fifty per centum of the value of improvements approved by the Board made since the date of the title under which the land is held and such value shall be determined by the Board : Provided that, in the event of the land being resumed by the Crown, there shall be paid out of general revenue so much of the advance and the interest due thereon as the Bank is unable to recover from the mortgagor : Provided further that the Governor may approve of the making of advances for the fencing of Crown land to an amount in excess of fifty per centum of the value of such fencing.” :

Provided that the provisions of this sub-section shall not apply to any advance made before the commencement of this Ordinance but the provisions of sub-section (3) of section 28 of the Principal Ordinance, as the same appeared in that Ordinance before the coming into operation of this Ordinance, shall continue to apply to any such advance.

(3) Sub-section (5) of section 28 of the Principal Ordinance is hereby repealed, and sub-section (6) of section 28 is hereby amended by renumbering the same as sub-section (5).

8. Sub-section (3) of section 29 of the Principal Ordinance is hereby amended by the deletion of the words “paragraph (a) of” which occur in the second line thereof.

Amendment of section 29 (3) of the Principal Ordinance.

9. Section 32 of the Principal Ordinance is hereby amended by the deletion of the words “Provided that no alteration shall be made to the rate of interest on advances

Amendment of section 32 of the Principal Ordinance.

already made :” which occur in the fourth and fifth lines thereof and by the substitution therefor of the following :—

“Provided that no increase in the rate of interest shall be made on advances already made and, in the case of reduction of the rate of interest, such reduction shall only apply to the unpaid balance of the advance outstanding at the time of such reduction but the rate of interest on any portion of an advance which was due and payable before such reduction of interest shall be based on the rate of interest payable on advances before such reduction :”

Amendment of section 45A of the Principal Ordinance.

10. Section 45A of the Principal Ordinance is hereby amended by the deletion of the word “and” which occurs after the word “of” in the ninth line of sub-section (1) thereof and by the substitution therefor of the words “and/or”; and by the addition at the end of sub-section (1) thereof of the following further proviso :—

“Provided further that the Board may, at any time before the expiration of such period of three months mentioned in this section—

- (a) so enter upon and take possession of and/or sell the whole or part of the security if the debtor and the subsequent mortgagee consent to such action or actions being taken ; or
- (b) so enter upon and take possession of the whole or part of the security if such land has been abandoned by the debtor and in the opinion of the Board, such action or actions is or are necessary for the purposes of safeguarding the well-being of the mortgaged property. Notice of such intended action or actions under this paragraph shall be given to the debtor by registered letter addressed to the address given by the debtor in his application for the advance.”

Amendment of section 50 (1) of the Principal Ordinance.

11. Sub-section (1) of section 50 of the Principal Ordinance is hereby amended—

- (a) by deleting paragraph (i) thereof ;
- (b) by adding the word “and” after the word “kept” at the end of paragraph (h) thereof ; and
- (c) by renumbering paragraph (j) thereof as paragraph (i).

12. The First Schedule to the Principal Ordinance is hereby amended as follows:—

Amendment of Schedule I of the Principal Ordinance.

- (a) by the insertion of the words "pay the rent after the same became due under any agreement, lease or licence under which he holds the land, and" between the word "security," and the word "well" which occur in the second line of paragraph (1) thereof;
- (b) by the insertion of the words "to pay the rent as aforesaid" between the word "neglect" and the word "to" which occur in the first line of paragraph (2) thereof;
- (c) by the insertion of the words "to pay the said rent" between the word "mortgagor," and the word "to" which occur in the seventh line of paragraph (2) thereof; and
- (d) by the insertion of the words "in paying rent as aforesaid, and" between the word "Bank" and the word "in" which occur in the first line of paragraph (3) thereof.

13. Section 3 of the Land and Agricultural Bank (Amendment) Ordinance, 1934, is hereby repealed and the following is substituted therefor:—

Repeal and replacement of section 3 of the Land and Agricultural Bank (Amendment) Ordinance, 1934.

3. (1) Notwithstanding anything contained in the Principal Ordinance it shall be lawful for the Board out of the funds of the Bank to make temporary advances, up to a maximum of five hundred pounds, to farmers, on such conditions and upon such security as to the Board may seem fit, for the following purposes in addition to those set forth in section 19 of the Principal Ordinance:—

Temporary advances.

- (a) to meet expenses of farming operations to be incurred; or
 - (b) to meet existing liabilities incurred in farming.
- (2) Notification of the decision of the Board to make any such advance shall be published in the Gazette.
- (3) Every such advance shall bear interest at such rate per annum as may from time to time, with the consent of the Governor in Council, be fixed by the Board:

No. 3 of 1931.

Provided that no advance shall be made under this section on the security of any property which is encumbered by any mortgage charge or other encumbrance, other than a mortgage or charge in favour of the Bank, unless the encumbrancer has executed a waiver of priority in accordance with the provisions of section 13 of this Ordinance in favour of the Bank :

Provided further that no advances shall be made under this section of a sum which, together with advances (if any) made to the same farmer under paragraphs (a) and (b) of section 18 of the Principal Ordinance, exceeds the maximum advance which can be made under sections 27 (3), 28 (2) and 28 (3) thereof.

(4) All moneys advanced under the provisions of this Ordinance and all interest thereon and charges incidental thereto shall be a charge on the lands in respect of which the advance is made and shall, subject to the proviso contained in this sub-section, become due and payable within twelve months after the date of the advance :

Provided, however, that the Board may, at its discretion, from time to time postpone the date of repayment for a total period not exceeding three years from the date of the advance.

(5) Written notification of an advance under this section shall be given by the Secretary of the Bank to the Principal Registrar of Titles, who shall without charging any fee register such notification :

Cap. 142.

Provided that where the advance is in respect of land held under the provisions of the Registration of Titles Ordinance the Principal Registrar of Titles shall also endorse a memorandum of the advance upon the Crown grant or the certificate of title.

(6) Notwithstanding anything in any other Ordinance contained the registration of such notification shall constitute a charge upon the land in respect of which the advance has been made, and, subject to the provisions of any waiver of priority which may be given under section 13 of this Ordinance, shall rank for priority with effect from the time and date of such registration."

14. Section 4 of the Land and Agricultural Bank (Amendment) Ordinance, 1934, is hereby repealed.

Repeal of section 4 of the Land and Agricultural Bank (Amendment) Ordinance, 1934.

15. Section 5 of the Land and Agricultural Bank (Amendment) Ordinance, 1934, is hereby repealed and the following is substituted therefor :—

Repeal and replacement of section 5 of the Land and Agricultural Bank (Amendment) Ordinance, 1934.

“5. Upon the repayment of an advance made under section 3 of this Ordinance, together with interest due thereon, the Secretary of the Bank shall forthwith give written notice of such repayment to the Principal Registrar of Titles who shall without charging any fee register such notification and endorse on the Crown grant or certificate of title (if any) notice of such repayment, and thereupon the charge entered in respect of such advance shall be extinguished. Notice of the extinguishment of any advance shall be published in the Gazette as soon as possible after the date of such extinguishment.”

Repayment of advances.

*Amended by Ord. 507/48***ORDINANCE No. XV of 1936**

Assented to in His Majesty's name this tenth day of
June, 1936.

J. BYRNE,
Governor.

Date of assent.

[10TH JUNE, 1936.]

An Ordinance Relating to Ferries.

Date of commencement

m. 50. 1936

BY NOTICE.

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

Short title and commencement.

S. N. 573/36

Interpretation.

1. This Ordinance may be cited as the Ferries Ordinance, 1936, and shall come into operation upon such date as the Governor may by notice in the Gazette appoint.

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

“Director” means the Director of Public Works;

“ferry boat” means any floating vessel, propelled by any means whatsoever, ~~plying for hire~~ ^{used} for the purpose of carrying passengers, animals, goods or vehicles between any two points from one side of a waterway to another :

Ord 507/48

Provided that the term “ferry boat” shall not include any such floating vessel which is not capable of carrying more than three passengers and/or 300 lb. of goods.

Power of Director relating to ferries.

3. Notwithstanding anything in any other Ordinance or law contained the Director shall have power to do all or any of the following things, namely :—

(1) Subject to the approval of the Governor, after consulting the Central Roads and Traffic Board, to enter into an agreement with any person for the establishment, acquisition, construction, laying down, equipment, maintenance and carrying on of a service of ferry boats.

(2) Whenever any service of ferry boats is established, acquired, maintained, or carried on by any person under an agreement entered into between such person and the Director under the powers conferred

upon the Director by this section, by order under his hand with the approval of the Governor, to prohibit any person, except with the consent of the Director signified in writing under his hand, carrying on a ferry-boat service within such area or areas and for such period and within such hours as may be prescribed in such order :

Provided that the right of any person to ply for hire with any ferry boat for the unexpired period of any licence granted under any law in force in the Colony and issued to him prior to the date of the coming into force of an order of prohibition made under this sub-section, and the right of any person to carry for hire or reward passengers departing to or arriving from any place outside the limits of any prohibited area, shall not be affected.

- (3) (a) Before making an order of prohibition under the provisions of the last preceding sub-section, the Director shall cause notice of his intention to do so to be published in the Gazette and in at least one newspaper circulating within the district.
- (b) Such notice shall be given once in each week for four succeeding weeks, and any objections received shall be laid before the Governor.
- (4) If and when the Governor, after considering the objections, if any, approves of the making of the order, such order shall be made under the hand of the Director, shall be published in the Gazette and in at least one newspaper circulating within the district, and shall come into force on such date as may be specified in such order.
- (5) The Director may by order revoke an order of prohibition made under the provisions of this Ordinance, and may in like manner vary any such order by extending or reducing the period of the operation thereof or by extending or reducing the area to which the order of prohibition applies :

Provided that the making of any such order of revocation or variation shall be subject to the procedure described in sub-sections (3) and (4) of this

section as if such order of revocation or variation were an order being made under sub-section (2) of this section.

- (6) Save as is provided in sub-section (2) of this section, any person who, without the written consent of the Director, carries on within a prohibited area any service of ferry boats, or who plies for hire or reward any ferry boat within a prohibited area, 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 section.

Rules.

4. The Governor in Council may make rules for regulating ferry boats, for fixing the amount of the licence fees to be paid, the charges or fares whether by distance or by time, for regulating and controlling the conduct of persons using ferry boats, and the embarkation and disembarkation of persons, animals, goods and vehicles, and for regulating or prohibiting the use of the landing places, approaches and ramps maintained in connection with any service of ferry boats.

ORDINANCE No. XVI of 1936

Assented to in His Majesty's name this tenth day of June, 1936.

J. BYRNE,
Governor.

[10TH JUNE, 1936.] Date of assent.

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

10th June, 1936.

Date of
commencement

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

1. This Ordinance may be cited as the Local Government (Rating) (Amendment) Ordinance, 1936, and shall be read as one with the Local Government (Rating) Ordinance, 1928, hereinafter referred to as the Principal Ordinance.

Short title.

No. 20 of 1928.

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

Repeal and
replacement of
section 9 of
the Principal
Ordinance.

“ 9. (1) When the valuation roll has been completed it shall be laid before the local authority and shall lie at its office for public inspection, and any person may at all reasonable times inspect the same and take copies or extracts therefrom.

Inspection of
provisional
roll;
objections.

(2) The local authority shall, by notice published in the Gazette and in one or more newspapers (if any) circulating in the municipality, call upon all persons interested to lodge in writing with the Town Clerk, within a specified time not less than twenty-eight days from the first publication of such notice, in the form set forth in the Schedule to this Ordinance, notice of any objections that they may have in respect of the valuation of any rateable property valued as aforesaid or in respect of the omission therefrom of property alleged to be rateable property, and whether held by the person objecting or by others, or in respect of any other error, omission or misdescription. No person shall be entitled to urge any objection before the Valuation Court hereinafter referred to unless he shall have first lodged such notice of objection as aforesaid.

(3) Where there is included in the valuation roll as laid before the local authority some rateable property not previously valued, or when the rateable value assigned in the valuation roll to some rateable property exceeds the value as stated in the valuation roll for the time being in force, the local authority shall, within fourteen days after the laying before the local authority of the valuation roll, send to the owner of the rateable property affected, a notice of the valuation thereof inserted in the valuation roll."

Amendment of section 24 of the Principal Ordinance.

Proceedings for recovery of rates unpaid for three months.

3. Section 24 of the Principal Ordinance is hereby repealed and the following section is substituted therefor :—

"24. When any rate imposed upon any owners of rateable property shall remain unpaid for a period of three months after the date on which such rate shall have been fixed to become due and payable it shall be lawful for the local authority to serve upon any person paying rent in respect of such rateable property or any part thereof to the person from whom the arrears are due a notice stating the amount of such arrears and requiring all future payments of rent (whether the same have already accrued due or not) by the person paying the rent to be made direct to the local authority until such arrears have been duly paid and such notice shall operate to transfer to the local authority the right to recover, receive and give a discharge for such rent.

In this section the expression "rent" includes a payment made by a lodger."

Repeal and replacement of section 28 of the Principal Ordinance.

Basis of valuation of interest in land held by the Crown.

No. 19 of 1928.

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

"28. (1) Notwithstanding anything otherwise to the contrary contained in this Ordinance, but subject to the provisos hereinafter contained, any interest in land held by the Crown which would, if it were not so held, be rateable property under this Ordinance shall for the purposes of assessing the contributions in lieu of rates payable by the Government of the Colony under the provisions of the Local Government (Municipalities) Ordinance, 1928, be valued in accordance with the principles laid down in this

Ordinance, subject to such exceptions and in such manner as may be prescribed by Rules made by the Governor in Council :

Provided that such rules may exempt from such valuation and from payment of any contributions in lieu of such rates as aforesaid any interest in land held by the Crown which is being used for a public purpose or may exempt from payment of any contributions in lieu of such rates as aforesaid any interest in land held by the Crown which should, in the opinion of the Governor in Council, be reserved for a public purpose :

Provided further that the Governor in Council, prior to making any decision either as to the reservation of any interest in land for a public purpose or as to the area to be so reserved shall inquire into any objection which may be lodged by the local authority concerned at which inquiry the local authority if it so wishes shall be entitled to be heard both at the time of the first reservation and on the expiration of every five years thereafter.

(2) When it appears to the Governor in Council that any area of Crown land which has been reserved for a public purpose is no longer required to be reserved for such or any other public purpose, the Governor in Council shall revoke the reservation thereof and from the date of such revocation the Crown's interest in such land shall cease to be exempt from assessment for a contribution in lieu of rates.

(3) Subject to the provisions of sub-section (4) of this section when any interest in land held by the Crown has been reserved for a public purpose and such reservation has been in operation for a period exceeding five years and such reservation has subsequently been revoked by the Governor in Council, there shall be payable to the local authority when any interest in such land is sold a sum equivalent to the contribution in lieu of rates which would have been paid during the period of five years immediately preceding such revocation if such interest in land had not been reserved.

(4) When a reservation has been revoked under the provisions of sub-section (3) of this section, and another interest in land held by the Crown is thereafter reserved for the same public purpose a refund shall be made to Government by the local authority of the contributions in lieu of rates paid by the Government in respect of such interest in land during the period of five years immediately preceding such reservation.

7/49

(5) Where the ^{Member} Governor agrees to make available any interest in land held by the Crown for any municipal or town planning purpose no contribution in lieu of rates shall be payable to the local authority under this section from the date on which the ^{Member} Governor agrees to make such interest in land available for any such purpose."

Validity of Rules hitherto made under section 28 of the Principal Ordinance.

5. Notwithstanding anything contained in the Principal Ordinance all the provisions of all Rules hitherto made by the Governor in Council under and by virtue of the powers conferred upon him by section 28 of the Principal Ordinance as they appeared before the passing of this Ordinance are hereby declared to be and always to have been legal and valid and of full force and effect.

Payment of rates, taxes and other transfer of premises.

6. (1) No transfer of any premises or any transfer of any mortgage on such premises within a municipality shall be passed or registered before any registration officer until a written statement in the form shown in the Schedule to this Ordinance, and signed and certified by the Town Clerk, or other officer authorized thereto by the Council, shall be produced to such registration officer, nor unless such statement shows that all charges (if any) for a period of twelve years immediately preceding such date due in respect of such premises on account of rates imposed under any enactment for the time being in force within the municipality have been paid to the Council.

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

1936

Local Government (Rating)

No. XVI

THE SCHEDULE.

THE LOCAL GOVERNMENT (RATING) (AMENDMENT) ORDINANCE,
1936.

Section 6.

This is to certify that all sums due in accordance with
Section 6 of the Local Government (Rating) (Amendment)
Ordinance, 1936, to the Municipal Council (or Board) of
.....in respect of the premises
.....registered in the name of
.....have been paid to the Council
(or Board).

This certificate is available to.....19.....

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

.....
Town Clerk.

.....Municipality.

This Ordinance is in substitution for the Ordinance No. XV of 1935 :—

ORDINANCE No. XVII of 1936

Date of assent.
(Proclamation
No. 43 of 1936).

[24TH JUNE, 1936]

An Ordinance to Amend the King's African Rifles Ordinance, 1932.

Date of commencement
(Proclamation
No. 43 of 1936).

24th June, 1936.

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 (Amendment) Ordinance, 1935, and shall be read as one with the King's African Rifles Ordinance, 1932, hereinafter referred to as the Principal Ordinance.

No. 48 of 1932.

Amendment of section 76 (2) of the Principal Ordinance.

2. Sub-section (2) of section 76 of the Principal Ordinance is hereby amended by the deletion of the words "completed three years' service with the colours shall, if not being discharged," occurring in the first, second and third lines thereof and by the substitution therefor of the following—"re-engaged for a further term of service with the colours shall,".

Amendment of section 84 (3) of the Principal Ordinance.

3. Sub-section (3) of section 84 of the Principal Ordinance is hereby amended by the insertion therein of the words "on medical grounds" between the word "discharged" and the word "as" occurring in the third line thereof and by the deletion of the words "or as inefficient" occurring in the fourth line thereof.

ORDINANCE No. XVIII of 1936

Assented to in His Majesty's name this twenty-ninth day
of June, 1936.

J. BYRNE,
Governor.

[29TH JUNE, 1936.] Date of assent.

An Ordinance to Provide for the Constitution of a Board to be known as the Farmers Conciliation Board, to Invest the Board with Certain Powers for the Assistance and Relief of Farmers and for Purposes Incidental thereto.

By Notice. *2nd July, 1936.*

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 Farmers Assistance Ordinance, 1936, and shall come into operation on such date as the Governor shall appoint by notice in the Gazette.

Short title and commencement.

S.N. 454/36, p. 341.

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

Interpretation.

“agent” means the body appointed under the provisions of section 6 of this Ordinance;

“applicant” means a farmer who makes an application for assistance in accordance with the provisions of this Ordinance;

“farmer” includes—

(a) any person who is a resident of, and who is personally engaged in farming, planting or pastoral operations in the Colony, whether he is farming on his own account or under a share-farming agreement;

(b) the personal representative of any such person; and

(c) any company which is engaged in farming, planting or pastoral operations in the Colony;

“grantee” means the party to an instrument (registered within the time prescribed by the Chattels Transfer Ordinance, 1930, and given by the applicant prior to the issue of an Interim Stay Order) to whom chattels therein referred to, or any interest therein, are thereby granted or assigned, or agreed

No. 24 of 1930.

so to be, and includes his executors administrators and assigns and in the case of a company or corporation includes the successors and assigns of such company or corporation ;

“Registrar” means the Registrar of the Supreme Court and includes a district and deputy registrar of such Court ;

“secured creditor” means a person holding a mortgage, charge or lien on the property of the applicant, or any part thereof, as a security for a debt due to him from the applicant and includes a grantee ;

“unsecured creditor” includes any creditor who is not a secured creditor.

Establishment
and constitu-
tion of
Farmers
Conciliation
Board.

3. (1) There shall be constituted a Board to be known as “the Farmers Conciliation Board” (hereinafter referred to as “the Board”) which shall consist of seven members, to be appointed by the Governor, of whom—

- (a) one shall be a Judge of the Supreme Court, who shall be chairman of the Board ;
- (b) one shall be the ~~Treasurer~~^{J.S.}, or his deputy ;
- (c) one shall be a member of the board of the agent ;
- (d) one shall be a representative of the commercial banks operating in the Colony ;
- (e) two shall be persons with general experience of agriculture ; and
- (f) one shall be a person with general experience of commerce.

(2) The chairman and members of the Board shall hold office during the Governor’s pleasure.

(3) Before entering on the exercise of the duties of their office, the members of the Board, other than the chairman, shall make oath or affirmation before the chairman that they will faithfully and impartially perform the duties of their office.

(4) The Board shall be a body corporate with perpetual succession and a common seal and, subject to the provisions of this Ordinance, may acquire, hold and dispose of land and other property movable or immovable for the purposes of this Ordinance, and shall be capable in law of suing and being sued under the name of “the Farmers Conciliation Board”.

Quorum and
procedure of
the Board.

~~4. (1) The chairman and three other members of the Board shall form a quorum.~~
Replaced by Ord. 2/39.

(2) Questions before the Board shall be decided by a majority of the votes of those present and voting, and, in the case of equality of votes, the chairman shall have a second or casting vote.

