



COLONY AND PROTECTORATE OF KENYA

---

# ORDINANCES

ENACTED DURING THE YEAR

1937

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VOL. XVI (NEW SERIES)

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1938

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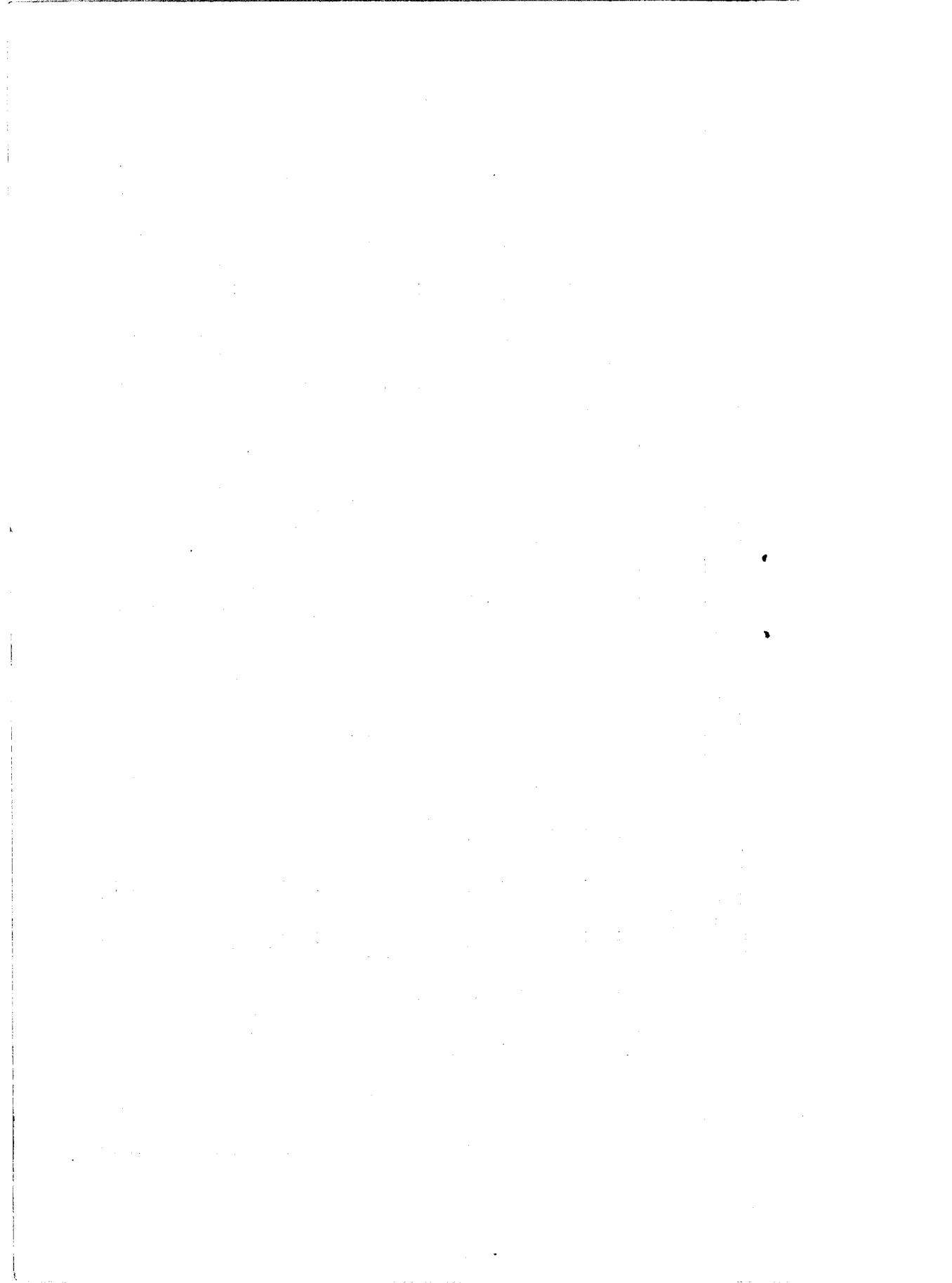
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TABLE SHOWING THE EFFECT OF THE YEAR'S LEGISLATION  
FORMER ORDINANCES (IN CHRONOLOGICAL ORDER) REPEALED OR AMENDED BY ORDINANCES OF 1937