(3) ~~The chairman and members of the Board shall not 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.~~ *Amended by Ord. 2/39*

(4) Subject to the provisions of this Ordinance and of any rules made thereunder, the meetings and procedure of the Board shall be such as the Board may from time to time determine.

(5) The Board may appoint a secretary and other necessary officers, agents and servants, and may pay him and them such remuneration as the Governor may approve.

(6) The Governor in any case in which he is satisfied that a member of the Board is incapacitated by illness, absence or other sufficient cause from performing the duties of his office, may appoint some fit person to be a deputy to act for such member during his incapacity, and any such deputy while so acting shall have all the powers and authorities of the member for whom he is acting.

5. With the consent of the Governor, the Board at any time may delegate any of its powers, duties or functions to any person or body of persons in the Colony upon such terms and conditions and subject to such restrictions as the Board thinks proper, and may in its discretion terminate any such delegation. Delegation.

6. (1) The Land and Agricultural Bank of Kenya is hereby appointed to act as agent for the Board in the administration of any advances to farmers under this Ordinance. Land Bank to act as agent for the Board.

(2) No expenses in connection with such agency shall fall to be paid from the funds of the said agent and the agent shall be indemnified by Government against any losses, costs or expenses which may be sustained or incurred by the agent in the performance of such agency.

7. The funds available to the Board for carrying out the purposes of this Ordinance shall consist of such moneys as the agent may be authorized from time to time by the Governor in Council to place at the disposal of the Board. Funds of the Board.

Local
Committees.S.N. 486/36
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8. (1) For the purposes of this Ordinance the Governor may divide the Colony into districts and, in each such district may appoint a Local Committee, consisting of a chairman (who shall be a District Officer) and two other members approved by the Board.

(2) The chairman and members shall hold office during the Governor's pleasure.

(3) The chairman and members of a Local Committee shall, within the district for which the Committee has been appointed, be responsible for the due performance—

- (a) of the duties, functions and responsibilities assigned to them by this Ordinance; and
- (b) of such other duties, functions and responsibilities as may from time to time be assigned to them by the Board.

(4) Subject to the provisions of this Ordinance and of any rules made thereunder, the meetings, procedure and quorum of a Local Committee shall be such as the Board may from time to time determine.

(5) The chairman and members of a Local Committee shall not be personally liable for any act or default of such Local Committee, done or omitted to be done in good faith in the course of the operations of the Committee or in the course of giving effect to the instructions of the Board.

Applications
by farmers.

9. (1) ~~Any farmer in the Colony may make application,~~ through a Local Committee, to the Board for assistance in accordance with the provisions of this Ordinance upon all or any of the following grounds—

- (a) that his liabilities exceed a ^{reasonable} valuation of his assets; or
- (b) that such action has been taken or has ^{been} threatened against him by his creditor or creditors as to render it impracticable for the farmer to continue his farming operations with a reasonable prospect of success; or
- (c) that by reason of the extent or nature of his obligations or because of lack of stock or absence of means of working his land, in a proper manner or for any other good cause, he is unable to continue farming operations with a reasonable prospect of success.

(2) Any farmer making application under this section shall forthwith give written notice of the application to all of his secured creditors.

10. (1) Every application for assistance under section 9 of this Ordinance shall be made in the form prescribed and shall be filed by the applicant in the office of the appropriate Local Committee, together with an affidavit by the applicant in verification of the particulars contained in the application. Form of application.

(2) The applicant shall at the time he makes such application forward a copy thereof to the agent and such copy shall be filed in the office of the agent.

(3) The particulars in every application shall include—

- (a) a complete list of all the creditors and debtors of the applicant;
- (b) a statement of the assets and liabilities of the applicant; and
- (c) a list of the securities held by the secured creditors on the property of the applicant.

11. (1) Immediately upon the filing of the application as provided for in section 10 of this Ordinance the chairman of the Local Committee concerned shall, in respect of the applicant's estate— Interim Stay Order and Temporary Supervisor.

- (a) issue an Interim Stay Order in the prescribed form; and
- (b) by writing under his hand appoint a Temporary Supervisor of the estate who shall be subject to the instructions of the agent:

Provided that a chairman shall have a discretion in any case to refuse for good and sufficient reason so to issue an Interim Stay Order or to appoint a Temporary Supervisor, but in such event the chairman shall forthwith make a written report to the Board giving the reasons for his refusal, and the decision of the Board upon the matter shall be final.

(2) The chairman shall forthwith cause notices relating to the making of the Interim Stay Order and to the appointment of the Temporary Supervisor to be published in the Gazette and to be sent to the Registrar. The chairman shall also forthwith forward a copy of every such Interim Stay Order to the Principal Registrar of Titles, who shall file the same in a register to be kept for the purpose, and such register shall be open to the public for inspection free of cost.

12. (1) An Interim Stay Order shall remain in force until a meeting of the Board confirms or removes the Interim Stay Order. Interim Stay Order.

(2) While an Interim Stay Order is in force—

(a) it shall have the effect of vesting all the property of the applicant in the agent; and

(b) all suits, actions, executions or other proceedings whether judicial or extra judicial against the farmer shall be stayed.

(3) Notwithstanding anything contained in paragraph (b) of sub-section (2) of this section the grant of an Interim Stay Order shall not prevent and shall be deemed never to have prevented any person—

(a) from instituting or proceeding with any suit, action or other proceeding for the purpose of determining the farmer's liability—

(i) for any tort committed by the farmer; or

(ii) for any injury suffered by a workman in the employ of the farmer; or

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(iii) under the Divorce Ordinance or for the support of the wife or children of the farmer; or

(iv) in respect of any unliquidated demand other than a demand arising out of default or for or upon breach of covenant under any mortgage or other security for money or under an agreement for sale and purchase or lease of any movable or immovable property or under a hire-purchase agreement; or

(b) from prosecuting any suit or other proceeding against the farmer for the administration of the trusts of any will, deed or other instrument, or for any breach of such trusts, or for the removal of the farmer from the position of executor or administrator or trustee.

Temporary Supervisor.

13. A Temporary Supervisor appointed under section 11 of this Ordinance may make such arrangements with regard to the property (including crops and produce) of the applicant as the agent shall direct and, until otherwise directed by the agent, shall have all the powers and be responsible for exercising all the functions of the agent as set out in sections 24 and 27 of this Ordinance until his appointment is terminated.

Valuation of applicant's assets.

14. Prior to the calling of a meeting convened in accordance with section 15 of this Ordinance, the chairman of a Local Committee may, in his discretion, direct an approved valuer appointed under the Land and Agricultural Bank Ordinance, 1930, to visit the farm of the applicant and to make a report to the chairman upon the assets of the applicant:

No. 3 of 1931.

Provided that in the case of any wasting security of the type referred to in section 25 of this Ordinance which is subject to an instrument registered under the Chattels Transfer Ordinance, 1930, the chairman shall direct such a valuer to value such security. No. 24 of 1930.

15. (1) When he has satisfied himself that the provisions of section 11 of this Ordinance have been complied with, the chairman of the Local Committee shall call a meeting of the Local Committee to consider the application and to inquire into the financial position of the applicant with a view *inter alia* to arriving at an arrangement of a voluntary settlement of liabilities between the applicant and his creditors, and the making of a report to the Board. Meeting of the Local Committee.

(2) The applicant and/or his authorized agent shall be present at the meeting and the creditors of the applicant may attend either in person or by duly authorized agents or they may forward their views, in writing, to the chairman. No other person shall be permitted to be present at the meeting.

(3) At the meeting it shall be the duty of the chairman to encourage a free discussion of the applicant's financial position and he shall endeavour to obtain the view of the applicant and of his creditors upon any proposed adjustment of the applicant's position which appears desirable and equitable to the Local Committee.

(4) As soon as may be after the conclusion of the meeting, the chairman shall refer the matter to the Board in the prescribed form.

16. (1) When the application has been referred to the Board, the Board, having given fourteen days' notice to the applicant and his creditors, shall meet to consider the application and the report and recommendations thereon of the Local Committee. Meeting of the Board.

(2) The applicant and/or his authorized agent shall attend the meeting and the creditors may attend such meeting either in person or by sending duly authorized agents.

17. (1) In any case where, at the meeting of the Board, the arrangement proposed for the adjustment of the applicant's affairs is agreed to by— Granting of application.

(a) the Board; and

- (b) seventy-five per centum in value of the secured creditors of the applicant based on the assessed value of their security as determined by the Board,

the Board shall confirm the arrangements and grant the application unless a majority in value and in numbers of the unsecured creditors present and voting as have a claim for not less than five pounds oppose the arrangement.

- (2) Any creditor who fails to attend the meeting convened in accordance with section 16 of this Ordinance shall, in the event of the application being granted, be deemed to have agreed to such arrangement.

Refusal of application.

18. In any case where an arrangement in the terms of the last preceding section has not been confirmed, the application shall be refused and the Board shall forthwith remove the Interim Stay Order and terminate the appointment (if any) of the Temporary Supervisor, and shall publish a notice in the Gazette to that effect and shall notify the Registrar and the Principal Registrar of Titles.

Procedure where application is granted.

19. In every case where an application is granted the Board forthwith shall—

- (a) convert the Interim Stay Order into a Stay Order which shall continue in force for a period of twelve months from the date of its issue by the Board, and which shall be annually renewable by the Board, but so that the total term of the Order (excluding the period of the Interim Stay Order) shall not exceed five years in all :

Provided that, subject always to the maximum period of five years, the term for which a Stay Order is originally issued by the Board may exceed twelve months in cases where the applicant's creditors have agreed upon a longer period at the meeting of the Board ;

- (b) terminate the appointment of the Temporary Supervisor (if any) and authorize the agent to supervise the property of the applicant ;
- (c) issue a written instruction to the agent specifying the amount required, in the opinion of the Board, for ensuring the successful continuance of the applicant's farming operations ;

and with the concurrence of the creditors—

- (d) prepare and file with the Registrar a Deed of Adjustment in the prescribed form, containing the terms and conditions of the agreed arrangement.

20. The Board shall not grant any application made by a farmer for an advance or formulate or submit or bring into force any scheme for the adjustment of the debts of any farmer unless it is satisfied that by so doing the farmer who is to be so assisted is deserving of assistance and will be enabled to continue his farming operations with a reasonable prospect of success.

Restriction on grant of assistance.

21. (1) At any time after the granting of an application and while a Stay Order is in force the Board may, after such inquiry as it may deem necessary, authorize an advance for the purpose of providing a reasonable living allowance for the farmer whose application has been granted and for his dependants and for defraying the necessary expenditure of the farmer in connection with the working and maintenance of his farm, and the marketing of his produce, and for any other expenditure for which the Board deems it proper that an advance should be made :

Advances.

~~Provided that—~~

- (a) ~~no advance under this section shall be made of an amount exceeding seventy per centum of the value of an average year's crop or produce as assessed by the Board;~~
- (b) ~~where an advance is to be applied towards the cost of permanent improvements (as defined in the First Schedule to the Crown Lands Ordinance) and/or movable assets essential to farming operations the amount of such advance shall not exceed sixty per centum of the value of the security as assessed by the Board.~~

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(2) As soon as may be after any such advance is authorized the Board shall publish in the Gazette the name and address of the farmer and the amount of the authorized advance.

(3) The Board may provide for the repayment of any such advance by such instalments and upon such terms and conditions as the Board thinks fit. Such terms shall include provision for the payment of interest on the amount advanced at a rate to be notified from time to time by the Governor in Council.

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Publication of
Stay Order.

22. (1) The Board shall publish in the Gazette a notice of the issue of every Stay Order and a copy of the said Order shall be sent by the Board to the Registrar and to the Principal Registrar of Titles.

(2) The provisions of section ~~12~~¹⁴ of this Ordinance relating to Interim Stay Orders shall equally be applicable to Stay Orders.

Deed of
Adjustment.

23. (1) Every Deed of Adjustment prepared in accordance with section 19 (d) of this Ordinance shall be executed by the chairman ~~of~~^{of} the Board who shall certify that the provisions of section ~~12~~¹⁴ of this Ordinance have been complied with.

(2) Every such deed shall, after execution, be filed by the Board with the Registrar and shall when so filed be deemed to be an order of the Supreme Court and shall be binding upon all parties to the deed and upon the applicant and all his creditors.

Agent to
receive for
farmer all
moneys or
other
property.

24. (1) The agent shall have the sole right to receive all moneys payable to a farmer to whom an advance has been authorized, and any movable property transferred to or otherwise becoming vested in the farmer, and to give a valid discharge on behalf of such farmer for any such moneys or property.

(2) The agent shall have the sole right to sue for and recover any debts due to the farmer.

(3) Notwithstanding anything contained in this section and subject to any arrangement to the contrary contained in any Deed of Adjustment the agent shall pay to a grantee any moneys received by the agent on a sale of any chattel secured by an instrument executed in favour of such grantee unless the Board in accordance with the provisions of sub-section (2) of section 25 of this Ordinance replace the chattel so sold.

Rights of
grantees.

25. (1) Notwithstanding anything contained in section ~~12~~¹⁴ of this Ordinance the grantee of an instrument which purports to transfer to him the property in any movable plant, machinery, tools, vehicle or other wasting security similar thereto may, if he so desires and shall if requested to do so by the Board, take possession of such security at any time after such security has been valued in accordance with the proviso to section ~~14~~¹⁶ of this Ordinance and before the Interim Stay Order is converted into a Stay Order.

(2) If a grantee does not take possession or is not requested to take possession of such security in accordance with the provisions of sub-section (1) of this section, the Board shall assess such security, in which case, subject to any arrangement to the contrary contained in any Deed of Adjustment—

(a) the obligations imposed on the grantor by paragraph (4) of the Third Schedule to the Chattels Transfer Ordinance, 1930, shall bind the Board in respect of the amount for which such security has been assessed; and No. 24 of 1930.

(b) he shall rank as an unsecured creditor in respect of the amount (if any) due to him by the applicant after deduction of the amount for which his security has been assessed together with the interest thereon which becomes due and payable to him while the Stay Order is in force.

(3) A grantee who comes within the provisions of sub-section (1) of this section shall not be entitled to vote as a secured creditor at the meeting convened by the Board in accordance with the provisions of section 16 of this Ordinance, but if prior to the meeting—

(a) he has sold the security he shall be entitled to vote as an unsecured creditor in respect of the amount (if any) due to him after deduction of the proceeds of the sale; or

(b) he has not sold the security, it shall be assessed by the Board and he shall be entitled to vote as an unsecured creditor in respect of the amount due to him after deduction of the amount for which such security is assessed.

(4) A grantee who comes within the provisions of sub-section (2) of this section shall be entitled to vote at the meeting convened by the Board in accordance with the provisions of section ~~16~~ of this Ordinance as a secured creditor in respect of the amount for which such security is assessed and as an unsecured creditor in respect of the amount due to him after deduction of the amount for which security is assessed.

26. Subject to the provisions of sub-section (3) of section 24 of this Ordinance, the agent may from time to time distribute such portion of the proceeds of the sale of the farmer's crop or of any other moneys received by the agent on behalf of the farmer, as in its discretion may seem advisable, Order of
priority of
payment.

in payment of the farmer's debts in the following order of priority—

- (a) in payment of the advance made to such farmer under the provisions of section 21 of this Ordinance together with interest thereon;
- (b) in payment of Crown taxes and local rates which become due and payable while the Stay Order is in force;
- (c) in payment of rents which become due and payable while the Stay Order is in force,

and thereafter in accordance with the Deed of Adjustment, or if no arrangement concerning priority is contained in such Deed, then in the following order—

- (i) in payment to first mortgagees and grantees (other than those who take possession or are requested to take possession of their security in accordance with the provisions of sub-section (1) of section 25 of this Ordinance) ranking equally amongst themselves of interest which becomes due and payable while the Stay Order is in force: Provided that a grantee whose security is assessed by the Board in accordance with the provisions of sub-section (2) of section 25 of this Ordinance shall only be entitled to interest on the amount for which his security has been so assessed;
- (ii) in payment to subsequent mortgagees in order of priority of interest which becomes due and payable while the Stay Order is in force;
- (iii) in payment of such debts as are given a preference under section 35 of the Bankruptcy Ordinance, 1930;
- (iv) in payment to unsecured creditors, ranking equally amongst themselves, of debts due to them;
- (v) in payment to first mortgagees and grantees, ranking equally amongst themselves, of arrears of interest which became due and payable prior to the issue of the Stay Order;
- (vi) in payment to subsequent mortgagees in order of priority of arrears of interest which became due and payable prior to the issue of the Stay Order;
- (vii) in payment of the principal moneys which become due and payable to first mortgagees and grantees (other

than those who by virtue of the provisions of subsection (2) of section 25 of this Ordinance rank in respect thereof as unsecured creditors) ranking equally amongst themselves; and

(viii) in payment of the principal moneys which become due and payable to subsequent mortgagees in order of priority.

27. (1) The agent shall in respect of each farmer record such particulars as are necessary to reflect the financial transactions of or on account of the farmer. Accounts to be kept by agent.

(2) The farmer, and any creditor of the farmer, may with the authority of the Board, inspect the accounts and records of the agent and make copies thereof or any extract therefrom.

28. If at any time the Board considers that it is advisable to cancel or refuse the renewal of any Stay Order the Board may, in its discretion, cancel the Stay Order, by issuing a notice of cancellation to the Registrar and to the Principal Registrar of Titles and by publishing a copy of the said notice in the Gazette, and thereupon the Stay Order shall cease to have any effect whatsoever. Prior to the cancellation of any Stay Order, the Board shall give not less than fourteen days' notice in writing to the farmer of the intended cancellation. Cancellation of Stay Order.

29. When a Stay Order from whatsoever cause ceases to have any effect, all the rights and liabilities of the farmer (except such as have been adjusted under the provisions of this Ordinance) at the time of the issue of the Stay Order shall forthwith revive, and in computing the time within which, according to any law of limitation for the time being in force in the Colony, any proceedings must be commenced or any step in proceedings must be taken, the period during which the Stay Order was operative shall be excluded. Continuance of proceedings when Stay Order is cancelled.

30. (1) When a Stay Order is cancelled or ceases from any cause to have effect, the amount remaining unpaid in respect of any sum of money advanced by the Board to the farmer or of any sum which the Board has paid or agreed to pay in respect of any guarantee given in pursuance of this Ordinance shall be deemed to be a charge on the property and assets of the farmer. The Board shall be deemed to have a preferential lien for the amount of such charge over the crops and produce of the property of the farmer for a period of Advance to be a charge after cancellation of Stay Order.

twelve months from the date of the cancellation or ceasing to have effect of the Stay Order, and such lien shall be in addition to and not in substitution for such charge.

(2) Every such charge or lien shall be subject to any prior mortgage, charge or lien upon any property of the farmer at the date when the Stay Order ceases to have effect.

(3) As soon as possible after a Stay Order is cancelled or ceases to have effect, the Board shall fill up a notification in a form to be approved by the Board, showing the said amount remaining unpaid, and shall sign and forward the same to the Principal Registrar of Titles, who shall file the same in a register to be kept for the purpose, and such register shall be open to the public for inspection free of cost :

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Provided that where the said amount remaining unpaid is in respect of lands under the provisions of the Registration of Titles Ordinance, the Principal Registrar of Titles shall also endorse a memorandum of the said amount remaining unpaid on the duplicate Crown grant or certificate of title.

(4) Upon repayment by the farmer of the said amount remaining unpaid, the Board shall give a receipt for the same, and shall notify the Principal Registrar of Titles, who on the receipt of such notification shall write the word "Cancelled" across the notification filed in the register and across the memorandum (if any) endorsed on the duplicate Crown grant or certificate of title, and thereupon the charge created by this section in respect of the said amount remaining unpaid shall be extinguished.

Board may require execution of instruments to give effect to Deed of Adjustment.

31. (1) The Board may, on the application of the farmer or of any of his creditors, direct the farmer or any such creditor to execute any instrument that may be required to give effect to the Deed of Adjustment.

(2) If any person required to execute any such instrument fails or refuses to execute the same, the Supreme Court, on the application of the Board, may authorize the Registrar to execute such instrument in the name and on behalf of the farmer or creditor, as the case may be.

Deed of Adjustment to be noted on instruments affected by securities.

32. (1) Where an adjustment of a farmer's liabilities has been effected in accordance with the provisions of this Ordinance, the Registrar after the Deed of Adjustment has been filed with him shall forward forthwith a certificate in the prescribed form to the Principal Registrar of Titles and to

any other persons charged with the duty of keeping any register in which is registered any instrument of title or other instrument affecting any property to which the Deed of Adjustment relates.

(2) It shall be the duty of the Principal Registrar of Titles and of every other person to whom a certificate has been so forwarded to enter in the appropriate register or registers and to note on the registered instrument a memorial of such certificate, without payment of any fee.

33. Notwithstanding the provisions of section 3 of the Bankruptcy Ordinance, 1930, a farmer who makes a proposal for or who agrees to an adjustment of his liabilities as provided for by this Ordinance or for whose estate a Temporary Supervisor has been appointed under the provisions of this Ordinance or whose estate has been vested in or administered by the agent under the provisions of this Ordinance shall not be deemed to have committed thereby an act of bankruptcy.