Year and No. of Ordinance	Short Title	How Affected	Ordinance of 1937
<i>Revised Edition</i> Cap. 34	Widows and Orphans Pension	Pension Tables A and C repealed and replaced; Schedule B repealed and replaced; adds section 5, saving clause	3
" 35	State Railway Provident Fund	Section 3 repealed; section 4(c) repealed and replaced	7
" 42	Territorial Force	Repealed and all regulations thereunder	4
" 57	Stamp	Section 37, proviso added; new clause exemption of savings bank documents from Stamp Duty; Schedule amended.	6
" 57	Stamp	Section 4, new proviso added; section 55(c) repealed and replaced	19
" 119	Medical Practitioners and Dentists	Inserts new section 7(a); inserts new section 20	39
" 129	Native Authority	Repealed, with all amendments thereto	2
" 138	Native Passes	Section 4, new	33
" 155	Diseases of Plants Prevention	Repealed	24
" 161	Game	Repealed	38
5 of 1925	Resident Native Labourers	Repealed	30
7 of 1925	Public Trustee's	Section 2, additional definition; sections 4, 6, 7 repealed and replaced; section 9 amended; section 11, repealed and replaced; sections 13, 16, 17 amended; section 19A, new; Amending Ordinance, 1928 repealed	14
24 of 1925	Shop Hours	Section 5 (1), repealed and replaced; sections 5 (2) and (3), re-numbered; section 8 amended; section 9 (8), new; section 11 amended; section 15, proviso deleted	31
8 of 1926	Game Birds Protection	Repealed	38
12 of 1927	King's African Rifles Reserve of Officers	Section 1A, new; section 9, amended; section 11, repealed and replaced	37
12 of 1928	Defence Force	Repealed, and all regulations thereunder	5
14 of 1928	Public Trustee's (Amendment)	Repealed	14
16 of 1928	Native Authority (Amendment)	Repealed	2
21 of 1928	Local Government (District Councils)	Section 60, repealed and replaced	23
25 of 1928	Game (Amendment)	Repealed	38

TABLE SHOWING THE EFFECT OF THE YEAR'S LEGISLATION—(Continued)  
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Year and No. of Ordinance	Short Title	How Affected	Ordinance of 1937
26 of 1928	Traffic .. .. .	Section 31, as amended by Traffic (Amendment), 1934, repealed and replaced .. .. .	10
26 of 1928	Traffic .. .. .	Section 30, amended; sections 31A and 48A, new .. .. .	18
10 of 1929	Tribal Police .. .. .	Section 21, new .. .. .	17
28 of 1929	Trustee .. .. .	Section 26 (4) repealed and replaced .. .. .	13
17 of 1930	Defence Force (Amendment)	Repealed .. .. .	5
29 of 1930	Native Authority (Amendment)	Repealed .. .. .	2
37 of 1930	Prisons .. .. .	Sections 40 (1), 42, repealed and replaced; section 48A, new; sections 58 and 59, amended .. .. .	21
39 of 1930	Native Tribunals .. .. .	Section 44, repealed .. .. .	32
58 of 1930	Kerosene Oil (Repayment of Duty)	Section 3, amended; section 4, repealed; Schedule repealed and replaced .. .. .	9
36 of 1931	Game Birds Protection (Amendment)	Repealed .. .. .	38
43 of 1931	Native Authority (Amendment)	Repealed .. .. .	2
47 of 1931	Defence Force (Amendment)	Repealed .. .. .	5
42 of 1932	Compulsory Labour (Regulation)	Section 17, repealed .. .. .	2
49 of 1932	Game (Amendment) .. .. .	Repealed .. .. .	38
19 of 1933	Native Authority (Amendment)	Repealed .. .. .	2
61 of 1933	Mining .. .. .	Section 31 (as repealed and replaced by section 16 of Mining (Amendment) Ordinance, 1936), repealed and substituted .. .. .	8
62 of 1933	Game (Amendment) .. .. .	Repealed .. .. .	38
13 of 1934	Special Districts (Administration)	Section 30, repealed .. .. .	34
18 of 1934	Post Office .. .. .	Section 23, repealed and replaced .. .. .	36
40 of 1934	Native Hut and Poll Tax .. .. .	Section 2, amended; sections 6A, 6B, 6C, new .. .. .	27
54 of 1934	Coffee Industry .. .. .	Sections 2, 3 and 7, amended; section 9, new sub-section 6; section 9, new; section 18(a), amended .. .. .	35
57 of 1934	King's African Rifles Reserve of Officers (Amendment)	Repealed .. .. .	37
28 of 1935	Marketing of Native Produce .. .. .	Section 19, new .. .. .	29
34 of 1935	Girl Guides .. .. .	Section 2, amended .. .. .	15
51 of 1936	Traders Licensing .. .. .	Section 13, amended; section 17, repealed and replaced .. .. .	20





# Colony and Protectorate of Kenya

## ORDINANCE No. I of 1937

Assented to in His Majesty's name this twentieth day of January, 1937.