Proposal for adjustment not act of bankruptcy. No. 32 of 1930.

34. (1) Any person whose name appears on any list of creditors or debtors filed by the applicant in accordance with section 10 of this Ordinance, and any other person who makes a claim against the applicant in writing addressed to ~~(the chairman of the Local Committee concerned or)~~ the Secretary of the Board ~~(as the case may be)~~ may at any time during office hours inspect at the office of the agent the filed list of creditors and debtors and the filed statement of such applicant's assets and liabilities. Any person who, not being a creditor of such applicant, knowingly makes to the said ~~(chairman or to the)~~ secretary, for the purposes of this section, a false representation to the effect that he is a creditor of such applicant shall be guilty of an offence against this Ordinance.

Right to inspect filed statements.

2/39.

(2) Any inspection under this section may be made personally by the creditor or debtor or by any other person acting as the authorized agent of the creditor or debtor.

(3) Any person who is authorized by the provisions of this section to inspect a list of creditors or debtors or a statement of assets and liabilities may make a copy of, or take extracts from, such list or statement.

35. (1) Any person duly authorized in writing by the agent may, at all reasonable times, enter upon any land owned or occupied by an applicant or into any premises situated on such land and may examine and inspect any crops growing upon or severed from such land and any produce of any such crops or any farm live stock upon such land or premises.

Power to enter and inspect farm, etc.

(2) Any person who knowingly obstructs any duly authorized person in any such inspection or examination shall be liable on conviction before a magistrate of the first or second class to a fine not exceeding twenty pounds.

False statements.

35A Merely - Added by Ord. 2/39
36. Any person who wilfully makes any false statement in or in relation to any application, declaration, or other document made or executed in connection with anything done or proposed to be done under this Ordinance, or who wilfully neglects fully to disclose any matter required by this Ordinance to be disclosed shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred pounds or to a term of imprisonment not exceeding two years or to both such fine and such imprisonment.

Forms.

37. Any application, deed or other document used or required to be used for the purposes of this Ordinance shall be in the prescribed form. In cases where no form is prescribed, the Board may decide upon the form to be used together with any subsequent modifications, additions or alterations which the Board thinks fit.

Exemption from duties and fees.
 Cap. 57.

38. Notwithstanding anything contained in the Stamp Ordinance or in any other Ordinance in force in the Colony, no duty, tax or fee shall be payable to the Government on any document, instrument or deed required or used in connection with any act or transaction performed under this Ordinance.

Rules.

39. (1) The Governor in Council may make rules containing such provisions as may from time to time appear to be necessary and proper for bringing into operation and giving full effect to the provisions and purposes of this Ordinance and in particular and without prejudice to the generality of the foregoing power, for—

- (a) regulating the practice and procedure of the Board and of Local Committees;
- (b) prescribing the form of any applications, deeds, orders, appointments, affidavits, reports or other documents to be used in connection with this Ordinance;
- (c) fixing the limits of advances;
- (d) the keeping of accounts in connection with any matter or thing done under this Ordinance; and
- (e) fixing the remuneration of members of the Board and Local Committees, Temporary Supervisors and valuers.

(2) Until rules have been made under the authority of this section, the Board may issue directions upon any matter connected with the purposes or provisions of this Ordinance.

40. Any person who contravenes or fails to comply with any of the provisions of this Ordinance or of any rules made thereunder, or who fails to observe any of the conditions or restrictions subject to or upon which relief has been given under this Ordinance, shall be guilty of an offence against this Ordinance, and for every such offence for which no penalty is specially provided, the offender shall be liable on conviction to a fine not exceeding ten pounds and in default of payment of the fine shall be liable to imprisonment for a term not exceeding six months. Offences.

ORDINANCE No. XIX of 1936

Assented to in His Majesty's name this nineteenth day of November, 1936.

J. BYRNE,
Governor.

[19TH NOVEMBER, 1936.] Date of assent.

An Ordinance to make Provision for the Enforcement in the Colony of Judgments given in Foreign Countries which accord Reciprocal Treatment to Judgments given in the Colony, for Facilitating the Enforcement in Foreign Countries of Judgments given in the Colony and for Other Purposes in Connection with the Matters Aforesaid.

19th November, 1936.

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 Foreign Judgments (Reciprocal Enforcement) Ordinance, 1936. Short title.

2. (1) In this Ordinance, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say— Interpretation.

“appeal” includes any proceeding by way of discharging or setting aside a judgment or an application for a new trial or a stay of execution;

“country of the original court” means the country in which the original court is situated;

“judgment” means a judgment or order given or made by a court in any civil proceedings, or a judgment or order given or made by a court in any criminal proceedings for the payment of a sum of money in respect of compensation or damages to an injured party;

“judgment-creditor” means the person in whose favour the judgment was given and includes any person in whom the rights under the judgment have become vested by succession or assignment or otherwise;

“judgment-debtor” means the person against whom the judgment was given, and includes any person against whom the judgment is enforceable under the law of the original court;

"judgments given in the superior courts of the Colony" means judgments given in the Supreme Court, and includes judgments given in any courts on appeals against any judgments so given;

"original court" in relation to any judgment means the court by which the judgment was given;

"prescribed" means prescribed by Rules under this Ordinance;

"registration" means registration under Part I of this Ordinance, and the expressions "register" and "registered" shall be construed accordingly;

"registering court" in relation to any judgment means the court to which an application to register the judgment is made.

(2) For the purposes of this Ordinance, the expression "action in personam" shall not be deemed to include any matrimonial cause or any proceedings in connection with any of the following matters, that is to say, matrimonial matters, administration of the estates of deceased persons, bankruptcy, winding up of companies, lunacy, or guardianship of infants.

PART I.

REGISTRATION OF FOREIGN JUDGMENTS.

3. (1) The Governor, if he is satisfied that in the event of the benefits conferred by this Part of this Ordinance being extended to judgments given in superior courts of any foreign country substantial reciprocity of treatment will be assured as respects the enforcement in that foreign country of judgments given in the superior courts of the Colony, may by Proclamation direct—

(a) that this Part of this Ordinance shall extend to that foreign country; and

(b) that such courts of that foreign country as are specified in the Proclamation shall be deemed to be superior courts of that country for the purposes of this Part of this Ordinance.

(2) Any judgment of a superior court of a foreign country to which this Part of this Ordinance extends, other than a judgment of such a court given on appeal from a court which is not a superior court, shall be a judgment to which this Part of this Ordinance applies, if—

(a) it is final and conclusive as between the parties thereto; and

Power to extend Part I of Ordinance to foreign countries giving reciprocal treatment.

(b) there is payable thereunder a sum of money, not being a sum payable in respect of taxes or other charges of a like nature or in respect of a fine or other penalty; and

(c) it is given after the coming into operation of the Proclamation directing that this Part of this Ordinance shall extend to that foreign country.

(3) For the purposes of this section, a judgment shall be deemed to be final and conclusive notwithstanding that an appeal may be pending against it, or that it may still be subject to appeal, in the courts of the country of the original court.

(4) The Governor may, by a subsequent Proclamation, vary or revoke any Proclamation previously made under this section.

4. (1) A person, being a judgment-creditor under a judgment to which this Part of this Ordinance applies, may apply to the Supreme Court at any time within six years after the date of the judgment, or, where there have been proceedings by way of appeal against the judgment, after the date of the last judgment given in those proceedings, to have the judgment registered in the Supreme Court, and on any such application the court shall, subject to proof of the prescribed matters and to the other provisions of this Ordinance, order the judgment to be registered:

Application
for, and effect
of, registration
of foreign
judgment.

Provided that a judgment shall not be registered if at the date of the application—

(a) it has been wholly satisfied; or

(b) it could not be enforced by execution in the country of the original court.

(2) Subject to the provisions of this Ordinance with respect to the setting aside of registration—

(a) a registered judgment shall, for the purposes of execution, be of the same force and effect; and

(b) proceedings may be taken on a registered judgment; and

(c) the sum for which a judgment is registered shall carry interest; and

(d) the registering court shall have the same control over the execution of a registered judgment;

as if the judgment had been a judgment originally given in the registering court and entered on the date of registration:

Provided that execution shall not issue on the judgment so long as, under this Part of this Ordinance and the Rules made thereunder, it is competent for any party to make an application to have the registration of the judgment set aside, or, where such an application is made, until after the application has been finally determined.

(3) Where the sum payable under a judgment which is to be registered is expressed in a currency other than the currency of the Colony, the judgment shall be registered as if it were a judgment for such sum in the currency of the Colony as, on the basis of the rate of exchange prevailing at the date of the judgment of the original court, is equivalent to the sum so payable.

(4) If, at the date of the application for registration, the judgment of the original court has been partly satisfied, the judgment shall not be registered in respect of the whole sum payable under the judgment of the original court, but only in respect of the balance remaining payable at that date.

(5) If, on an application for the registration of a judgment, it appears to the registering court that the judgment is in respect of different matters and that some, but not all, of the provisions of the judgment are such that if those provisions had been contained in separate judgments those judgments could properly have been registered, the judgment may be registered in respect of the provisions aforesaid but not in respect of any other provisions contained therein.

(6) In addition to the sum of money payable under the judgment of the original court, including any interest which by the law of the country of the original court becomes due under the judgment up to the time of registration, the judgment shall be registered for the reasonable costs of and incidental to registration including the costs of obtaining a certified copy of the judgment from the original court.

Rules.

5. (1) The power to make Rules under section 83 of the Civil Procedure Ordinance, 1924, shall, subject to the provisions of this section, include power to make Rules for the following purposes—

- (a) for making provision with respect to the giving of security for costs by persons applying for the registration of judgments;
- (b) for prescribing the matters to be proved on an application for the registration of a judgment and for regulating the mode of proving those matters;

- (c) for providing for the service on the judgment-debtor of notice of the registration of a judgment;
- (d) for making provision with respect to the fixing of the period within which an application may be made to have the registration of the judgment set aside and with respect to the extension of the period so fixed;
- (e) for prescribing the method by which any question arising under this Ordinance whether a foreign judgment can be enforced by execution in the country of the original court, or what interest is payable under a foreign judgment under the law of the original court, is to be determined;
- (f) for prescribing any matter which under this Part of this Ordinance is to be prescribed.

(2) Rules made for the purposes of this Part of this Ordinance shall be expressed to have, and shall have, effect subject to any such provisions contained in Proclamations made under section 3 of this Ordinance as are declared by the said Proclamations to be necessary for giving effect to agreements made between His Majesty and foreign countries in relation to matters with respect to which there is power to make Rules for the purposes of this Part of this Ordinance.

6. (1) On an application in that behalf duly made by any party against whom a registered judgment may be enforced, the registration of the judgment—

- (a) shall be set aside if the registering court is satisfied—
 - (i) that the judgment is not a judgment to which this Part of this Ordinance applies or was registered in contravention of the foregoing provisions of this Ordinance; or
 - (ii) that the courts of the country of the original court had no jurisdiction in the circumstances of the case; or
 - (iii) that the judgment-debtor, being the defendant in the proceedings in the original court, did not (notwithstanding that process may have been duly served on him in accordance with the law of the country of the original court) receive notice of those proceedings in sufficient time to enable him to defend the proceedings and did not appear; or
 - (iv) that the judgment was obtained by fraud; or

Cases in which registered judgments must, or may, be set aside.

- (v) that the enforcement of the judgment would be contrary to public policy in the country of the registering court; or
 - (vi) that the rights under the judgment are not vested in the person by whom the application for registration was made;
- (b) may be set aside if the registering court is satisfied that the matter in dispute in the proceedings in the original court had previously to the date of the judgment in the original court been the subject of a final and conclusive judgment by a court having jurisdiction in the matter.
- (2) For the purposes of this section the courts of the country of the original court shall, subject to the provisions of sub-section (3) of this section, be deemed to have had jurisdiction—
- (a) in the case of a judgment given in an action in personam—
 - (i) if the judgment-debtor, being a defendant in the original court, submitted to the jurisdiction of that court by voluntarily appearing in the proceedings otherwise than for the purpose of protecting, or obtaining the release of, property seized, or threatened with seizure, in the proceedings or of contesting the jurisdiction of that court; or
 - (ii) if the judgment-debtor was plaintiff in, or counter-claimed in, the proceedings in the original court; or
 - (iii) if the judgment-debtor, being a defendant in the original court, had before the commencement of the proceedings agreed, in respect of the subject-matter of the proceedings, to submit to the jurisdiction of that court or of the courts of the country of that court; or
 - (iv) if the judgment-debtor, being a defendant in the original court, was at the time when the proceedings were instituted resident in, or being a body corporate had its principal place of business in, the country of that court; or
 - (v) if the judgment-debtor, being a defendant in the original court, had an office or place of business in the country of that court and the

proceedings in that court were in respect of a transaction effected through or at that office or place;

- (b) in the case of a judgment given in an action of which the subject-matter was immovable property or in an action *in rem* of which the subject-matter was movable property, if the property in question was at the time of the proceedings in the original court situate in the country of that court;
- (c) in the case of a judgment given in an action other than any such action as is mentioned in paragraph (a) or paragraph (b) of this sub-section, if the jurisdiction of the original court is recognized by the law of the registering court.

(3) Notwithstanding anything in sub-section (2) of this section contained, the courts of the country of the original court shall not be deemed to have had jurisdiction—

- (a) if the subject-matter of the proceedings was immovable property outside the country of the original court; or
- (b) except in the cases mentioned in sub-paragraphs (i), (ii) and (iii) of paragraph (a) and in paragraph (c) of sub-section (2) of this section, if the bringing of the proceedings in the original court was contrary to an agreement under which the dispute in question was to be settled otherwise than by proceedings in the courts of the country of that court; or
- (c) if the judgment-debtor, being a defendant in the original proceedings, was a person who under the rules of public international law was entitled to immunity from the jurisdiction of the courts of the country of the original court and did not submit to the jurisdiction of that court.

7. (1) If, on an application to set aside the registration of a judgment, the applicant satisfies the registering court either that an appeal is pending, or that he is entitled and intends to appeal, against the judgment, the court, if it thinks fit, may, on such terms as it may think just, either set aside the registration or adjourn the application to set aside the registration until after the expiration of such period as appears to the court to be reasonably sufficient to enable the applicant to take the necessary steps to have the appeal disposed of by the competent tribunal.

Powers of registering court on application to set aside registration.

(2) Where the registration of a judgment is set aside under the last foregoing sub-section, or solely for the reason that the judgment was not at the date of the application for registration enforceable by execution in the country of the original court, the setting aside of the registration shall not prejudice a further application to register the judgment when the appeal has been disposed of or if and when the judgment becomes enforceable by execution in that country, as the case may be.

(3) Where the registration of a judgment is set aside solely for the reason that the judgment, notwithstanding that it had at the date of the application for registration being partly satisfied, was registered for the whole sum payable thereunder, the registering court shall, on the application of the judgment-creditor, order judgment to be registered for the balance remaining payable at that date.

Foreign judgments which can be registered not to be enforceable otherwise.

8. No proceedings for the recovery of a sum payable under a foreign judgment, being a judgment to which this Part of this Ordinance applies, other than proceedings by way of registration of the judgment, shall be entertained by any court in the Colony.

Power to apply Part I of Ordinance to British dominions, protectorates and mandated territories.

9. (1) The Governor may by Proclamation direct that this Part of this Ordinance shall apply to His Majesty's dominions outside the Colony and to judgments obtained in the courts of the said dominions as it applies to foreign countries and judgments obtained in the courts of foreign countries, and, in the event of the Governor so directing, this Ordinance shall have effect accordingly and Part I of the Extension and Reciprocal Enforcement of Judgments Ordinance shall cease to have effect except in relation to those parts of the said dominions to which it extends at the date of the Proclamation.

Cap. 16.

(2) If at any time after the Governor has directed as aforesaid a Proclamation is made under section 3 of this Ordinance extending Part I of this Ordinance to any part of His Majesty's dominions outside the Colony to which the said Part I of the Extension and Reciprocal Enforcement of Judgments Ordinance extends as aforesaid, the said Part I of the Extension and Reciprocal Enforcement of Judgments Ordinance shall cease to have effect in relation to that part of His Majesty's dominions except as regards judgments obtained before the date of the Proclamation.

Cap. 16.

(3) References in this section to His Majesty's dominions outside the Colony shall be construed as including references to any British protectorate or protected state and to any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty.

PART II.

MISCELLANEOUS AND GENERAL.

10. (1) Subject to the provisions of this section, a judgment to which Part I of this Ordinance applies or would have applied if a sum of money had been payable thereunder, whether it can be registered or not, and whether, if it can be registered, it is registered or not, shall be recognized in any court in the Colony as conclusive between the parties thereto in all proceedings founded on the same cause of action and may be relied on by way of defence or counter-claim in any such proceedings.

General effect
of certain
foreign
judgments.

(2) This section shall not apply in the case of any judgment—

(a) where the judgment has been registered and the registration thereof has been set aside on some ground other than—

(i) that a sum of money was not payable under the judgment; or

(ii) that the judgment had been wholly or partly satisfied; or

(iii) that at the date of the application the judgment could not be enforced by execution in the country of the original court; or

(b) where the judgment has not been registered, it is shown (whether it could have been registered or not) that if it had been registered the registration thereof would have been set aside on an application for that purpose on some ground other than one of the grounds specified in paragraph (a) of this sub-section.

(3) Nothing in this section shall be taken to prevent any court in the Colony recognizing any judgment as conclusive of any matter of law or fact decided therein if that judgment would have been so recognized before the commencement of this Ordinance.

No. XIX*Foreign Judgments (Reciprocal Enforcement) 1936*

Power to make
foreign
judgments
unenforceable
in the Colony
if no
reciprocity.

11. (1) If it appears to the Governor that the treatment in respect of recognition and enforcement accorded by the courts of any foreign country to judgments given in the superior courts of the Colony is substantially less favourable than that accorded by the courts of the Colony to judgments of the superior courts of that country, the Governor may by Proclamation apply this section to that country.

(2) Except in so far as the Governor may by Proclamation under this section otherwise direct, no proceedings shall be entertained in any court in the Colony for the recovery of any sum alleged to be payable under a judgment given in a court of a country to which this section applies.

(3) The Governor may, by a subsequent Proclamation, vary or revoke any Proclamation previously made under this section.

Issue of
certificates
of judgments
obtained in
the Colony.

12. Where a judgment under which a sum of money is payable, not being a sum payable in respect of taxes or other charges of a like nature or in respect of a fine or other penalty, has been entered in the Supreme Court against any person and the judgment-creditor is desirous of enforcing the judgment in a country or territory to which Part I of this Ordinance applies, the court shall, on an application made by the judgment-creditor and on payment of such fee as may be prescribed for the purposes of this section issue to the judgment-creditor a certified copy of the judgment, together with a certificate containing such particulars with respect to the action, including the causes of action, and the rate of interest, if any, payable on the sum payable under the judgment, as may be prescribed :

Provided that, where execution of a judgment is stayed for any period pending an appeal or for any other reason, an application shall not be made under this section with respect to the judgment until the expiration of that period.

ORDINANCE No. XX of 1936

Assented to in His Majesty's name this nineteenth day of November, 1936.

J. BYRNE,
Governor.

[19TH NOVEMBER, 1936.] Date of assent.

An Ordinance to Amend the Police Ordinance, 1930.

19th November, 1936.

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 Police (Amendment) Ordinance, 1936, and shall be read as one with the Police Ordinance, 1930, hereinafter referred to as the Principal Ordinance.

Short title.
No. 64 of 1930.

2. Sub-section (1) of section 37 of the Principal Ordinance, as amended by the Police (Amendment) Ordinance, 1934, is hereby repealed and the following sub-section is substituted therefor :—

Amendment of section 37 of the Principal Ordinance.
No. 44 of 1934.

“(1) Any magistrate, justice of the peace or police officer of or above the rank of assistant sub-inspector may take or cause to be taken in his presence, for the purposes of record and identification, finger prints of any person in lawful custody. The Governor may by notice specify the form upon which such finger prints shall be taken, and the magistrate, justice of the peace, or police officer as aforesaid who takes or causes to be taken such finger prints shall certify on such form that such finger prints have been taken by him or caused to be taken in his presence as the case may be in accordance with the directions contained in such form and that the particulars entered on such form are to the best of his knowledge and belief accurate and true :

- see form
S.N. 796/36
L. 369.

Provided that if the finger prints are taken of a person who has not previously been convicted of crime, and such person is discharged or acquitted by a court, all such finger prints and the photographs, if any, both negatives and copies, of such finger prints shall be forthwith destroyed or handed over to such person.”

ORDINANCE No. XXI of 1936

Assented to in His Majesty's name this nineteenth day of November, 1936.

J. BYRNE,
Governor.

Date of assent. [19TH NOVEMBER, 1936.]

An Ordinance to Provide for the Supply of a further Sum of Money for the Service of the Year ended the 31st day of December, 1935.

Date of commencement 19th November, 1936.

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 1935 Supplementary Appropriation Ordinance, 1936.

Public Revenue charged. 2. The public revenue for the period 1st January to 31st December, 1935, and other funds of the Colony and Protectorate of Kenya are hereby charged towards the service of the period 1st January to 31st December, 1935, with a further sum of eighty-one thousand seven hundred and ninety-four pounds one shilling and sixty-two cents in addition to the sums provided by the 1935 Appropriation Ordinance, 1934.

No. 60 of 1934. 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 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 eighty-one thousand seven hundred and ninety-four pounds one shilling and sixty-two cents, which have come in course of payment during the period 1st January to 31st December, 1935.

SCHEDULE.

No. of Head.	£	sh.	cts.
I. His Excellency the Governor	310	4	33
IIa. Administration Extraordinary	1,695	18	61
IIIa. Agricultural Department Extraordinary	142	17	69

SCHEDULE—Contd.

No. of Head.		£	sh.	cts.
V.	Coast Agency	13	19	63
VIIIa.	Education Department Extraordinary	35	3	82
XIVa.	Legal Department Extraordinary	55	13	50
XVII.	Medical Department	3,634	2	95
XVIIa.	Medical Department Extraordinary	500	7	00
XVIIIa.	Military Extraordinary	114	6	00
XIXa.	Mining and Geological Department Extraordinary	210	0	00
XXa.	Miscellaneous Services Extraordinary	35,582	12	64
XXIIa.	Police Extraordinary	2,173	10	25
XXIII.	Post Office and Telegraphs	705	2	05
XXIIIa.	Post Office and Telegraphs Extraordinary	671	14	33
XXXI.	Secretariat, Legislative Council and Native Affairs	428	18	76
XXXV.	Public Works Extraordinary	6,343	11	08
XXXVI.	Colonial Development Fund	13,705	14	63
XXXVII.	Parliamentary Grant	15,470	4	35
TOTAL ...		£81,794	1	62

ORDINANCE No. XXII of 1936

Assented to in His Majesty's name this nineteenth day of November, 1936.

J. BYRNE,
Governor.

Date of assent. [19TH NOVEMBER, 1936.]

An Ordinance to make Special Provision in regard to the Pension of George Brentnall Hebden.

Date of commencement *19th November, 1936.*

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 Hebden Pension Ordinance, 1936.

Pensionability of service of G. B. Hebden from the 14th May, 1936, to the 22nd July, 1936. No. 11 of 1927. **2.** Notwithstanding the proviso to Regulation 11 of the European Officers' Pensions (Consolidation) Regulations, 1930, the service of George Brentnall Hebden from the 14th day of May, 1936, to the 22nd day of July, 1936, both days inclusive, shall be deemed to be pensionable service for the purposes of the European Officers' Pensions Ordinance, 1927, as if during that period he were the substantive holder of the office of Post-master General, and shall count for pension and gratuity under the said Ordinance.

ORDINANCE No. XXIII of 1936

Assented to in His Majesty's name this nineteenth day of November, 1936.

J. BYRNE,
Governor.

[19TH NOVEMBER, 1936.] Date of assent.

An Ordinance to Alter the Time within the Colony and Protectorate of Kenya.

Midnight, 31st December, 1936.

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 Alteration of Time Ordinance, 1936. Short title.
2. At and after midnight on the thirty-first day of December, 1936, time within the Colony and Protectorate shall be deemed to be and shall be two and three-quarter hours fast on Greenwich mean time. Alteration of local time.
3. The Alteration of Time (Repeal) Ordinance, 1929, is hereby repealed. Repeal.
No. 37 of 1929.

ORDINANCE No. XXIV of 1936

Assented to in His Majesty's name this nineteenth day
of November, 1936.

J. BYRNE,
Governor.

Date of assent. [19TH NOVEMBER, 1936.]

**An Ordinance to Amend the Nursing Sisters
(Retiring Allowances) Ordinance, 1931.**

Date of commencement *19th November, 1936.*

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

Short title. 1. This Ordinance may be cited as the Nursing Sisters
(Retiring Allowances) (Amendment) Ordinance, 1936, and shall
be read as one with the Nursing Sisters (Retiring Allowances)
No. 21 of 1931. Ordinance, 1931, 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 re-
pealed and the following section is substituted therefor :—

Conditions of grant of allowance. “ 4. Where it is established to the satisfaction of
the Governor in Council that a nursing sister has been
guilty of negligence, irregularity or misconduct, the retir-
ing allowance may, with the approval of the Secretary of
State, be reduced or altogether withheld.”

ORDINANCE No. XXV of 1936

Assented to in His Majesty's name this nineteenth day
of November, 1936.

J. BYRNE,
Governor.

[19TH NOVEMBER, 1936.] Date of assent.

**An Ordinance to Amend the Juveniles
Ordinance, 1934.**

19th November, 1936.

Date of
commencement

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

1. This Ordinance may be cited as the Juveniles (Amend- Short title.
ment) Ordinance, 1936, and shall be read as one with the
Juveniles Ordinance, 1934, hereinafter referred to as the Prin- No. 22 of 1934.
cipal Ordinance.

2. The Principal Ordinance is hereby amended by insert- Amendment of
ing therein, between section 35 and section 36 thereof, the the Principal
following new section:— Ordinance.

“35A. Where a person detained in a Class II or Class Power to
III Approved School is fourteen years of age or upwards commute
and is reported to the Governor by the Chief Inspector sentence of
of Approved Schools to be incorrigible, or to be exercising juvenile to
a bad influence on the other inmates of the school, the sentence of
Governor may commute the whole or part of the unexpired imprisonment.
portion of his sentence to a sentence of imprisonment.”

ORDINANCE No. XXVI of 1936

Assented to in His Majesty's name this nineteenth day
of November, 1936.

J. BYRNE,
Governor.

Date of assent. [19TH NOVEMBER, 1936.]

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

Date of commencement *19th November, 1936.*

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

Short title. **1.** This Ordinance may be cited as the European Officers'
Pensions (Amendment) Ordinance, 1936, and shall be read as

No. 11 of 1927. one with the European Officers' Pensions Ordinance, 1927,
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 as follows—

(a) by deleting sub-section (2) thereof; and

(b) by renumbering sub-section (3) thereof as sub-section
(2).

ORDINANCE No. XXVII of 1936

Assented to in His Majesty's name this nineteenth day of November, 1936.

J. BYRNE,

Governor.

[19TH NOVEMBER, 1936.] Date of assent.

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

19th November, 1936.

Date of commencement

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

- | | |
|--|--|
| <p>1. This Ordinance may be cited as the non-European Officers' Pensions (Amendment) Ordinance, 1936.</p> | <p>Short title.</p> |
| <p>2. Section 5 of the non-European Officers' Pensions Ordinance, 1932, is hereby amended as follows :—</p> <p>(a) by the deletion of sub-section (2);</p> <p>(b) by the deletion from the last two lines of sub-section (3) of the following expression—</p> <p style="padding-left: 40px;">“with the approval of the Secretary of State,”</p> <p style="padding-left: 40px;">and of the comma preceding that expression; and</p> <p>(c) by the renumbering of sub-section (3) as sub-section (2).</p> | <p>Amendment of section 5 of Ordinance No. 53 of 1932.</p> |

ORDINANCE No. XXVIII of 1936

Assented to in His Majesty's name this nineteenth day
of November, 1936.

J. BYRNE,
Governor.

Date of assent. [19TH NOVEMBER, 1936.]

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

Date of commencement *19th November, 1936.*

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

Short title. **1.** This Ordinance may be cited as the Local Government
(Municipalities) (Amendment) Ordinance, 1936, and shall be
read as one with the Local Government (Municipalities) Ordin-
ance, 1928, hereinafter referred to as the Principal Ordinance.

No. 19 of 1928.

Amendment of section 69 of the Principal Ordinance. **2.** Section 69 of the Principal Ordinance is hereby
amended by the addition after sub-section (42) of the following
sub-section :—

“(42)A. For fixing starting places for motor vehicles
carrying for hire or reward passengers departing to or
arriving from any place outside the limits of the munici-
pality and for prescribing the routes along which such
vehicles may travel.”

ORDINANCE No. XXIX of 1936

Assented to in His Majesty's name this nineteenth day of November, 1936.

J. BYRNE,
Governor.

[19TH NOVEMBER, 1936.] Date of assent.

An Ordinance to Establish a Savings Bank.

1st January, 1937.

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 Savings Bank Ordinance, 1936, and shall come into operation on the first day of January, 1937. Short title and commencement.
2. In this Ordinance, unless the context otherwise requires, "revenue" of the Savings Bank does not include moneys received on deposit. Interpretation.
3. The Savings Bank established by the Post Office Savings Bank Ordinance and subsisting at the time when this Ordinance comes into operation shall be deemed to be constituted and appointed under this Ordinance. Appointment of Savings Bank.
Cap. 95.
4. Subject to the provisions of section 12 of this Ordinance the Savings Bank shall be under the management and control of the Postmaster General who may, subject to the provisions of this Ordinance and any rules made thereunder, take such steps as may be desirable for the encouragement of thrift, for the proper management of the Savings Bank, and otherwise for the promotion of the objects and purposes of this Ordinance. Savings Bank to be under control of Postmaster General.
5. The Postmaster General may, with the approval of the Governor, open branch savings banks at any ~~post office~~ ^{Post Office} in the Colony and may, with the like approval, close any branch savings bank. Establishment and closure of branch savings banks.
6. The Postmaster General may, with the approval of the Governor, engage such officers as may be necessary for the execution of this Ordinance, and for that purpose may employ for part of their time officers in the service of the Colony. Employment of officers.

Deposits and repayments.

7. Deposits of money to be paid into the Savings Bank shall be received and repaid under such conditions as may be prescribed.

Security of Government.

8. The repayment of all moneys deposited in the Savings Bank together with interest thereon is guaranteed by the Government of the Colony, and accordingly if at any time or times the assets of the Savings Bank shall be insufficient to pay the lawful claims of every depositor, the Governor shall cause such deficiency to be met out of the general revenues of the Colony, and the Treasurer shall certify such deficiency to the Legislative Council without delay.

Interest.

9. (1) Interest shall be payable on deposits at the rate of two and a half per centum per annum, or at such other rate as may be fixed from time to time by the Governor in Council with prior approval of the Secretary of State :

Provided that not less than three months notice of any change of rate shall be given in the Gazette.

(2) Such interest shall not be payable on any amount less than twenty shillings or on any fraction of twenty shillings and shall not commence to accrue until the first day of the month next following the day of deposit, and shall cease in respect of any part of a deposit on the last day of the month preceding that in which such part of the deposit shall be withdrawn.

(3) Interest on deposits shall, subject to the provisions of sub-section (2) of this section, be calculated to the thirty-first day of December in every year and shall then be added to and become part of any principal money remaining on deposit.

On request of depositor provisions relating to payment of interest not to apply to his deposits.

10. Whenever any depositor shall make a declaration in such form as may be prescribed, that he does not desire to receive interest on the money deposited by him, then in such case the provisions of this Ordinance in so far as they relate to the payment of interest on money deposited shall not apply to such depositor or to any moneys deposited by him, and such depositor shall not be entitled to and shall not receive any interest on any moneys deposited by him :

Withdrawal of request.

Provided, however, that if any such depositor shall at any time withdraw such declaration in such manner as may be prescribed, then the provisions of this Ordinance relating to the payment of interest upon money deposited shall thereafter

apply to such depositor and to the money of the depositor then in the Savings Bank or thereafter deposited by him in such Bank, but so that interest on the money of the depositor in the said bank at the time of such withdrawal shall not commence until the first day of the calendar month next following the day of such withdrawal of the aforesaid declaration.

11. (1) All expenses incurred in the execution of this Ordinance shall be met from the moneys in the Savings Bank.

Salaries and expenses.

(2) For the purposes of this Ordinance expenses shall mean the cost of any work or service done by or in connection with the Savings Bank, including such sum on account of administrative and other overhead expenses as may, with the approval of the Governor, be reasonably assigned to that work or service.

12. (1) Subject to the provisions of this Ordinance moneys in the Savings Bank shall not be applied in any way to the purposes of the Colony but, except so far as any sums may be prescribed to be kept in hand for the general purposes of the Savings Bank, shall be deposited in the Treasury of the Colony, and shall, as far as practicable, be invested on behalf of the Savings Bank, under the direction of the Treasurer, in such securities or be employed at interest in such manner as shall be approved from time to time by the Governor in Council, or, in the case of moneys remitted to London for investment, by the Secretary of State, and any such investment may at any time be changed into other like securities :

Disposal of moneys.

Provided that not more than one-third of such moneys shall at any time be or remain invested in securities of the Government of the Colony.

(2) Any sums of money that may from time to time be required for the repayment of any deposit or deposits under the authority of this Ordinance, or for the payment of interest thereon or expenses incurred in the execution of this Ordinance, may be raised by the sale of the whole or a part of such securities :

Provided that any sums of money which may be required for the purposes aforesaid may, with the approval of the Governor, be advanced to the Savings Bank by the Treasurer out of the general revenues of the Colony until they can be raised by the sale of such securities and such advances shall bear interest at the rate from time to time payable to depositors.

Accounts.

13. Annual accounts of the revenue and expenditure of the Savings Bank and of deposits received and repaid and interest credited to depositors during the year ended on the thirty-first day of December, together with a statement of the assets and liabilities of the Savings Bank, shall, after being audited and certified by the Government Auditor, be laid by the Treasurer before the Legislative Council as soon as possible after the close of each year and shall thereafter without delay be published in the Gazette and submitted to the Secretary of State.

Surpluses and deficits.

14. (1) If in any year the revenue of the Savings Bank shall be insufficient to defray the interest due to depositors and all expenses under this Ordinance, such deficiency shall be met out of the general revenues of the Colony.

(2) If in any year the revenue of the Savings Bank shall be more than sufficient to defray the interest due to depositors and all expenses under this Ordinance, then the Governor may direct the transfer of the surplus or any portion thereof to the general revenues of the Colony :

Provided that no such transfer shall be made unless the assets of the Savings Bank will thereafter exceed the liabilities by not less than fifteen per centum of the liabilities to depositors.

(3) If on the thirty-first day of December in any year the assets of the Savings Bank exceed the liabilities by more than fifteen per centum of the liabilities to depositors then the Governor, with the prior consent of the Secretary of State, may direct that the surplus over fifteen per centum or any portion thereof shall be transferred to the general revenues of the Colony.

Power to make rules.

15. (1) The Governor in Council may make rules for the management and regulation of the Savings Bank.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may—

- (a) prescribe limits of deposits;
- (b) prescribe the modes of making deposits;
- (c) prescribe the modes of withdrawing deposits and interest;
- (d) prescribe the times at which deposit books shall be returned to the Savings Bank by depositors;

- (e) regulate deposits by minors, guardians, trustees, married women, friendly societies, charitable bodies, or any other bodies of persons of whatsoever description;
- (f) prescribe conditions for the withdrawal of moneys by minors, guardians, trustees, married women, friendly societies, charitable bodies, or any other bodies of persons of whatsoever description;
- (g) prescribe the modes of dealing with the deposits of deceased, or insane, or otherwise incapacitated, persons;
- (h) prescribe penalties, not exceeding a fine of one hundred pounds for the breach of any such rule;
- (i) provide for the forfeiture of deposits made in wilful contravention of this Ordinance.

16. (1) The Governor in Council may authorize the Postmaster General to enter into an arrangement with the Post Office Savings Bank of the United Kingdom of Great Britain and Northern Ireland or with the Government Savings Bank of any British Dominion, Colony, Protected State or Protectorate, or any territory in respect of which a mandate on behalf of the League of Nations is being exercised by His Majesty, or any foreign country, for the transfer of any sums standing to the credit of depositors from such Savings Banks to the Savings Banks established under this Ordinance, and vice versa, and may prescribe conditions for such transfer.

Transfer of
accounts.

(2) All arrangements entered into by the Postmaster General under the authority of the Ordinance, repealed by this Ordinance, for the transfer of any sums standing to the credit of depositors in the Colony to Savings Banks in other countries, and for the transfer of any sums from such Savings Banks to the credit of depositors in the Savings Bank in the Colony, and which are in force on the coming into operation of this Ordinance, shall be deemed to have been entered into in pursuance of the provisions of sub-section (1) of this section.

17. (1) No person appointed to carry this Ordinance into effect shall disclose the name of any depositor or the amount which may have been deposited or withdrawn by any depositor except in due course of law, or to such person or persons as may be appointed to assist in carrying this Ordinance into operation.

Names of
depositors,
etc., not to be
disclosed.

(2) Any person contravening the provisions of this section shall on summary conviction be liable to a fine not exceeding one hundred pounds.

Settlement
of disputes.

18. If any dispute shall arise between the Postmaster General or the officer managing and controlling any branch savings bank and any individual depositor therein, or any executor, administrator, next-of-kin of a depositor, or any creditor or assignee of a depositor who may become bankrupt or insolvent, or any person claiming to be such executor, administrator, next-of-kin, creditor or assignee, or to be entitled to any money deposited in such Savings Bank, then, and in every such case, the matter in dispute shall be referred to an arbitrator to be appointed by the Governor, and whatever award, order or determination may be made by such arbitrator shall be binding and conclusive on all parties and shall be final to all intents and purposes without any appeal.

Non-liability
of Govern-
ment.

19. When any payment is made or act done by the Postmaster General or any person acting under his authority in accordance with this Ordinance and the rules for the time being made thereunder, the Government of the Colony, the Postmaster General and such person shall not be liable in respect of any claim on the part of any person in connection with such payment or act, but any person may nevertheless recover any sum lawfully due to him from the person to whom the Postmaster General has paid the same.

Repeal.
Cap. 95.

20. The Post Office Savings Bank Ordinance is hereby repealed.

ORDINANCE No. XXX of 1936

Assented to in His Majesty's name this nineteenth day of November, 1936.

J. BYRNE,
Governor.

[19TH NOVEMBER, 1936.] Date of assent.

An Ordinance to Amend the Indian Evidence Act, 1872, as Applied to the Colony.

19th November, 1936.

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 Evidence Act (Amendment) Ordinance, 1936, and shall be read as one with the Indian Evidence Act, 1872, as applied to the Colony, hereinafter referred to as the Principal Act. Short title.

2. Section 105 of the Principal Act is hereby repealed and the following is substituted therefor :— Repeal and replacement of section 105 of the Principal Act.

“105. (1) When a person is accused of any offence, the burden of proving the existence of circumstances bringing the case within any exception or exemption from, or qualification to, the operation of the law creating the offence with which he is charged and the burden of proving any fact especially within the knowledge of such person is upon him : Extent of burden of proof on accused person in certain cases.

Provided that such burden shall be deemed to be discharged if the court is satisfied by evidence given by the prosecution, whether in cross-examination or otherwise, that such circumstances or facts exist ; and

Provided further that the person accused shall be entitled to be acquitted of the offence with which he is charged if the court is satisfied that the evidence given by either the prosecution or the defence creates a reasonable doubt as to the guilt of the accused person in respect of that offence.

(2) Nothing in this section shall—

(a) prejudice or diminish in any respect the obligation to establish by evidence according to law

any acts, omissions, or intentions which are legally necessary to constitute the offence with which the person accused is charged; or

- (b) impose on the prosecution the burden of proving that the circumstances or facts described in subsection (1) of this section do not exist; or
- (c) affect the burden placed upon an accused person to prove a defence of intoxication or insanity."

Repeal and replacement of section 106 of the Principal Act.

Burden of proving fact especially within knowledge in civil proceedings.

3. Section 106 of the Principal Act is hereby repealed and the following is substituted therefor:—

"106. In civil proceedings, when any fact is especially within the knowledge of any person, the burden of proving that fact is upon him."

ORDINANCE No. XXXI of 1936

Assented to in His Majesty's name this nineteenth day of November, 1936.

J. BYRNE,
Governor.

[19TH NOVEMBER, 1936.] Date of assent.

An Ordinance to Amend the Penal Code.

19th November, 1936.

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 Penal Code (Amendment) Ordinance, 1936, and shall be read as one with the Penal Code, hereinafter referred to as the Principal Ordinance. Short title.
No. 10 of 1930.
2. The Principal Ordinance is hereby amended by inserting therein, immediately after section 33 thereof, the following new section as section 33A :— Amendment of
the Principal
Ordinance.

“33A. The provisions of sections 126, 127, 129 and 327 of the Criminal Procedure Code shall apply *mutatis mutandis* to recognisances taken under section 32 or section 33 of this Code.” No. 11 of 1930.
3. Sub-section (1) of section 130 of the Principal Ordinance is hereby amended by inserting therein, between the word “any” and the word “person” which occur in the fifth line thereof, the word “other”. Amendment of
section 130 (1)
of the
Principal
Ordinance.
4. Section 190 of the Principal Ordinance is hereby repealed. Repeal of
section 190 of
the Principal
Ordinance.
5. Section 331 of the Principal Ordinance is hereby amended by inserting between the word “him” and the word “purchasefs” which occur in the second line thereof, the words “imports into the Colony, or”. Amendment of
section 331 of
the Principal
Ordinance.
6. The Principal Ordinance is hereby amended by inserting therein, immediately after section 338 thereof, the following new section as section 338A :— Amendment of
the Principal
Ordinance.

Making or having in possession paper or implements for forgery.