A. DE V. WADE,  
*Acting Governor.*

[20TH JANUARY, 1937.] Date of assent.

### An Ordinance Relating to Distress for Rent.

*By Proclamation.*

Date of commencement.

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

1. This Ordinance may be cited as the Distress for Rent Ordinance, 1937, and shall come into force on such date as the Governor may, by proclamation in the Gazette, appoint. Short title and commencement.

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

“agricultural holding” means any land in the Colony which is used for agricultural or pastoral purposes;

“superior landlord” includes a landlord in cases where the goods seized are not those of an under-tenant or lodger;

“tenant” and “under-tenant” do not include a lodger.

3. (1) Subject to the provisions of this Ordinance, every person having any rent or rent service in arrear and due upon any grant, lease, demise, or contract whatsoever shall have the same remedy by distress for the recovery of such rent or rent service as is given by the Common Law of England in the like case. Right of distress.

(2) No distress shall be levied between sunset and sunrise or on any Sunday.

4. (1) Where any goods or chattels shall be distrained for any rent reserved and due upon any grant, demise, lease, or contract whatsoever, and the tenant or owner of the goods or chattels so distrained shall not, within ten days next after such distress has been made, and notice thereof (with the cause of the making of such distress) left on the premises charged with the rent distrained for, pay such rent together with the costs of the distress, or replevy the same (with sufficient security to be Distraigned goods may be sold under certain circumstances.

given to the bailiff according to law) then and in such case, after such distress and notice as aforesaid, and expiration of the said ten days, the person distraining may lawfully sell on the said premises or remove and sell the goods and chattels so distrained for the best price which can be obtained for the same, towards satisfaction of the rent for which the said goods and chattels shall be distrained, and of the charges of such distress, removal and sale, handing over the surplus (if any) to the owner.

(2) If, before the expiration of the ten days above mentioned, the tenant or owner of the goods distrained shall, in writing, so request, the goods and chattels distrained shall be removed to a public auction room or to some other fit and proper place specified in such request, and be there sold by public auction towards satisfaction of the rent for which the said goods and chattels shall be distrained, and of the charges of such distress and sale, and the surplus (if any) shall be handed over to the owner. The costs and expenses of such removal, and any damage to the goods and chattels arising therefrom, shall be borne and paid by the person requesting the removal.

(3) If, before the expiration of the ten days' notice above mentioned, the tenant or owner of the goods and chattels distrained shall by writing require that the value of such goods and chattels shall be ascertained, then and in such case the person distraining shall cause the said goods and chattels to be valued by an approved valuer appointed under the Estate Duty (Consolidation) Ordinance, 1926, and, after such valuation and the expiration of such ten days as aforesaid, may, unless the goods are sold by public auction as hereinbefore mentioned, lawfully sell the goods and chattels so distrained for the best price which can be obtained for the same, towards satisfaction of the rent for which the said goods and chattels shall be distrained, and of the charges of such distress, valuation and sale, handing over the surplus (if any) to the owner. The costs and expenses of valuation, when required by the tenant or owner, shall be borne and paid by him.

(4) The period of ten days hereinbefore provided within which the tenant or owner of goods and chattels distrained may replevy the same, shall be extended to a period of not more than fifteen days if the tenant or such owner shall make a request in writing in that behalf to the landlord or other person levying the distress, and also give security for any additional cost that may be occasioned by such extension of

time : Provided that the landlord or person levying the distress may, at the written request, or with the written consent of the tenant or such owner as aforesaid, sell the goods and chattels distrained, or part of them, at any time before the expiration of such extended period as aforesaid.

5. Any person having any rent in arrear, or due upon any demise, lease, or contract whatsoever after the ending or determination of such demise, lease, or contract, may distrain for such arrears after such ending or determination in the same manner as he might have done if such demise, lease, or contract, had not been ended or determined : Provided that such distress shall be made within the space of six months after the determination of such demise, lease, or contract and during the continuance of such landlord's title or interest, and during the possession of the tenant from whom such arrears became due.