“338A. Any person who, without lawful authority or excuse, the proof of which lies on him—

- (a) makes, uses, or knowingly has in his custody or possession any paper intended to resemble and pass as a special paper such as is provided and used for making any bank note or currency note ;
- (b) makes, uses, or knowingly has in his custody or possession, any frame, mould, or instrument for making such paper, or for producing in or on such paper any words, figures, letters, marks, lines or devices peculiar to and used in or on any such paper ;
- (c) engraves or in anywise makes upon any plate, wood, stone, or other material, any words, figures, letters, marks, lines, or devices, the print whereof resembles in whole or in part any words, figures, letters, marks, lines, or devices peculiar to and used in or on any bank note or currency note ;
- (d) uses or knowingly has in his custody or possession any plate, wood, stone, or other material, upon which any such words, figures, letters, marks, lines or devices have been engraved or in anywise made as aforesaid ;
- (e) uses or knowingly has in his custody or possession any paper upon which any such words, figures, letters, marks, lines or devices have been printed or in anywise made as aforesaid,

is guilty of a felony and is liable to imprisonment for seven years.”

Amendment of section 342 of the Principal Ordinance.

7. Section 342 of the Principal Ordinance is hereby amended by deleting therefrom sub-section (3) thereof, and substituting therefor the following—

“(3) receives, obtains, or has in his possession any counterfeit coin, knowing it to be counterfeit, with intent to utter it.”

Amendment of section 345 of the Principal Ordinance.

8. Section 345 of the Principal Ordinance is hereby amended by substituting the word “shall” for the word “may” which occurs in the second line thereof.

ORDINANCE No. XXXII of 1936

Assented to in His Majesty's name this nineteenth day of November, 1936.

J. BYRNE,
Governor.

[19TH NOVEMBER, 1936.] Date of assent.

An Ordinance to Provide for the Protection in the Colony of Designs Registered in the United Kingdom.

19th November, 1936.

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 United Kingdom Designs (Protection) Ordinance, 1936. Short title.

2. Subject to the provisions of this Ordinance, the registered proprietor of any design registered in the United Kingdom under the Patents and Designs Acts 1907 to 1932 or any Act amending or substituted for those Acts shall enjoy in the Colony the like privileges and rights as though the Certificate of Registration in the United Kingdom had been issued with an extension to the Colony. Rights in the Colony of proprietor of design registered in United Kingdom.

3. The registered proprietor of a design shall not be entitled to recover any damages in respect of any infringement of copyright in a design from any defendant who proves that at the date of the infringement he was not aware nor had any reasonable means of making himself aware of the existence of the registration of the design : Innocent infringer not liable for damages.

Provided that nothing in this section shall affect any proceedings for an injunction. Injunction.

4. The court shall have power, upon the application of any person who alleges that his interests have been prejudicially affected, to declare upon any of the grounds upon which the United Kingdom registration might be cancelled under the law for the time being in force in the United Kingdom that exclusive privileges and rights in a design have not been acquired in the Colony under the provisions of this Ordinance. Grounds upon which court may declare that rights have not been acquired in the Colony.

Such grounds shall be deemed to include the publication of the design in the Colony prior to the date of registration of the design in the United Kingdom.

5. The Registration of Designs Ordinance, 1933, is hereby repealed. Repeal. No. 57 of 1933

ORDINANCE No. XXXIII of 1936

Assented to in His Majesty's name this third day of December, 1936.

J. BYRNE,
Governor.

[3RD DECEMBER, 1936.] Date of assent.

An Ordinance to Authorize the Police of Adjoining British Territories to Pursue within the Colony Offenders Fugitive from such Territories.

3rd December, 1936

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 Fugitive Offenders (Pursuit) Ordinance, 1936. Short title.

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

“adjoining territory” means the Tanganyika Territory and the Uganda Protectorate;

“offence” means an offence for which surrender to an adjoining territory can be made under the Act;

“offender” means a person who has committed, or is reasonably suspected of having committed, an offence in an adjoining territory;

“the Act” means Part II of the Fugitive Offenders Act, 1881; 44 and 45
Vict. c. 69.

“police of an adjoining territory” means any uniformed member of the police force established by law in the adjoining territory and any person having powers of arrest derived from a tribal or other native authority in such adjoining territory and wearing a uniform, badge or other mark rendering him easily recognizable as an officer of such authority.

3. The Governor in Council, if satisfied that reciprocal arrangements have been made by an adjoining territory where- Right of
pursuit.
by the police of the Colony may enter such adjoining territory in pursuit of a person who has committed, or is reasonably

suspected of having committed, an offence in the Colony, may, by order, define the area in the Colony into which the police of such adjoining territory may enter when in pursuit of an offender and within which they may pursue and arrest such offender.

Arrested
offender to be
delivered to
police and
subsequent
procedure.

4. (1) If, in exercise of powers conferred on them under this Ordinance, the police of an adjoining territory arrest an offender in the Colony, such police shall forthwith deliver the offender to the police of the Colony, who shall, as soon as possible after such delivery to him, bring the offender before a magistrate with a view to his being surrendered to the adjoining territory concerned.

(2) Such magistrate may order the offender so arrested to be detained in custody and for the same period as if such offender had been apprehended in pursuance of a provisional warrant issued under the provisions of section 16 of the Act.

(3) The proceedings for the surrender of such an offender shall be those prescribed by the Act.

Powers of
arrest not
enlarged.

5. Nothing in this Ordinance shall confer on the police of an adjoining territory power to arrest persons who under the law of that territory would not be amenable to arrest in that territory by such police.

ORDINANCE No. XXXIV of 1936

Assented to in His Majesty's name this third day of
December, 1936.

J. BYRNE,
Governor.

[3RD DECEMBER, 1936.] Date of assent.

**An Ordinance to Amend the Coffee Industry
Ordinance, 1934.**

3rd December, 1936

Date of com-
mencement.

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

1. This Ordinance may be cited as the Coffee Industry (Amendment No. 2) Ordinance, 1936, and shall be read as one with the Coffee Industry Ordinance, 1934, hereinafter referred to as the Principal Ordinance.

Short title.
No. 54 of 1934.

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

Amendment of
section 2
of the
Principal
Ordinance.

" 'buni' means coffee dried and exported in the fruit or cherry but does not include hulled buni ;"

3. Sub-section (2) of section 9 of the Principal Ordinance is hereby amended by adding thereto at the end thereof the following proviso :—

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

"Provided that no such fee shall be payable in respect of an experimental coffee plantation not exceeding one acre in extent which has been approved by the Director in consultation with the Board as a bona fide experimental coffee plantation."

ORDINANCE No. XXXV of 1936

Assented to in His Majesty's name this third day of
December, 1936.

J. BYRNE,
Governor.

Date of assent. [3RD DECEMBER, 1936.]

**An Ordinance to Amend the Employment of
Women, Young Persons and Children Ordin-
ance, 1933.**

Date of com- *3rd December, 1936*
mencement.

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 Employment of
Women, Young Persons and Children (Amendment) Ordin-
ance, 1936, and shall be read as one with the Employment
No. 14 of 1933. of Women, Young Persons and Children Ordinance, 1933,
hereinafter referred to as the Principal Ordinance.

Amendment of **2.** Section 2 of the Principal Ordinance is hereby
section 2 of the amended by inserting therein immediately after the definition
of the Principal of "industrial undertaking" the following new definition :—
Ordinance. " 'mine' includes any undertaking, whether public
or private, for the extraction of any substance from under
the surface of the earth ;"

Amendment of **3.** The Principal Ordinance is hereby amended by
Principal adding thereto immediately after section 5 thereof the follow-
Ordinance. ing new section :—

Restriction on **"5A. (1) No woman shall be employed on under-
the employ- ground work in any mine except in the following circum-
ment of women stances—**
in mines.

- (a) a woman holding a position of management who does not perform manual work ;
- (b) a woman engaged in health or welfare services ;
- (c) a woman who in the course of her studies spends a period of training in the underground parts of a mine ; or

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(d) a woman who may for any other reason have to enter the underground parts of a mine for the purpose of non-manual occupation.

(2) For the purposes of this section and notwithstanding the definition of "woman" contained in section 2 of this Ordinance, woman means a female of any age.

(3) Any person who employs a woman in contravention of the provisions of this section shall be liable, on conviction, to a fine not exceeding twenty pounds."



ORDINANCE No. XXXVI of 1936

Assented to in His Majesty's name this nineteenth day of December, 1936.

J. BYRNE,
Governor.

[19TH DECEMBER, 1936.] Date of assent.

An Ordinance to Amend the Registration of Domestic Servants Ordinance, 1928.

19th December, 1936.

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 Registration of Domestic Servants (Amendment) Ordinance, 1936, and shall be read as one with the Registration of Domestic Servants Ordinance, 1928, hereinafter referred to as the Principal Ordinance. Short title.
No. 11 of 1929.

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

“14. (1) An employer, whether resident in a registration district or not, shall, on the cessation of the engagement of a registered servant, enter in the pocket register of such servant the date of the cessation of the engagement, and shall furnish to the Registrar for the district in which such servant is registered a copy of such entry, and the particulars of such entry shall be inserted by the Registrar in the general register. Particulars to be entered in pocket register on cessation of employment.

(2) Any such employer when making such entry may, if he so desires, further enter in the pocket register the cause of the cessation of such engagement, together with particulars as to the character of the servant and, in cases where the servant has been dismissed, the reasons for such dismissal. A copy of any particulars so entered in accordance with this sub-section shall be furnished to the Registrar and shall be inserted by the Registrar in the

general register in like manner as is provided in regard to the particulars under sub-section (1) of this section, unless the Registrar intends to take action under section 18 of this Ordinance.

(3) Any particulars entered in a pocket register by an employer in accordance with sub-section (2) of this section shall be subject to the provisions of section 18 of this Ordinance.

(4) If an employer is unable to enter the particulars respectively required and permitted to be entered under sub-sections (1) and (2) of this section owing to the loss or destruction of the pocket register, he shall report the fact to the Registrar and shall furnish him with the particulars so required or permitted to be entered in the pocket register. The Registrar shall thereupon, at the expense of the employer, issue to the servant a duplicate pocket register in which shall be entered the particulars aforesaid."

Amendment of section 15 of the Principal Ordinance.

3. Section 15 of the Principal Ordinance is hereby amended by the addition thereto of the following as sub-section (3) :—

" (3) No person whose registration has been cancelled shall after such cancellation seek or accept employment as a servant in any registration district unless and until his pocket register has been re-issued to him and he has been permitted to re-register in accordance with the provisions of sub-section (2) of this section."

Amendment of section 18 of the Principal Ordinance.

4. Sub-section (1) of section 18 of the Principal Ordinance is hereby amended by the insertion of the words "on conviction" after the word "liable" in the seventh line thereof.

Amendment of section 19 of the Principal Ordinance.

5. Section 19 of the Principal Ordinance is hereby amended—

(1) by the insertion of the words "on conviction" after the word "liable" in each of the following cases :—

- (a) in the third line of sub-section (1) thereof, and
- (b) in the fourth line of sub-section (2) thereof;

(2) by the deletion of the words "of either description" from the fourth and fifth lines of sub-section (1) thereof.

6. Section 20 of the Principal Ordinance is hereby amended by the deletion therefrom of the words—

“shall be liable to a fine not exceeding two hundred shillings or to imprisonment for a period not exceeding one year or to both such fine and imprisonment.”,

Amendment of
section 20 of
the Principal
Ordinance.

and by the substitution therefor of the words—

“ shall be liable on conviction to a fine not exceeding two hundred shillings or to imprisonment for a period not exceeding one year or to both such fine and imprisonment.”

ORDINANCE No. XXXVII of 1936

Assented to in His Majesty's name this nineteenth day of December, 1936.

J. BYRNE,
Governor.

Date of assent. [19TH DECEMBER, 1936.]

An Ordinance to Amend the Money-lenders Ordinance, 1932.

Date of commencement. *19th December, 1936.*

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 Money-lenders (Amendment) Ordinance, 1936, and shall be read as one with No. 45 of 1932. the Money-lenders Ordinance, 1932, hereinafter referred to as the Principal Ordinance.

Amendment of section 2 (1) of the Principal Ordinance. **2.** Sub-section (1) of section 2 of the Principal Ordinance is hereby amended by deleting the definition of "money-lender" and by substituting therefor the following definition :—

" '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;".

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

Licences to be taken out by money-lenders. "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."

4. (1) The provisions of the Principal Ordinance shall **Saving.**
not 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.

5. The Money-lenders (Amendment) Ordinance, 1933, **Repeal.**
is hereby repealed. **No. 44 of 1933.**

ORDINANCE No. XXXVIII of 1936

Assented to in His Majesty's name this nineteenth day of December, 1936.

J. BYRNE,
Governor.

Date of assent. [19TH DECEMBER, 1936.]

An Ordinance to Amend the Branding of Stock Ordinance.

Date of commencement. *19th December, 1936.*

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, 1936, 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.

Cap. 159.

Amendment of section 21 of the Principal Ordinance. **2.** Section 21 of the Principal Ordinance is hereby amended—

(a) by inserting immediately after the figures and full stop “21.” the figure and brackets “(1)” ; and

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

“(2) Any person, other than a person authorized by sub-section (1) of this section who—

(a) brands any animal with any brand or mark calculated to cause it to be believed that such animal has been branded with a brand registered under sub-section (1) of this section ; or

(b) blotches, defaces, renders illegible or alters any brand registered under sub-section (1) of this section without the authority of a person referred to in that sub-section,

shall be liable on conviction to a fine not exceeding one hundred and fifty pounds or to a term of imprisonment not exceeding twelve months or to both such fine and such imprisonment.”

3. Section 27 of the Principal Ordinance is hereby amended—

Amendment of
section 27 of
the Principal
Ordinance.

- (a) by inserting immediately after the figures and full stop "27." the figure and brackets "(1)"; and
- (b) by adding thereto the following sub-section—

"(2) Whenever it is reported to a magistrate that any animal has been seized and detained under the provisions of sub-section (1) of this section but that the person who is alleged to have committed an offence or breach in respect of such animal is unknown or cannot be found, the magistrate may, if satisfied by evidence on oath that there is reason to believe that an offence against this Ordinance has been committed in respect of such animal, order that such animal be forfeited :

Provided, however, that no order shall be made under this sub-section unless the owner (if his name or whereabouts be known) of such animal has been given an opportunity of appearing before the magistrate to show cause why such order should not be made."

ORDINANCE No. XXXIX of 1936

Assented to in His Majesty's name this nineteenth day of December, 1936.

J. BYRNE,
Governor.

Date of assent. [19TH DECEMBER, 1936.]

An Ordinance to Amend the Trading in Unwrought Precious Metals Ordinance, 1933.

Date of commencement. *19th December, 1936.*

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 Trading in Unwrought Precious Metals (Amendment) Ordinance, 1936, and shall be read as one with the Trading in Unwrought Precious Metals Ordinance, 1933, 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—

- (a) by deleting the figures "1931" which occur in the second line of the definition of "Commissioner" and by substituting therefor the figures "1933";
- (b) by deleting the definition of "unwrought precious metal" and by substituting therefor the following definition :—

" 'unwrought precious metal' means precious metal in any form whatever, which is not manufactured or made up into any article of commerce, and includes amalgam, slimes, slags, gold bearing concentrates, pots, battery chips, sweepings from reduction works and scrapings and by-products of unrefined precious metal and precious metal which has been smelted into the form of bullion but does not include ore in situ." ; and

- (c) by deleting the expression "No. 1 of 1931" which occurs in the margin thereof and by substituting therefor the expression "No. 61 of 1933".

3. 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. (1) No person shall buy, sell, deal in, receive or dispose of by way of barter, pledge or otherwise, either as principal or agent, any unwrought precious metal unless—

Unlawful dealing in unwrought precious metals.

(a) he is a licensed dealer ; or

(b) he is a banker ; or

(c) such unwrought precious metal has been won by him or his servant or agent acting on his behalf from ground held by him under mining title, or on which he is lawfully entitled to prospect ; or

(d) he has obtained a certificate from the Commissioner authorizing him to be in possession or dispose of such quantity of unwrought precious metal as may be specified in such certificate :

Provided that a certificate shall not be required in respect of unwrought precious metal proved to the satisfaction of the Commissioner of Customs as originating elsewhere than in the Colony and passing through the Colony in transit for exportation.

(2) Notwithstanding anything contained in subsection (1) of this section a goldsmith licensed under the Brokers Ordinance, 1930, may buy from a licensed dealer or from a banker and possess for the purpose of his business such quantity of unwrought precious metal as may be necessary for the conduct of his business.

No. 56 of 1930.

(3) No person shall buy unwrought precious metal without having satisfied himself that the vendor thereof is lawfully entitled to sell the same.”

4. The Principal Ordinance is hereby amended by inserting therein immediately after section 4 thereof the following new section :—

Amendment of the Principal Ordinance.

“4A. Notwithstanding anything in this Ordinance contained, it shall be lawful for any person, provided he signs a declaration in Form III set out in the Schedule to this Ordinance, and obtains a certificate substantially in Form IV set out in the Schedule to this Ordinance to

Unwrought gold of certain fineness may be imported on certain conditions.

import into the Colony such quantity of unwrought gold of a fineness greater than nine hundred and forty per thousand in weight as may be specified in such declaration, and to possess, sell, deal in, or otherwise dispose of such gold, to a banker or a licensed dealer."

Amendment of section 12 (4) of the Principal Ordinance.

5. Sub-section (4) of section 12 of the Principal Ordinance is hereby amended by deleting therefrom the words "at Mombasa" which occur in the fifth line thereof.

Amendment of section 14 of the Principal Ordinance.

6. Section 14 of the Principal Ordinance is hereby amended—

- (a) by inserting immediately after the word "dealer" which occurs in the first line of sub-section (1) thereof of the words "and every banker"; and
- (b) by inserting immediately after the word "dealer" which occurs in the second line of sub-section (2) thereof of the words "or a banker".

ORDINANCE No. XL of 1936

Assented to in His Majesty's name this nineteenth day
of December, 1936.

J. BYRNE,
Governor.

[19TH DECEMBER, 1936.] Date of assent.

**An Ordinance to Amend the Agricultural
Mortgagors' Relief Ordinance, 1934**

1st January, 1937

Date of com-
mencement.

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

1. This Ordinance may be cited as the Agricultural
Mortgagors' Relief (Amendment) Ordinance, 1936, and shall
be read as one with the Agricultural Mortgagors' Relief
Ordinance, 1934, hereinafter referred to as the Principal
Ordinance.

Short title.

No. 35 of 1934.

2. Section 18 of the Principal Ordinance is hereby re-
pealed and the following section is substituted therefor :—

Repeal and
replacement
of section 18
of the
Principal
Ordinance.

“18. This Ordinance shall continue in force until the
thirty-first day of December, 1937, and shall then expire :

Duration of
Ordinance.

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

ORDINANCE No. XLI of 1936

Assented to in His Majesty's name this nineteenth day
of December, 1936.

J. BYRNE,
Governor.

Date of assent. [19TH DECEMBER, 1936.]

**An Ordinance to Amend the Marketing of Native
Produce Ordinance, 1935.**

Date of com- *19th December, 1936.*
mencement.

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 Marketing of
Native Produce (Amendment) Ordinance, 1936, and shall be
read as one with the Marketing of Native Produce Ordinance,
No. 28 of 1935. 1935, hereinafter referred to as the Principal Ordinance.

Amendment of **2.** Paragraph (a) of sub-section (1) of section 4 of the
section 4 of the Principal Ordinance is hereby amended by substituting the
Ordinance. words "any person" for the words "the holder of a trading
No. 63 of 1934. licence issued under the Licensing Ordinance, 1934, or any
Ordinance amending or replacing the same" which occur in
the fourth, fifth and sixth lines thereof.

ORDINANCE No. XLII of 1936

Assented to in His Majesty's name this 30th day of December, 1936.

A. DE V. WADE,
Acting Governor.

[30TH DECEMBER, 1936.] Date of assent.

An Ordinance to Apply a Sum of Money for the Service of the Year ending the Thirty-first Day of December, 1937.

1st January, 1937.

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 1937 Appropriation Ordinance, 1936. Short title.

2. The Public Revenue for the year 1937, and other funds of the Colony and Protectorate of Kenya are hereby charged towards the service of the year ending the thirty-first day of December, one thousand nine hundred and thirty-seven, with the sum of three millions, four hundred and thirty-seven thousands, two hundred and ninety-eight pounds.

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

4. The Treasurer of the Colony and Protectorate of Kenya is hereby 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 millions, four hundred and thirty-seven thousands, two hundred and ninety-eight pounds which will come in course of payment during the year ending on the thirty-first day of December, one thousand nine hundred and thirty seven. Treasurer's authority for payment.

SCHEDULE		£
No. of Head		
I.	His Excellency the Governor	15,957
Ia.	His Excellency the Governor Extraordinary ...	700
II.	Administration	223,395
IIa.	Administration Extraordinary	2,250
III.	Agriculture	130,555
IIIa.	Agriculture Extraordinary	1,688
IV.	Audit	19,977
V.	Coast Agency	5,473
Va.	Coast Agency Extraordinary	230
VI.	Conference of East African Governors	955
VII.	Customs	48,048
VIIa.	Customs Extraordinary	300
VIII.	Education	184,652
VIIIa.	Education Extraordinary	650
IX.	Forest	30,932
X.	Game	7,670
XI.	Government Analyst	1,452
XII.	Interest and Unfunded Debt	8,170
XIII.	Judicial	31,060
XIV.	Legal	8,804
XV.	Local Government, Lands and Settlement ...	31,490
XVI.	Local Government, Contributions to Local Authorities	83,790
XVII.	Medical	207,353
XVIIa.	Medical Extraordinary	3,095
XVIII.	Military	137,823
XVIIIa.	Military Extraordinary	7,665
XIX.	Mining and Geological	10,885
XX.	Miscellaneous Services	72,897
XXa.	Miscellaneous Services Extraordinary	3,120
XXI.	Pensions and Gratuities	222,900
XXII.	Police	138,308
XXIIa.	Police Extraordinary	1,031
XXIII.	Posts and Telegraphs	238,811
XXIIIa.	Posts and Telegraphs Extraordinary	9,430
XXIV.	Printing and Stationery	29,438
XXV.	Prisons	50,645
XXVI.	Public Debt Funded	1,054,502
XXVII.	Public Works Department	90,819
XXVIII.	Public Works Recurrent	115,284
XXIX.	Registrar General	5,148
XXX.	Rent and Interest to His Highness the Sultan of Zanzibar	16,000
XXXI.	Secretariat and Legislative Council	26,232
XXXII.	Trade and Information Office	4,546
XXXIII.	Treasury	30,849
XXXIV.	Public Works Extraordinary	26,730
XXXV.	Colonial Development Fund	69,524
XXXVI.	Parliamentary Grant	26,065
		<hr/>
		£3,437,298

ORDINANCE No. XLIII of 1936

Assented to in His Majesty's name this 31st day of December, 1936.

A. DE V. WADE,
Acting Governor.

[31ST DECEMBER, 1936.] Date of assent.

An Ordinance to Amend the Kenya Cotton Ordinance.

31st December, 1936.

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 Kenya Cotton (Amendment) Ordinance, 1936, and shall be read as one with the Kenya Cotton Ordinance (Chapter 154 of the Revised Edition), hereinafter referred to as the Principal Ordinance.

Short title.
Cap. 154.

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

Repeal and replacement of section 2 of the Principal Ordinance.

“2. The Governor in Council may make rules, all or any of which shall apply to such areas as the Governor may by notice in the Gazette appoint, for the regulation and control of the cotton industry and without prejudice to the generality of the foregoing for all or any of the following purposes—

Power to make rules.

- (a) prescribing the kind and quality of seed to be used for the purpose of sowing cotton, and forbidding the use of any other kind or quality of seed in the sowing of cotton ;
- (b) controlling the importation of unginning cotton or of any particular kind or quality of cotton seed ;
- (c) regulating the distribution of cotton seed to persons requiring seed for the purpose of sowing cotton ;
- (d) providing for the requisition with or without compensation of cotton seed for sowing purposes ;
- (e) regulating and controlling the method, time and place of sowing, growing, collecting, storing, ginning, baling or otherwise preparing cotton, and prescribing the class of buildings which may be used for the ginning, baling, and storing of cotton ;

- (f) providing for the inspection of cotton, cotton seed, cotton plantations and cotton factories, stores, and ginneries and the eradication of diseases and insect pests;
- (g) empowering the Director of Agriculture to fix and vary the minimum prices to be paid to natives for unginned cotton in any area;
- (h) empowering the Director of Agriculture to prohibit or otherwise control the transport or movement of unginned cotton from one area to another;
- (i) providing for the licensing of cotton ginners, cotton buyers, ginneries and buying stores, for limiting the number of such licences to be issued in any area, and prescribing the method of selection to be followed in cases where there are more applicants than one for a licence for any particular area;
- (j) providing for the establishment of cotton markets and for fixing the fees to be paid for market stalls;
- (k) providing for the control of the weighing, sale, purchase and export of cotton and all dealings therein;
- (l) prohibiting the exportation of cotton seed or of cotton of inferior quality or of any particular kind, or specifying any particular kind or quality as the only kind or quality which may be exported;
- (m) providing for the destruction or removal of any soil, seed crops, cotton plants or cotton residues with or without compensation;
- (n) requiring cotton ginners to supply to the Director of Agriculture free of charge samples of cotton for experimental purposes or for scientific investigation;
- (o) prescribing fees and charges in respect of licences and of anything to be done in pursuance of any rule made under this Ordinance, and the payment thereof;
- (p) prohibiting or otherwise controlling the use of ginnery sites and buying stores for purposes other than the ginning or buying of cotton;

- (q) providing for the issue, suspension, refusal, and transfer of licences granted under this Ordinance and for attaching conditions to licences and for the revocation of licences; and
- (r) providing for the production and exhibiting of licences and for the keeping and production of books of account by licensees and for the inspection of such books and for the submissions of returns.

Any such rule may require acts or things to be performed or done to the satisfaction of the Director of Agriculture, an administrative officer, a medical officer, an agricultural officer or an inspector appointed by the Director of Agriculture and may empower such Director, officer or inspector to issue orders either verbally to growers or by notice in writing to any person requiring acts or things to be performed or done, prohibiting acts and things from being performed or done, imposing conditions, and prescribing periods or dates upon, within or before which such acts or things shall be performed or done or such conditions shall be fulfilled."

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

Repeal and replacement of section 4 of the Principal Ordinance.

"4. (1) The Governor in Council may by proclamation or rule fix such penalty for the breach or attempted breach or non-observance of any proclamation, any rule, or any order issued under or by virtue of such rule, as he may think fit, but no such penalty shall exceed a fine of five hundred pounds or imprisonment for a period of six months, or both such fine and imprisonment, and where no penalty is fixed, the breach or attempted breach or non-observance of any such proclamation, rule, or order shall be punishable to the extent aforesaid.

Penalties.

(2) The Governor in Council may further provide that in addition to any such fine and imprisonment any seed, cotton or implement in respect of which a breach or attempted breach or non-observance of any such proclamation, rule, or order has been committed may, with or without compensation, be confiscated or otherwise dealt with."

ORDINANCE No. XLIV of 1936

Assented to in His Majesty's name this 31st day of
December, 1936.

A. DE V. WADE,
Acting Governor.

Date of assent.

[31ST DECEMBER, 1936.]

**An Ordinance to Amend the Mining Ordinance,
1933.**

Date of com-
mencement.

31st December, 1936.

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 (Amend-
ment) Ordinance, 1936, and shall be read as one with the
Mining Ordinance, 1933, hereinafter referred to as the Prin-
cipal Ordinance.

No. 61 of 1933.

Amendment of
section 2 of
the Principal
Ordinance.

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

(a) by inserting therein immediately after the definition
of "alluvial" the following definition—

" 'claim' means the unit of a location as pres-
cribed;";

(b) by deleting the words "recognized school of mines"
which occur in the second line of the definition of
"engineer" and by substituting therefor the words
"school of mines recognized by the Governor";

(c) by deleting therefrom the definitions of "coal loca-
tion", "mining location" and "owner" or "occu-
pier";

(d) by inserting therein immediately after the definition of
"High Commissioner" the following definition—

" 'location' means an area in respect of which
mining rights may be acquired under a pros-
pecting right in accordance with the pro-
visions of this Ordinance;";

(e) by inserting therein immediately after the word
"Ordinance" which occurs in the fourth line of the
definition of "minerals" the words "and of the
Mining (Safety) Regulations, 1932, or any regula-
tions amending or replacing the same,";

(f) by deleting the definition of "protection area" and by substituting therefor the following definition—

“ ‘protection area’ means an area within which an exclusive right of prospecting is acquired under a protection notice;”;

and

(g) by inserting therein immediately after the definition of "protection area" the following new definition—

“ ‘protection notice’ means a notice posted by the holder of a prospecting right in the prescribed manner for the purpose of creating a protection area;”.

3. Section 7 of the Principal Ordinance is hereby amended— Amendment of
section 7 of
the Principal
Ordinance.

(a) by deleting paragraph (c) thereof and by substituting therefor the following paragraph—

“ (c) Land held under grants or leases giving the holder rights of working the minerals, non-precious minerals, precious metals and precious stones save by the holder thereof :

Provided that any prospecting or mining operations carried on by such holder shall be subject to the provisions of Part VI of this Ordinance in so far as they are applicable and to the provisions of the Mining (Safety) Regulations, 1932, or any regulations amending or replacing the same.”;

(b) by inserting the words “and has not been subsequently rejected or withdrawn” between the word “consideration” and the full stop which occur in the fifth line of paragraph (d) thereof; and

(c) by adding immediately after paragraph (j) thereof the following new paragraphs—

“(k) All aerodromes or landing grounds except with the permission of the Governor.

(l) Lands which are within the boundaries of an area over which an exclusive prospecting licence has been granted and which at the time when such exclusive prospecting licence was granted were areas over which exclusive prospecting or mining rights had

been previously granted and were still subsisting or were areas in respect of which an application in the prescribed form for any such rights had been accepted for consideration but which have since the grant of such exclusive prospecting licence been abandoned, cancelled, forfeited or otherwise lapsed, save by the holder of such exclusive prospecting licence.

Amendment of section 13 of the Principal Ordinance.

4. Section 13 of the Principal Ordinance is hereby amended—

(a) by substituting a comma for the full stop which occurs in the second line of sub-section (4) thereof and by adding thereafter the following words—

“ but may be renewed for a period of one year from the date of expiration thereof or of the expiration of any renewal thereof upon application being made in the prescribed form and upon payment of the prescribed fee.”;

and

(b) by inserting between the word “right” and the full stop which occur in the second line of sub-section (6) thereof the words “and for every renewal thereof”.

Amendment of section 14 of the Principal Ordinance.

5. Section 14 of the Principal Ordinance is hereby amended by deleting paragraph (6) thereof and by substituting therefor the following paragraphs—

“ (6) peg locations ;
 (7) create a protection area ; and
 (8) apply for an exclusive prospecting licence.”

Amendment of section 15 of the Principal Ordinance.

6. Section 15 of the Principal Ordinance is hereby amended by deleting the words “shall when practicable give notice of his intention to the occupier of such land before commencing prospecting operations thereon” which occur in the second, third and fourth lines thereof and by substituting therefor the words “shall, before creating any disturbance thereon, give notice to the occupier of such land and, if practicable, to the owner thereof”.

Amendment of section 16 of the Principal Ordinance.

7. Section 16 of the Principal Ordinance is hereby amended by inserting therein immediately after the word “prospecting” which occurs in the third line thereof the words “in accordance with paragraph (j) of section 7 of this Ordinance”.

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

Amendment of section 17 of the Principal Ordinance.

(a) by inserting immediately after the word "associated" which occurs in the fifth line of the proviso to sub-section (3) thereof, the words "in prospecting";

(b) by deleting sub-section (4) thereof and by substituting therefor the following sub-section—

"(4) The area in respect of which an exclusive prospecting licence may be granted shall be in the sole discretion of the Governor."

(c) by inserting immediately after the word "renewal" which occurs in the third line of sub-section (5) thereof the words "as to the whole or any portion of the area in respect of which the original licence was granted", and by inserting immediately after the word "years" which occurs in the fifth line of the same sub-section the words "from the date of the original grant"; and

(d) by inserting therein between the word "shillings" and the full stop which occur in the third line of sub-section (7) thereof the words "and for every renewal thereof a registration fee of ten shillings and a conveyancing fee of such sum not exceeding seven pounds ten shillings as the Registrar of Mines may assess".

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

Repeal and replacement of section 18 of the Principal Ordinance.

"18. An applicant for an exclusive prospecting licence who wilfully or recklessly—

Penalty for giving false information.

(i) gives false information as to any matter in respect of which information is called for or required to be given under this Ordinance; or

(ii) withholds any information which is called for under this Ordinance,

shall be guilty of an offence."

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

Amendment of section 20 of the Principal Ordinance.

"The transferee of a licence shall be liable for all rents and obligations which may have accrued at the time of transfer."

which occur in the fifth and sixth lines thereof, and by substituting therefor the words—

“ The transferee of such licence, as well as the transferor thereof, shall be liable for all rents and obligations which may have accrued at the time of the transfer, but the transferor shall not be liable for any future rents or obligations.”

Repeal and replacement of section 25 of the Principal Ordinance.

Payment of compensation to owners or occupiers of land.

11. Section 25 of the Principal Ordinance is hereby repealed and the following section is substituted therefor :—

“ 25. (1) Whenever, in the course of prospecting or mining operations, any disturbance of the rights of the owner and/or occupier of private lands or damage to such lands or to any crops, trees, buildings, stock or works thereon is caused, the holder of the prospecting right, exclusive prospecting licence, or location under which such operations are or were carried out, and his successors in title thereto, shall be liable, on demand duly made, to pay to such owner and/or occupier fair and reasonable compensation for such disturbance or damage, as the case may be, according to their respective rights or interests (if any) in the property concerned.

(2) (i) If such person or his successor in title, as the case may be, fails to pay compensation when demanded under sub-section (1) of this section, or if an owner or occupier is dissatisfied with the compensation offered, such owner or occupier may take proceedings before the Commissioner in accordance with the provisions of Part IV of this Ordinance or before a court of competent jurisdiction :

Provided that when the claimant is a native the District Commissioner of the district shall, if the native desires, assess and determine the amount of the compensation, and the decision of such District Commissioner shall in such case be final, subject only to an appeal to the Governor.

(ii) The notice of appeal against the decision of the District Commissioner shall be given by filing such notice in the office of such District Commissioner within thirty days of the date on which his decision is notified to the person desiring to appeal.

(3) The sum awarded shall be paid by such holder or his successor in title, as the case may be, to the person entitled thereto within fourteen days of the date on which the amount of the final award is notified to such holder or such successor in title, as the case may be, or shall, pending the disposal of any appeals thereon, be paid—

(a) in the case of a native claimant to the Provincial Commissioner; or

(b) in the case of a non-native claimant into Court.

(4) Any award made by virtue of the provisions of this section shall be enforceable as if it were a decree of a competent court.

(5) The Governor may suspend the prospecting right or exclusive prospecting licence or the right to work a location of the person in default until the amount awarded has been paid and until the holder of the right, licence or location has deposited with the Government such further sum as security for any future payments as the Governor may demand, and if such payment and deposit is not made within such time as the Governor may consider reasonable the Governor may revoke the prospecting right, exclusive prospecting licence or forfeit the location of the person in default.”

12. Section 27 of the Principal Ordinance is hereby amended—

Amendment of section 27 of the Principal Ordinance.

(a) by deleting the words “mark off” which occur in the first line of sub-section (2) thereof and by substituting therefor the word “peg”; and

(b) by deleting the words “Mining locations” which occur in the first line of sub-section (3) thereof and by substituting therefor the word “Locations”.

13. Section 28 of the Principal Ordinance is hereby repealed.

Repeal of section 28 of the Principal Ordinance.

14. Section 29 of the Principal Ordinance is hereby amended—

Amendment of section 29 of the Principal Ordinance.

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

“ (1) When any holder of a prospecting right pegs a location in the manner prescribed, on land not excluded from prospecting or mining, in accordance

with the provisions of this Ordinance and of the Regulations, he shall within thirty days thereafter apply in the manner prescribed for registration and shall state the class of the location pegged :

Provided that the Commissioner may for good and sufficient cause extend the time.”;

and

- (b) by deleting the word “aforesaid” which occurs in the second line of sub-section (3) thereof and by substituting therefor the word “authorized” and by deleting the words “for unauthorized mining” which occur in the fourth and fifth lines of that sub-section and by substituting therefor the words “by section 6 of this Ordinance”.

Repeal and replacement of section 30 of the Principal Ordinance.
Duration of location.

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

“ 30. A location shall be valid for one year from the date of pegging and may, if the holder thereof has complied with the prescribed conditions, be renewed on payment of the prescribed fee for further terms of one year each up to a maximum of ten years in all :

Provided that the Commissioner may, in his discretion, within thirty days after the date of the expiry authorize the holder of a location that has expired to renew the whole or part of the area of such location upon payment of a penalty of two shillings per claim in addition to the prescribed fee for renewal.”

Repeal and replacement section 31 of the Principal Ordinance.
Rights under a location.

16. Section 31 of the Principal Ordinance is hereby repealed and the following section is substituted therefor :—

“ 31. ~~Subject to the provisions of section 25 of this Ordinance the holder of a location shall, in respect of such location, have all the rights collected on the holder of a lease by section 50 of this Ordinance.~~ *Amended by Ordinance No. 6/1936*”

Amendment of the marginal note to section 32 of the Principal Ordinance.

17. The marginal note to section 32 of the Principal Ordinance is hereby amended by deleting the words “Notice to private occupiers who may demand security”.

18. Section 33 of the Principal Ordinance is hereby amended by inserting immediately after the word "location" which occurs in the fifth line thereof the words "or such subdivisions thereof as may be authorized by the regulations".

Amendment of section 33 of the Principal Ordinance.

19. Sub-section (1) of section 34 of the Principal Ordinance is hereby repealed and the following sub-section is substituted therefor:—

Repeal and replacement of section 34 (1) of the Principal Ordinance.

"(1) A location or part thereof shall be liable to forfeiture by the Commissioner if—

- (a) the holder fails to comply with any of the provisions of this Ordinance or of any Regulations made thereunder in respect of such location or part thereof; or
- (b) if registration thereof has been obtained by any false or fraudulent representation or concealment:

Provided that such forfeiture shall not affect the liability of the holder in respect of the breach of any provision of this Ordinance or of any Regulation committed by him before such forfeiture."

20. Section 35 of the Principal Ordinance is hereby amended—

Amendment of section 35 of the Principal Ordinance.

(a) by repealing sub-section (1) thereof and by substituting therefor the following sub-section—

"(1) The holder of a registered location or exclusive prospecting licence may abandon the whole or any part of the area comprised therein by notification to the Commissioner in writing and on receipt of such notification the Commissioner shall publish in the Gazette notice of such abandonment and such notice shall be deemed to be valid and sufficient proof of such abandonment. In the event of the abandonment of a portion only of the area comprised in a location or in an exclusive prospecting licence the remainder thereof shall be re-beaconed in accordance with the directions of the Commissioner.";

and

(b) by deleting the words "this section" which occur in the first line of sub-section (3) thereof and by substituting therefor the words "sub-section (2) of this section".

Repeal and replacement of section 36 of the Principal Ordinance.

Owner may remove plant, etc., on surrender.

21. Section 36 of the Principal Ordinance is hereby repealed and the following section is substituted therefor :—

“ 36. The owner of any plant, machinery, engines or tools on any forfeited, abandoned, or expired location or exclusive prospecting licence area, may, within three months from the date of forfeiture, abandonment, or expiration, 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, except with the written consent of the Commissioner. If such plant, machinery, engines or tools are not so removed, they may be sold by auction by order of the Commissioner at the risk of the owner thereof. The net proceeds of such sale, after deducting the costs thereof, shall be paid into the Treasury and held until applied for by the former owner. 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 replacement of section 37 of the Principal Ordinance.

Re-pegging of ground, forfeiture, etc.

22. Section 37 of the Principal Ordinance is hereby repealed and the following section is substituted therefor :—

“ 37. The ground covered by a registered location, or exclusive prospecting licence, which has expired or has been abandoned or forfeited, shall not be open to prospecting or pegging until the completion of a period of thirty days from the date of such expiry, abandonment, or forfeiture :

Provided that the holder of a registered location or exclusive prospecting licence which has expired or been abandoned or forfeited, shall not, unless authorized in writing by the Commissioner, directly or indirectly through an agent or by any means whatsoever, re-peg or cover by a Protection Notice any portion of the expired, abandoned, or forfeited location previously held by him until after the completion of ninety days from the date of such expiry, abandonment, or forfeiture.”

Repeal and replacement of section 40 of the Principal Ordinance.

Grant of leases.

23. Section 40 of the Principal Ordinance is hereby repealed and the following section is substituted therefor :—

“ 40. The Governor may grant a lease to the holder of a location in respect of the whole or any part of the area covered by any location or locations held by him.”

24. Sub-section (1) of section 47 of the Principal Ordinance is hereby repealed and the following sub-section is substituted therefor:—

Repeal and replacement of section 47 (1) of the Principal Ordinance.

“(1) Notwithstanding the provisions of paragraphs (6), (7) and (8) of section 14 of this Ordinance the Governor may grant a special lease of any land if he is satisfied that by reason of the difficulties and cost attending the mining in, on or under such land, or for any other cause, it is desirable that such a lease be granted.”

25. Section 50 of the Principal Ordinance is hereby amended by substituting a semi-colon for the colon which occurs at the end of paragraph (j) thereof and by adding thereto immediately thereafter the following new paragraph—

Amendment of section 50 of the Principal Ordinance.

“(g) to graze upon lands not excluded from prospecting or mining such horses or other animals as may be necessary for his subsistence or for the carrying on of mining, free of charge on unoccupied Crown lands and on private lands on payment or tender of a reasonable sum in payment therefor:”.