Rent in arrear upon a lease expired may be distrained for after the determination of the lease.

6. (1) Any person having rent in arrear and due upon any grant, demise, lease, or contract whatsoever may seize and secure any crops loose and not attached to the land or lying and being in any barn or granary, or in any place or building used for the storage of crops or otherwise, upon any part of the land or ground charged with such rent, and may lock up or detain the same in the place where the same shall be found, for or in the nature of a distress, until the same shall be replevied and in default of the same being replevied upon such security to be given as aforesaid within ten days from the seizure thereof the said crops may be sold for the best price which can be obtained for them :

Crops may be detained and sold.

Provided that such crops so distrained shall not be removed by the person distraining to the damage of the owner thereof out of the place where the same shall be found and seized, but be kept there (as impounded) until the same shall be replevied or sold in default of replevying the same within the ten days aforesaid.

(2) The provisions of sub-sections (2), (3) and (4) of section 4 of this Ordinance shall apply to all crops seized and secured under this section.

7. If any person shall in any unauthorized manner remove or cause to be removed any goods, chattels, stock, or crops distrained upon for rent from any place where they or any of them are lawfully stored or detained, such person shall, on conviction, be liable to pay to the person or persons

Treble damages for pound breach.

aggrieved by such removal, three times the value of the goods, chattels, stock or crops so removed, in addition to any costs incurred by the person or persons so aggrieved in the prosecution of the offender, and the tenant or owner of the goods, chattels, stock or crops or any of them so removed shall be liable to the same penalties as are hereby imposed upon the person removing or causing to be removed such goods, chattels, stock or crops as aforesaid, in case the same or any of them are afterwards found to have come into his use or possession.

Double damages and costs against wrongful distraint.

8. If any distress and sale shall be made under this Ordinance for rent pretended to be in arrear and due, when in truth no rent is in arrear or due to the person distraining, or to him in whose name or right, such distress shall be taken as aforesaid, then and in such case the owner of such goods or chattels distrained and sold as aforesaid, his executors or administrators shall be entitled to recover double the value of such goods and chattels so distrained and sold together with full costs of suit from the person so distraining, or his executors or administrators, and such double value and costs of suit may be recovered as a civil debt in a summary manner under the Civil Debts (Summary Recovery) Ordinance.

Cap. 6.

Landlords may distrain and sell goods fraudulently carried off premises within thirty days unless sold to any person not privy to the fraud.

9. If the tenant or lessee or persons in possession or occupation of any premises in respect of which any rent is reserved, due, or made payable, shall fraudulently or clandestinely remove or carry away, or cause or permit to be removed or carried away, from the premises any goods or chattels liable to be seized for such rent to prevent the landlord or lessor from distraining the same for arrears of rent so reserved, due, or made payable, it shall be lawful for every landlord or lessor or for any person or persons by him for that purpose lawfully empowered, within the space of thirty days next following such removal or carrying away of such goods or chattels as aforesaid, to take and seize such goods and such chattels, wherever the same shall be found, as a distress for the said arrears of rent; and the same to sell or otherwise dispose of in such manner as if such goods and chattels had actually been distrained by such landlord or lessor upon such premises for such arrears of rent :

Provided that no landlord or lessor or other person entitled to such arrears of rent as aforesaid, shall take or seize any such goods or chattels as a distress for the same, which shall be sold bona fide, and for a valuable consideration, before such

seizure made, to any person or persons not privy to such fraud as aforesaid, anything herein contained to the contrary notwithstanding.

10. If any such tenant or lessee as above mentioned shall fraudulently remove and convey away his goods or chattels as aforesaid, or if any person shall wilfully and knowingly aid or assist any such tenant or lessee in such fraudulent conveying away or carrying off of any part of his goods or chattels, or in concealing the same, any such tenant or lessee and any such person as aforesaid shall be liable to pay to the landlord or lessor from whose estate such goods and chattels were fraudulently carried off as aforesaid, double the value of the goods so carried off or concealed as aforesaid, and such liability shall be deemed to be a debt recoverable under the Civil Debts (Summary Recovery) Ordinance.

Penalty on the said fraud, or assisting therein.

Cap. 6.