26. Sub-section (1) of section 55 of the Principal Ordinance is hereby amended by inserting immediately after the word “regulations” which occurs in the second line of paragraph (a) thereof the words “in respect of such lease”.

Amendment of section 55 (1) of the Principal Ordinance.

27. Section 57 of the Principal Ordinance is hereby amended by inserting, immediately after the word “shall” which occurs in the fifth line thereof, the words “be endorsed on the original lease, and duly registered in accordance with section 63 of this Ordinance, and shall”.

Amendment of section 57 of the Principal Ordinance.

28. Section 61 of the Principal Ordinance is hereby amended by deleting the words “under a lease” which occur in the first line thereof and by substituting therefor the words “in respect of a lease shall be two shillings and fifty cents per annum per acre or part thereof and”.

Amendment of section 61 of the Principal Ordinance.

29. Section 63 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

Repeal and replacement of section 63 of the Principal Ordinance.

“63. Every lease under this Ordinance shall be registered in the office of the Commissioner in the manner prescribed.”

Registration of leases.

Repeal and replacement of section 64 of the Principal Ordinance.

Registration of leases, etc.

30. Section 64 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

“64. (1) Any sale, lease, mortgage, charge, lien, option or other dealing relating to any prospecting or mining title shall be void as against any subsequent purchaser for value of such prospecting or mining title unless either—

(a) it is registered in the prescribed manner before such subsequent purchaser for value acquires such prospecting or mining title; or

(b) such subsequent purchaser for value has actual notice thereof at the time he acquires such prospecting or mining title.

(2) Nothing in this section contained shall prejudice or affect any contractual right or obligation, or other right *in personam*, or any right to any prospecting or mining title, against any person other than a purchaser for value of such prospecting or mining title who has pursuant to the provisions of sub-section (1) of this section acquired such title free from priorities which were not registered before, or of which he had no actual notice at the time, he acquired such title.

(3) For the purposes of this section—

‘prospecting or mining title’ includes an exclusive prospecting licence, a location, and a mining lease; and

‘purchaser for value’ means any purchaser, mortgagee, chargee, lessee, or option-holder who acquires his interest as such for valuable consideration of any description whatsoever.”

Amendment of section 65 of the Principal Ordinance.

31. (1) Section 65 of the Principal Ordinance is hereby amended by deleting the words “a Warden may inquire into and decide all disputes between persons engaged in prospecting or mining operations, either amongst themselves or in relation to themselves and third parties” which occur in the second, third, fourth and fifth lines thereof and by substituting therefor the words “the Commissioner may inquire into and decide all disputes”.

(2) The marginal note to section 65 of the Principal Ordinance is hereby amended by deleting the word “Warden” and by substituting therefor the word “Commissioner”.

32. Section 66 of the Principal Ordinance is hereby amended—

Amendment
of section 66
of the
Principal
Ordinance.

(a) by deleting the word "Warden" wherever it occurs therein and by substituting therefor the word "Commissioner";

(b) by inserting therein immediately after the word "fit" which occurs in the sixth line of paragraph (3) thereof the words "and shall, if the person complaining requests him to do so in the prescribed manner,"; and

(c) by deleting the words "which may be prescribed, apply to proceedings" which occur in the fifth and sixth lines of paragraph (7) thereof and by substituting the words "which may be prescribed but without any restriction or limit as to the value of the subject-matter in dispute, apply to proceedings".

33. (1) Sub-section (1) of section 67 of the Principal Ordinance is hereby amended by deleting the word "Warden" which occurs in the first line thereof and by substituting therefor the word "Commissioner".

Amendment of
section 67 (1)
of the
Principal
Ordinance.

(2) The marginal note to section 67 of the Principal Ordinance is hereby amended by deleting the word "Warden" and by substituting therefor the word "Commissioner".

34. (1) Sub-section (1) of section 68 of the Principal Ordinance is hereby amended by deleting the word "Warden" which occurs in the first line thereof and by substituting therefor the word "Commissioner".

Amendment of
section 68 (1)
of the
Principal
Ordinance.

(2) The marginal note to section 68 of the Principal Ordinance is hereby amended by deleting the word "warden's" and by substituting therefor the word "Commissioner's".

35. Section 69 of the Principal Ordinance is hereby repealed and the following section is substituted therefor :—

Repeal and
replacement
of section 69
of the
Principal
Ordinance.

" 69. (1) Any person aggrieved by any decree, order or decision made or given under the powers vested in the Commissioner may appeal to the Supreme Court.

Appeal to
Supreme
Court from
decision of
Commissioner.

(2) No appeal to the Supreme Court shall be admitted after the expiration of thirty days from the date of the decree, order or decision appealed against except by leave of a judge of the Supreme Court."

Repeal of section 69A of the Principal Ordinance.

36. Section 69A of the Principal Ordinance is hereby repealed.

Repeal and replacement of section 70 of the Principal Ordinance. Power to award costs.

37. Section 70 of the Principal Ordinance is hereby repealed and the following section is substituted therefor :—

“ 70. In any dispute adjudicated upon under the provisions of section 65 of this Ordinance, the Commissioner may award costs to the successful party. The Supreme Court shall, by rule, prescribe the scale of costs which may be awarded under this section.”

Amendment of section 71 of the Principal Ordinance.

38. Section 71 of the Principal Ordinance is hereby amended by deleting the full stop which occurs in the fourth line thereof and by substituting therefor a colon, and by adding thereafter the following proviso—

“ Provided that, subject to the provisions of section 69 of this Ordinance, where a dispute has been adjudicated upon in accordance with the provisions of section 65 of this Ordinance, proceedings in respect of the same cause of action shall not thereafter be instituted in any of the courts of the Colony.”

Repeal and replacement of section 76 of the Principal Ordinance.

39. Section 76 of the Principal Ordinance is hereby repealed and the following section is substituted therefor :—

Restriction on purchase.

“ 76. The holder of a licence to purchase minerals shall not buy any such mineral except from the holder of a lease, a location, the holder of a licence granted under the last preceding section or the holder of a prospecting right or an exclusive prospecting licence if authorized in accordance with sub-section (3) of section 23 of this Ordinance.”

Amendment of section 80 of the Principal Ordinance.

40. Section 80 of the Principal Ordinance is hereby amended—

(a) by deleting the words “the external parts of” which occur in the first line of paragraph (iii) thereof; and
(b) by deleting paragraph (vi) and by substituting therefor the following paragraph—

“ (vi) examine and make preliminary investigation into any accident occurring in respect of any prospecting or mining activity.”

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Mining

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41. Section 87 of the Principal Ordinance is hereby amended by deleting the words "a lease" which occur in the fourth line thereof and by substituting therefor the words "a lease, exclusive prospecting licence" and by inserting therein immediately after the word "mining" which occurs in the fifth line thereof the words "or prospecting".

Amendment
of section 87
of the
Principal
Ordinance.

42. Section 90 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

Repeal and
replacement
of section 90
of the
Principal
Ordinance.

" 90. (1) In any case where the holder of any lease, location or licence shall die, the obligations imposed upon such holder by this Ordinance or by any Regulations made thereunder or by any Regulations made under the Ordinance repealed by this Ordinance which are still subsisting shall be suspended and the rights conferred on such holder by such Ordinance or by such Regulations shall be preserved for six months from the date of death:

Protection
of estate of
deceased
person,
bankrupt, or
lunatic.

Provided that the Commissioner may for good and sufficient cause extend the time.

(2) In any case where the holder of a lease, location or licence shall—

(i) have a receiving order in bankruptcy made against him; or

(ii) be found to be a lunatic under the provisions of any law relating to lunacy for the time being in force in the Colony,

the obligations imposed upon such holder by this Ordinance or by any Regulations made thereunder or by any Regulations made under the Ordinance repealed by this Ordinance which are still subsisting shall be suspended and the rights conferred on such holder by such Ordinance or by such Regulations shall be preserved until the expiration of ninety days—

(a) from the date of the receiving order; or

(b) from the date of the appointment of any manager of the estate of the lunatic so found,

as the case may be:

Provided that the Commissioner may for good and sufficient cause extend the time."

Repeal of
section 91
of the
Principal
Ordinance.

Amendment
of the
Principal
Ordinance.

Address and
service on
holder of
lease, etc.

43. Section 91 of the Principal Ordinance is hereby repealed.

44. The Principal Ordinance is hereby amended by inserting immediately after section 99 thereof the following two new sections to be numbered 99A and 99B respectively :—

“ 99A. (1) The holder of a lease, location or exclusive prospecting licence shall, at the time he registers such lease, location or licence, furnish to the Commissioner his permanent address in the Colony and if thereafter such holder changes his address he shall forthwith send a notification of such change to the Commissioner.

(2) Where under this Ordinance or under any Regulations made thereunder or under any Regulations made under the Ordinance repealed by this Ordinance which are still subsisting, the Commissioner is required to serve any notice, demand, or other communication, such notice, demand, or other communication shall be deemed to have been duly served if sent by registered post to the last address in the Colony (furnished to the Commissioner) of the person upon whom such notice, demand or other communication is required to be served.

(3) The provisions of sub-section (2) of this section shall apply in like manner to any notice, demand or other communication which the Commissioner may, in his discretion, serve upon any person.

99B. A copy of any entry in any mining register purporting to be signed by the Commissioner or by an Assistant Warden and certified to be correct by the person signing it and an assay certificate signed by the Government Assayer and certified by him to be correct, shall be receivable in evidence without further proof in all courts in the Colony and in any proceedings instituted under the provisions of section 65 of this Ordinance :

Provided that where any party proposes to produce such assay certificate by virtue of the provisions of this section, he shall give notice to the other party not less than fourteen days before the date of hearing of his intention so to do and such other party may give notice to the party purporting so to do requiring him to produce the assayer at the hearing for the purposes of cross-

Copy of
mining
register and
assay certifi-
cate receivable
in evidence.

examination and failure to produce such assayer shall, in the absence of just cause or excuse which is reasonable in the circumstances, render such certificate inadmissible."

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

Repeal and replacement of section 100 of the Principal Ordinance. General penalty.

"100. Any person who commits an offence against, contravenes or fails to comply with any of the provisions of this Ordinance or of the Regulations made thereunder or of any Regulations made under the Ordinance repealed by this Ordinance which are still subsisting for which a penalty is not expressly provided shall be liable on conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment."

46. Section 101 of the Principal Ordinance is hereby amended—

Amendment of section 101 of the Principal Ordinance.

(a) by deleting the word "claim" which occurs in the second line of paragraph (a) thereof and by substituting therefor the word "location";

(b) by deleting paragraph (d) thereof and by substituting therefor the following paragraph—

"(d) the manner in which locations shall be pegged";

(c) by re-numbering the section as section "101. (1)"; and

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

"(2) Any such Regulation may require acts or things to be performed or done to the satisfaction of an officer appointed under the provisions of section 9 of this Ordinance, and may empower such officer to issue orders either verbally or by notice requiring acts and things to be performed or done, prohibiting acts and things from being performed or done, imposing conditions, and prescribing periods or dates upon, within or before which such acts or things shall be performed or done or such conditions shall be fulfilled."

47. The Mining (Amendment) Ordinance, 1935, is hereby repealed.

Repeal of Ordinance No. 13 of 1935.

ORDINANCE No. XLV of 1936

Assented to in His Majesty's name this 31st day of
December, 1936.

A. DE V. WADE,
Acting Governor.

Date of assent.

[31ST DECEMBER, 1936.]

**An Ordinance to Amend the King's African
Rifles Ordinance, 1932.**

Date of com-
mencement.

1st July, 1937

By Notice.

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

Short title
and com-
mencement.
No. 48 of 1932.

1. This Ordinance may be cited as the King's African Rifles (Amendment) Ordinance, 1936, and shall be read as one with the King's African Rifles Ordinance, 1932, hereinafter referred to as the Principal Ordinance, and shall come into force on such date as the Governor may by notice in the Gazette appoint.

Amendment of
section 2 of
the Principal
Ordinance.

2. Section 2 of the Principal Ordinance is hereby amended by deleting the definition of "battalion" or "unit" and by substituting therefor the following definition—

" 'battalion' or 'unit' includes the Somaliland Camel Corps, the Supply and Transport Corps, the Northern Brigade Headquarters, the Northern Brigade Signal Section and the Coast Defence Unit;".

Amendment of
section 73 (1)
of the
Principal
Ordinance.

3. Sub-section (1) of section 73 of the Principal Ordinance is hereby amended by the deletion of the words "a first term of three years." which occur in the second and third lines thereof, and by the substitution therefor of the words "his first term of service for a period not exceeding five years."

Amendment of
section 75 (1)
of the
Principal
Ordinance.

4. Sub-section (1) of section 75 of the Principal Ordinance is hereby amended by the deletion of the words "three years" which occur in the fifth line thereof, and by the substitution therefor of the words "service not exceeding five years."

5. Sub-section (1) of section 76 of the Principal Ordinance is hereby amended by the deletion of the words "as though he were serving on a Government agreement" which occur in the fourth and fifth lines thereof, and by the substitution therefor of the words "in accordance with the Regulations laid down for the Kenya European Local Civil Service".

Amendment of
section 76 (1)
of the
Principal
Ordinance.

ORDINANCE No. XLVI of 1936

Assented to in His Majesty's name this 31st day of December, 1936.

A. DE V. WADE,
Acting Governor.

Date of assent.

[31ST DECEMBER, 1936.]

An Ordinance to Amend the Native Hut and Poll Tax Ordinance, 1934.

Date of commencement.

1st January, 1937

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.
No. 40 of 1934.

1. This Ordinance may be cited as the Native Hut and Poll Tax (Amendment) Ordinance, 1936, and shall be read as one with the Native Hut and Poll Tax Ordinance, 1934, hereinafter referred to as the Principal Ordinance and shall come into operation on the first day of January, 1937.

Amendment of section 2 of the Principal Ordinance.

2. Section 2 of the Principal Ordinance is hereby amended by substituting the word "eighteen" for the word "sixteen" which occurs therein in the definition of "adult male native".

Repeal and replacement of section 4 of the Principal Ordinance.
Hut Tax.

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

"4. (1) Every native being the owner or occupier of one or more huts in any district in the Colony shall pay a tax (in this Ordinance referred to as "hut tax") for each year at the rates prescribed under section 3 of this Ordinance in respect of each hut owned or occupied by him or her in such district during any portion of that year:

Provided that if a male native has more wives than huts he shall be deemed to be the owner of a separate hut in respect of each wife.

(2) Every male native shall be liable for the hut tax in respect of any hut or huts owned or occupied by his wife or wives."

5. Sub-section (1) of section 76 of the Principal Ordinance is hereby amended by the deletion of the words "as though he were serving on a Government agreement" which occur in the fourth and fifth lines thereof, and by the substitution therefor of the words "in accordance with the Regulations laid down for the Kenya European Local Civil Service".

Amendment of section 76 (1) of the Principal Ordinance.

ORDINANCE No. XLVI of 1936

Assented to in His Majesty's name this 31st day of December, 1936.

A. DE V. WADE,
Acting Governor.

Date of assent.

[31ST DECEMBER, 1936.]

An Ordinance to Amend the Native Hut and Poll Tax Ordinance, 1934.

Date of commencement.

1st January, 1937

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.
No. 40 of 1934.

1. This Ordinance may be cited as the Native Hut and Poll Tax (Amendment) Ordinance, 1936, and shall be read as one with the Native Hut and Poll Tax Ordinance, 1934, hereinafter referred to as the Principal Ordinance and shall come into operation on the first day of January, 1937.

Amendment of section 2 of the Principal Ordinance.

2. Section 2 of the Principal Ordinance is hereby amended by substituting the word "eighteen" for the word "sixteen" which occurs therein in the definition of "adult male native".

Repeal and replacement of section 4 of the Principal Ordinance.
Hut Tax.

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

"4. (1) Every native being the owner or occupier of one or more huts in any district in the Colony shall pay a tax (in this Ordinance referred to as "hut tax") for each year at the rates prescribed under section 3 of this Ordinance in respect of each hut owned or occupied by him or her in such district during any portion of that year :

Provided that if a male native has more wives than huts he shall be deemed to be the owner of a separate hut in respect of each wife.

(2) Every male native shall be liable for the hut tax in respect of any hut or huts owned or occupied by his wife or wives."

4. Section 6 of the Principal Ordinance is hereby amended by the addition thereto of the following new sub-section :—

Amendment of section 6 of the Principal Ordinance.

“(3) Notwithstanding the provisions of sub-section (1) of this section whenever in proceedings for the recovery of tax under this Ordinance any person liable to pay such tax proves to the satisfaction of the Court that he is without sufficient means to pay the whole amount of such tax the Court may make an order remitting the whole or a portion of such tax as the case may require and the person in respect of whom such order is made shall be relieved from liability to pay such portion of the tax and for the period specified in such order.”

Faint vertical text on the right margin, possibly a stamp or reference code.

ORDINANCE No. XLVII of 1936

Assented to in His Majesty's name this 31st day of
December, 1936.

A. DE V. WADE,
Acting Governor.

Date of assent.

[31ST DECEMBER, 1936.]

**An Ordinance to Amend the Northern Frontier
Province Poll Tax Ordinance, 1930**

Date of com-
mencement.

1st January, 1937

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

Short title
and com-
mencement.
No. 53 of 1930.

1. This Ordinance may be cited as the Northern Frontier
Province Poll Tax (Amendment) Ordinance, 1936, and shall be
read as one with the Northern Frontier Province Poll Tax
Ordinance, 1930, hereinafter referred to as the Principal Ordin-
ance, and shall come into operation on the first day of January,
1937.

Amendment of
Section 4 of
the Principal
Ordinance.

2. Section 4 of the Principal Ordinance is hereby amended
by substituting the word "eighteen" for the word "sixteen"
which occurs in the first line thereof.

ORDINANCE No. XLVIII of 1936

Assented to in His Majesty's name this 31st day of December, 1936.

A. DE V. WADE,
Acting Governor.

[31ST DECEMBER, 1936.] Date of assent.

An Ordinance to Amend the Dangerous Petroleum Tax Ordinance.

1st January, 1937

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, 1936, and shall be read as one with the Dangerous Petroleum Tax Ordinance (Chapter 54 of the Revised Edition), hereinafter referred to as the Principal Ordinance. Short title.

2. Section 3 of the Principal Ordinance, as replaced by the Dangerous Petroleum Tax (Amendment) Ordinance, 1932, 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 ^{1st} day of ^{January}, ¹⁹³⁷, 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 ~~twenty seven~~ ³² 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.”

Ord. 18/41

*S.N. 164/41
L-63*

ORDINANCE No. XLIX of 1936

Assented to in His Majesty's name this 31st day of December, 1936.

A. DE V. WADE,
Acting Governor.

Date of assent.

[31ST DECEMBER, 1936.]

An Ordinance to Repeal the Non-Native Poll Tax Ordinance (Chapter 52 of the Revised Edition), the European Education Tax Ordinance, 1926, and the Asiatic Education Tax Ordinance, 1926.

Date of commencement.

1st January, 1937

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 Education and Poll Taxes (Repeal) Ordinance, 1936, and shall come into operation on the first day of January, 1937.

Repeal.
No. 33 of 1926.
No. 34 of 1926.

2. (1) The European Education Tax Ordinance, 1926, and the Asiatic Education Tax Ordinance, 1926, are hereby repealed.

No. 61 of 1934.
Cap. 52.

(2) Notwithstanding the provisions of sub-section (2) of section 39 of the Non-Native Poll Tax Ordinance, 1934, the Non-Native Poll Tax Ordinance is hereby repealed:

Provided that such repeal shall not affect any liability, penalty or punishment incurred under the provisions of any of the Ordinances repealed by this Ordinance, or any investigation, legal proceeding or other remedy in respect of any such liability, penalty, or punishment, but any such investigation, legal proceeding or remedy may be sought and carried on as if the said Ordinances had not been repealed by this Ordinance.

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ORDINANCE No. L of 1936

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Assented to in His Majesty's name this 31st day of December, 1936.

A. DE V. WADE,
Acting Governor.

[31ST DECEMBER, 1936.] Date of assent.

An Ordinance to Provide for the Payment of an Annual Poll Tax by Non-Natives.

1st January, 1937.

10-12-36
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 Ordinance, 1936, and shall come into operation on the 1st day of January, 1937. Short title and commencement

2. In this Ordinance, unless inconsistent with the context— Interpretation

“Asiatic” non-native means a male person of Asiatic race or origin but shall not include an Arab or a Somali;

“collector” means any district officer and such other officers as the Governor may, by notice in the Gazette, appoint either by name or by office;

“European” non-native means a male person of European origin or descent;

“magistrate” means a magistrate holding a subordinate court of the first, second or third class;

“non-native” means a male person of eighteen years of age or upwards, who is not a native within the meaning of the Interpretation (Definition of “Native”) Ordinance, 1934; No. 55 of 1934.

“the tax” means the non-native poll tax payable under this Ordinance;

“temporary visit” means a visit to the Colony not exceeding six months in duration.

3. There shall be paid in every year by every non-native a tax, to be called the Non-Native Poll Tax, at the following rates:— Amount of tax.

- (a) By every European non-native ... Sh. 40.
- (b) By every Asiatic non-native ... Sh. 30.
- (c) By every other non-native ... Sh. 20.

Provided that a non-native shall not be liable to pay the tax for the year during which he attains his eighteenth birthday.

Tax when payable.

4. (1) The tax payable in every year shall be paid between the first day of January and the thirtieth day of April of that year :

Provided that any non-native who is not residing in the Colony on the first day of January and who enters the Colony after the thirty-first day of March and is liable to pay the tax under the provisions of this Ordinance shall pay the tax in respect of the year during which he enters the Colony within thirty days after the date of his entry into the Colony :

And provided further that any non-native who is residing in the Colony on the first day of January and who leaves the Colony before the thirtieth day of April in the same year, shall pay the tax in respect of that year within thirty days of his return to the Colony whether he returns during the year in which he left the Colony or during a subsequent year.

Penalty.

(2) Failure to pay the tax by the dates prescribed in this section shall render a non-native liable to pay an increase of 50 per cent on the amount of such tax.

Tax to be paid to collector.

5. The tax shall be paid to a collector, who shall give to the person paying the tax a receipt in the prescribed form.

Tax-payer to provide certain information.

6. Every person paying the tax shall furnish the collector with such information as may be required by him in preparing a receipt, and shall, if required by such collector, attend personally at the office of the collector for such purpose.

Penalty.

7. Any non-native who wilfully furnishes a collector with false particulars as to any information required by such collector in preparing a receipt, or who, on being required to attend at the office of a collector, neglects or refuses to attend, or though attending, neglects or refuses to furnish any information required as aforesaid, shall, on conviction, be liable to a fine not exceeding fifteen pounds, or to imprisonment for a term not exceeding two months.

Powers of magistrate.

8. If any non-native makes default in the payment of the tax due and payable by him in any year any magistrate, having jurisdiction in the district or place in which the person in default is for the time being staying or residing, may issue

a summons directing the defaulter to attend before him, at a time to be named in the summons, to show cause why he should not be ordered to pay the amount due as a judgment debt.

9. Where a summons for enabling a defaulter to show cause as mentioned in the last preceding section has been issued, the magistrate may, on the date named in the summons or on any other date to which the hearing may be adjourned, order him to pay into court, within seven days or within such extended time as may be determined by the magistrate, the amount of the unpaid tax and penalty, and costs, either in one sum or in instalments.

Power to order payment into court of unpaid tax, etc.

10. (1) If the person summoned as aforesaid fails without lawful excuse to comply with the summons or if he makes default in payment into court in the manner aforesaid the magistrate may commit such person to prison, without hard labour, for a term not exceeding six weeks or until payment of the sum ordered to be paid, whichever period is the shorter: Provided that no such committal shall be ordered for default in payment as aforesaid unless it be proved to the satisfaction of the magistrate that the person making default either has, or has had since the date of the order, the means to pay the sum in respect of which he has made default, and has refused or neglected, or refuses or neglects, to pay the same.

Penalty.

(2) Proof of the means of the person making default may be given in such manner as the magistrate thinks fit. For the purpose of such proof, the debtor and any witnesses may be summoned and their attendance enforced by the same processes as in cases in which the magistrate has jurisdiction in civil matters, and such debtor and witnesses may be examined on oath.

Proof as to means of defaulter.

(3) Every order of committal under this section shall be issued, obeyed, and executed in like manner to commitments by a court in the exercise of its jurisdiction in civil cases.

Order of committal.

(4) Imprisonment under this section shall not operate as a satisfaction or extinguishment of the judgment debt.

Imprisonment not to extinguish liability.

(5) The amount of any tax and/or penalty due and unpaid, and the sum (if any) ordered to be paid for costs under section 9 of this Ordinance, may, at any time, be levied by the attachment and sale, under the orders of a magistrate, of the movable

Attachments and sale of movable property.

property of the defaulter in like manner as if the same were payable under a decree of a civil court, and a magistrate is hereby empowered to issue such order either on his motion or on the application of any collector.

Payment by defaulter.

11. In the event of the defaulter paying the whole amount ordered to be paid as aforesaid and the costs of or in connection with any attachment ordered, the magistrate, if a collector, shall issue to the person paying a receipt in the prescribed form for the amount of the tax paid, or, if not a collector, shall remit to a collector the amount so paid after deducting therefrom such part thereof as may represent costs, and the collector on receipt of such sum shall issue to the person who has paid such sum a receipt in the prescribed form.

Power to call for tax receipt or information.

12. (1) A collector may, at any time, require any non-native to produce the receipt issued to such non-native for the payment of the tax last payable, and a collector may retain any receipt so produced for such time as he may consider necessary for the purpose of identifying the non-native named therein with the person producing the same.

(2) A collector may require any non-native, who refuses or neglects to produce his receipt when requested, to furnish him with information as to the office at which he has paid his tax last payable, and with such further information as the collector may require for the purpose of ascertaining whether such non-native has paid such tax.

(3) Any non-native who, without lawful excuse, neglects or refuses to produce his receipt when required as aforesaid, or who, having failed or refused to produce his receipt, fails to furnish the information which may be required of him under sub-section (2) of this section, shall, on conviction, be liable to a fine not exceeding ten pounds or to imprisonment for a term not exceeding one month.

Non-production of receipt prima facie evidence of non-payment.

(4) Evidence of the non-production of a receipt for the payment of a tax upon requisition being made as aforesaid shall, in and for the purposes of any proceedings for the recovery of such tax, be prima facie evidence that the tax has not been paid.

(5) Any non-native who, upon being required by a collector to produce his receipt, produces a receipt issued to some other person, or, who, having failed or refused to produce his receipt, furnishes a collector with any false particulars as to

1936

Non-Native Poll Tax

No. L

any information which may be required of him under subsection (2) of this section, shall, on conviction, be liable to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding six months.

13. The Governor may remit, either wholly or in part, the tax and/or penalty on the ground of poverty, or for any other good cause, and may also for like reason refund the tax or any part thereof. **Power of Governor to remit or refund tax.**

14. There shall be exempted from the payment of the tax under this Ordinance every non-native on a temporary visit to the Colony, provided he is not the owner or lessee of land in the Colony, and is not engaged in any employment or business in the Colony, and has no pecuniary interest in any business or enterprise conducted or carried on in the Colony. **Exemptions.**

15. The burden of proof of exemption from the tax shall lie on the party claiming the exemption. **Burden of proof.**

16. The Governor may, from time to time, make rules prescribing the form of the receipt to be issued under this Ordinance, and generally for the better carrying out of the purposes of this Ordinance, and may attach penalties for the breach of any such rule not exceeding a fine of ten pounds or imprisonment for a term not exceeding one month. **Power to make rules.**

ORDINANCE No. LI of 1936

Assented to in His Majesty's name this 31st day of December, 1936.

A. DE V. WADE,
Acting Governor.

Date of assent.

[31ST DECEMBER, 1936.]

An Ordinance to Provide for the Licensing of Traders within the Colony and to fix the Licence Fees Payable.

Date of commencement.

1st January, 1937

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 Traders Licensing Ordinance, 1936, and shall come into operation on the 1st day of January, 1937.

Interpretation.

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

“commercial traveller” means any person who, not being ordinarily resident in the Colony, solicits orders for goods on behalf of other persons but does not include a person employed as a traveller by a firm or persons licensed under this Ordinance;

“commission agent and/or manufacturer's representative” means any person resident in the Colony who receives or orders from abroad goods on account of others, whether such goods are imported in his own name or not;

“hawker” means any person who, whether as principal, agent or employee, carries on the business of offering, or exposing, goods for sale, barter or exchange elsewhere than at a fixed place;

“licensing officer” means any district officer or any other person whom the Governor may, by notice in the Gazette, appoint either by name or by office;

“store” means any building or part thereof in which goods are sold or exposed for sale but does not include a canteen holding a Canteen Liquor Licence under the provisions of the

No. 62 of 1934. Liquor Ordinance, 1934;

“trade” or “trading” means the selling of goods for purposes of profit in a store.

3. Nothing in this Ordinance contained shall be deemed to entitle the holder of a licence under this Ordinance to sell any article or substance for the sale of which a separate licence is required by any law for the time being in force in the Colony. Limitation of licences under the Ordinance.

4. (1) No person in the Colony shall trade, or carry on the business of a commercial traveller, or a commission agent and/or manufacturer’s representative, unless he holds a licence, for the time being in force authorizing him to do so, issued under the provisions of this Ordinance. Traders to be licensed.

(2) If any person contravenes the provisions of this section, he shall be liable for a first offence to a fine not exceeding fifty pounds or in default of payment to imprisonment for any term not exceeding two months, and for a second or subsequent offence to a fine not exceeding two hundred and fifty pounds or in default of payment to imprisonment for a term not exceeding six months : Provided that no person shall be prosecuted for trading during the period between the first day of January and the thirty-first day of March inclusive in any year, without a trading licence, if he takes out the appropriate trading licence before the expiration of such period. Offences.

5. The licences to be issued under this Ordinance shall be in the forms set out in Schedules B and C to this Ordinance. Forms of licences.

6. (1) The fees payable for the licences issued under the provisions of this Ordinance shall be as follows :— Licence fees.

- (a) For a trading licence for each store with liberty to store in and deliver out of public and other godowns and warehouses £12-10 per annum.

Repealed or Replaced by Ord. 5/12

Provided that for each store when the value of the goods on hand during the year for which the licence is required exceeds £100 but does not exceed £300 at any one time during the period of the validity of the licence the fee shall be £3-15 per annum.

Provided further that for each store when the value of the goods on hand during the year for which the licence is required does not exceed at each store £100. at any one time during the period of the validity of the licence the following fee shall be payable—

- (i) In municipalities, townships and trading centres ... £1-10 per annum.
 - (ii) Elsewhere ... Sh. 10 per annum.
- (b) For a commercial traveller's licence—
- (i) For three months ... £12-10.
 - (ii) For more than three months but not exceeding twelve months ... £20.
- (c) For a licence to carry on the business of a commercial agent and/or manufacturer's representative ... £12-10 per annum.
- (d) For a hawker's licence ... £1-10 for three months.

For the purposes of this sub-section the expression "goods on hand" shall exclude domestic produce not for sale direct to the consumer.

(2) When applying for a trading licence under sub-paragraphs (i) or (ii) of paragraph (a) of sub-section (1) of this section, the owner or manager of each such store shall declare in writing to the licensing officer the maximum value of goods which he anticipates will be on hand at any one time during the period in respect of which the licence is applied for; but if the value of his goods during such period shall exceed the said estimate at any one time during the period of the validity of such licence he shall pay any balance which may be found due, and, unless and until such sum is paid, he shall not be granted a further licence under this Ordinance.

Period of validity.

7. (1) Licences, other than a hawker's licence, under this Ordinance shall become due to be taken out on the first day of January in each year and shall expire on the thirty-first day

of December next following : Provided that a licence to carry on the business of a commercial traveller may be taken out upon any day in each year.

(2) Where a licence, other than a commercial traveller's licence, is due after the thirtieth day of June in any year, the fee for the licence shall be one-half of the annual fee specified in this Ordinance.

8. (1) A trading licence may, by endorsement of a licensing officer and on payment of a fee of five shillings, be transferred to different premises. Transfer of licences.

(2) Upon good reasons being adduced therefor a licence referred to in sub-section (1) of this section may, by endorsement of a licensing officer and on payment of a fee of ten shillings, be transferred to another person.

9. A licensing officer, on being satisfied that a licence issued by him under this Ordinance has been lost or destroyed and on payment to him of a fee of five shillings, shall issue a duplicate licence to the licensee. Issue of duplicate licences.

10. Every licence, other than a commercial traveller's or hawker's licence, shall be exhibited in a prominent place in the premises to which it relates or, if the business is not carried on in definite premises, such licence shall be kept at the place where the person carrying on the business usually resides. Licences to be exhibited at place of business.

11. Every licence issued under this Ordinance shall be produced for inspection to any administrative officer, police officer, or licensing officer on reasonable notice being given by him. Licences to be produced for inspection.

12. (1) Any administrative officer, police officer or licensing officer may enter any premises in respect of which a licence has been issued under this Ordinance, and may require to be furnished with such information as will enable him to determine whether or not the provisions of this Ordinance are being complied with. Power of entry.

(2) Any administrative officer, police officer or licensing officer may enter any premises in respect of which a licence has not been issued under this Ordinance but in which he has good reason to suspect that there is carried on any business or trade for which a licence is provided under this Ordinance, and may require to be furnished with any information he may deem to be necessary.

Books to be kept.

Ord. 21/37

13. Every person ~~holding a trading licence under this Ordinance~~ shall keep such books as will enable a licensing officer to ascertain the nature of the trade carried on and the value of the goods on hand at any one time.

Value of goods may be determined by administrative, police or licensing officer.

14. In the case of a trader licensed under the first or second proviso to paragraph (a) of sub-section (1) of section 6 of this Ordinance, the nature of the trade carried on and the value of the goods on hand at any one time may be determined by any administrative officer, European police officer or licensing officer.

Offences.

15. Any person who—

- (a) contravenes the provisions of section 10 of this Ordinance; or
- (b) fails to produce his licence when notice has been given to him to do so under section 11 of this Ordinance; or
- (c) fails to furnish any information required from him under the provisions of section 12 of this Ordinance; or
- (d) fails to keep the books required to be kept under the provisions of section 13 of this Ordinance; or
- (e) obstructs or hinders any administrative or police officer or licensing officer in the exercise of his duties under this section,

shall be guilty of an offence against this Ordinance.

Endorsement and cancellation of licence.

*S.N. 16/41
1-10*

16. Any person holding a trading licence, who is convicted of giving short change, short measure or weight, or of not keeping proper books of account, or of any breach of this Ordinance, or of any Rule made thereunder, shall, in addition to any penalty to which he may otherwise be liable, on a first conviction be liable to have the conviction endorsed on his licence and on a second or subsequent conviction be liable to have his licence cancelled.

Signboards to be exhibited.

17. ~~Every licence holder, keeping a store, office or other place of business under his licence shall exhibit at such place a signboard or name-plate bearing in legible English characters the name under which he carries on the business as shown on his licence.~~ *Amended by Ord. 21/37*

18. (1) No person shall hawk goods in any district of the Colony unless he holds a hawker's licence, for the time being in force authorizing him to do so, issued under the provisions of this Ordinance. Hawkers' licences.

(2) A hawker's licence shall authorize the person to whom it is issued to hawk goods only within the district specified in such licence.

19. (1) Subject to the provisions of sub-section (2) of this section, where any person employs servants to hawk goods on his account such person shall be liable to take out a licence and to pay the fees therefor for each such servant. Servants of hawkers.

(2) A hawker shall not transfer his licence to any person : Provided that a servant may travel with his master's licence and trade for his master's benefit : And provided further that a separate licence shall be taken out for each servant if more than one is employed, as provided in sub-section (1) of this section.

(3) Every person required by this section to be provided with a hawker's licence shall carry the same with him and shall produce the same on the demand of any administrative officer, licensing officer or police officer.

(4) The provisions of section 18 and of this section of this Ordinance shall not apply to—

- (a) any commercial traveller ;
- (b) any person hawking only goods in respect of which no licence under this Ordinance is required for the sale thereof in a store ;
- (c) any person selling goods in any market legally established ;
- (d) any person selling fish, poultry, vegetables, eggs, fruit, milk, victuals, firewood, newspapers or native handicrafts ;
- (e) any person selling religious or instructive literature.

20. Licences shall be issued by a licensing officer.

Issue of licence.

21. (1) Every application for a licence, other than a hawker's licence, shall be in the form contained in Schedule A to this Ordinance. Application for licences.

(2) Every such application shall be signed by the owner, manager or authorized representative of the business : Provided that a licence may be issued without written application

if the applicant applies in person for the licence and the licensing officer is satisfied that the applicant has not sufficient knowledge of the English language to be able to apply in writing.

Power to
refuse licence
in certain
circumstances.

22. A licensing officer may in his discretion refuse a licence to a person who has had his licence cancelled under the provisions of section 16 of this Ordinance, or who is a minor, or who is an undischarged bankrupt. If a licensing officer in exercise of the powers conferred upon him by this sub-section refuses a licence, the person to whom such licence has been refused may appeal to the Governor, whose decision shall be final.

Exemptions.

23. Persons engaged in any one of the following businesses shall not merely in respect of such business be liable to take out a trading licence under this Ordinance :—

- (a) The business or trade of a planter, farmer, stock raiser, market gardener or dairyman disposing of his own produce, but not including a manufacturer of sugar or a manufacturer of tea or a manufacturer of roasted coffee.
- (b) A business for which a licence is taken out under any law for the time being in force relating to intoxicating liquor in respect of brewers or traders dealing solely in intoxicating liquors.
- (c) The business of mining under the authority of a prospecting right, an exclusive prospecting licence, a location or a mining lease granted under the Mining Ordinance, 1933, or the Oil Production Ordinance, 1924, or any legislation substituted therefor.
- (d) Brickmakers, butchers, and bakers catering solely for, and domestic industries carried on by, natives, Somalis, Baluchis born in Africa, Malagasies and Comoro Islanders.
- (e) The business of an auctioneer, broker or coffee dealer.
- (f) Any other business or trade, in respect of which a licence is required to be taken out under any other law for the time being in force in the Colony, to which the Governor may, by notice in the Gazette, extend the provisions of this section.

No. 61 of 1933.
No. 11 of 1924.

24. (1) Any licensee under this Ordinance who employs in his store, office or other place of business any agent, clerk or other person shall be answerable for the acts of such agent, clerk or other person in so far as they concern the business of such licensee in relation to this Ordinance; and if such agent, clerk or other person commits any act which is an offence against the provisions of this Ordinance, such licensee and his agent, clerk or other person shall be jointly and severally liable to the forfeiture, fines and penalties thereby incurred.

Licensee responsible for acts of employee.

(2) The licensee shall not be allowed to plead as a bar to the proceedings taken against him that any such agent, clerk or other person who may have committed such offence did so without his authority, or was not acting in the capacity of an agent, clerk or other person employed.

25. The Governor in Council may make Rules— Rules.

- (a) prescribing forms of application, forms of licences and any other forms required for the better carrying out of the provisions of this Ordinance;
- (b) amending or revoking the forms set out in Schedules A, B or C of this Ordinance;
- (c) generally for the better carrying out of the provisions of this Ordinance.

26. Any person who is guilty of an offence against this Ordinance or who acts in contravention of any of the provisions thereof or of any Rules made thereunder shall, if no other penalty is imposed by this Ordinance or by any Rules made thereunder, be liable on conviction for each offence to a fine not exceeding ten pounds and in default of payment to imprisonment for a term not exceeding one month. Penalty.

27. The Governor may exempt any trade or any person carrying on any trade from the operation of this Ordinance either generally or in any area, or he may reduce the fee payable under this Ordinance either in respect of any trade or by any person carrying on any trade if, in his opinion, such exemption or reduction is desirable in the interests of the community or for any other reason which may seem to him to be sufficient. Power to exempt any trade or person or to reduce fee.

SCHEDULE A

COLONY AND PROTECTORATE OF KENYA

THE TRADERS LICENSING ORDINANCE, 1936

FORM OF APPLICATION FOR A LICENCE.

A separate form must be completed in respect of each licence applied for.

- 1. Name under which the business is to be carried on...
.....
- 2. Full address where the business is to be carried on.....
.....
- 3. Name of proprietor, partner or owning company.....
.....
- 4. Full description of the business for which a licence is required
- 5. State number and date of licence previously held; or state date of commencing business.....
- 6. State period for which licence is required.....
- 7. Is your stock insured against fire.....
- 8. If so, for what amount.....
- 9. Name of insurance company.....
- 10. State if you are a minor.....
- 11. State if you are an undischarged bankrupt.....
- 12. State if licence previously endorsed or cancelled.....

I hereby certify that the information given in this application is true and correct.

Signature of Applicant.....

Designation

Date.....

Declaration to be completed by an applicant for a licence to carry on business as a trader to whom sub-section (2) of section 6 of this Ordinance applies.

1936

Traders Licensing

No. LI

In respect of the licence for which I make application, I hereby declare that the value of the goods on hand will not at any time during the period of validity of the said licence exceed £.....

Date.....

Signature.....

FOR OFFICIAL USE ONLY.

Licence No.....Date.....Fee.....

Issued in the name of.....

in respect of premises situate.....

under section.....

Station.....

Registered.....

Licensing Officer.....

SCHEDULE B

COLONY AND PROTECTORATE OF KENYA

THE TRADERS LICENSING ORDINANCE, 1936

LICENCE.

Station.....

Licence is hereby granted to.....

.....of (address).....

.....to carry on the

business of.....

on premises situated at.....

This licence expires on the thirty-first day of December, 19.....

Fee paid (in words).....

(Sh.....).

Date.....

Licensing Officer.....

SCHEDULE C

COLONY AND PROTECTORATE OF KENYA
THE TRADERS LICENSING ORDINANCE, 1936
HAWKER'S LICENCE.

Station.....

Licence is hereby granted to.....
to hawk goods in the.....District of the Colony for
a period of.....months.

This licence expires on the.....day of
.....19.....

Fee paid (in words).....
(Sh.....).

Date.....

Licensing Officer.....