11. Where any goods or chattels fraudulently or clandestinely conveyed or carried away by any tenant or lessee or his servant or agent, or other person or persons aiding or assisting therein, shall be put, placed, or kept in any house, barn, stable, outhouse, yard, close or place locked up, fastened or otherwise secured, so as to prevent such goods or chattels from being taken and seized as a distress for arrears of rent, it shall be lawful for the landlord or lessor or his bailiff to take and seize, as a distress for rent, such goods and chattels (first calling to his assistance a police officer not below the rank of assistant inspector, second grade, who is hereby required to aid and assist therein, and in case of a dwelling house, oath being first also made before a magistrate empowered to hold a subordinate court of the first, second, or third class or before a justice of the peace of a reasonable ground to suspect that such goods or chattels are therein) in the day time to break open and enter into such house, barn, stable, outhouse, yard, close and place, and to take and seize such goods and chattels for the said arrears of rent, as he might have done by virtue of this Ordinance if such goods or chattels had been put in any open field or place.

Landlords may break open houses to seize goods fraudulently secured therein.

12. (1) It shall be lawful for every lessor or landlord or his bailiff to take and seize, as a distress for arrears of rent, any cattle or stock of any lessee or tenant feeding or depasturing upon any part of the premises demised or holden, or upon any unalienated Crown land; and also to take and seize all sorts of crops of whatsoever description which shall be growing on any part of the premises so demised

Power to distrain stock or cattle on premises for arrears of rent.

or holden, as a distress for arrears of rent, and the same to cut, gather, make, cure, carry and lay up, when ripe, in the barns, or other proper place on the premises so demised or holden; and in case there shall be no barn or proper place on the premises so demised or holden, then in any other barn or proper place which such lessor or landlord shall hire or otherwise procure for that purpose, and as near as may be to the premises, and thereafter to sell such cattle and crops in the manner provided by section 4 of this Ordinance:

Provided that in the event of any valuation of such crops being made, such valuation shall be made when such crops are cut, gathered, cured, and made and not before.

Tenants to have notice of place where distress is lodged.

Distress of crops to cease if rent is paid before they are cut.

(2) Notice of the place where the goods and chattels so distrained shall be lodged or deposited shall, within the space of seven days after the lodging or depositing thereof in such place, be given to such lessee or tenant, or left at the demised premises, and if, after any distress for arrears of rent so taken of any crops which shall be growing as aforesaid, and at any time before the same shall be ripe and cut, cured, or gathered, the tenant or lessee, his executors, administrators or assigns shall pay or cause to be paid to the lessor or landlord, for whom such distress shall be taken, or to the person usually employed to receive the rents of such lessor or landlord, the whole rent which shall be then in arrear, together with the full costs and charges of making such distress, and which shall have been occasioned thereby, then and in such case and upon such payment or lawful tender thereof actually made, whereby the object of such distress will be fully answered, the same and every part thereof shall cease, and the crops so distrained shall be delivered up to the lessee or tenant, his or her executors, administrators, or assigns, anything hereinbefore contained to the contrary notwithstanding.

Distress may be secured and sold on the premises.

**13.** It shall be lawful for any person or persons lawfully taking any distress for any kind of rent, to impound or otherwise secure the distress so made, of whatever nature or kind it may be, in such place or on such part of the premises chargeable with the rent as shall be most fit and convenient for the impounding and securing such distress, and to value, sell and dispose of the same upon the premises in like manner and under the like directions and restraints to all intents and purposes as any person taking a distress for rent may now do off the premises under this Ordinance; and it shall be lawful for any person or persons whatsoever to come and go to and

from such place or part of the said premises, where any distress for rent shall be impounded and secured as aforesaid, in order to view, value, and buy and also in order to carry off or remove the same, on account of the purchaser thereof.

14. If any tenant shall give notice to his landlord of his intention to quit the premises by him holden, at a time mentioned in such notice, and shall not accordingly deliver up the possession thereof at the time in such notice contained, then and in such case the said tenant or his executors or administrators shall from thenceforward pay to the landlord double the rent or sum which he should otherwise have paid, to be levied, sued for, and recovered at the same times, and in the same manner, as the single rent or sum before the giving of such notice could be levied, sued for, or recovered: and such double rent or sum shall continue to be paid during all the time such tenant shall continue in possession as aforesaid and such double rent may be distrained for in the same manner as is provided in this Ordinance for distraint for rent.

Tenants holding premises after the time they notify for quitting them, to pay double rent.

15. Where any distress shall be made for any kind of rent justly due, and any irregularity or unlawful act shall be afterwards done by the party distraining, or by his agents, the distress itself shall not be therefore deemed to be unlawful nor the party making it be deemed a trespasser *ab initio*, but the party aggrieved by such unlawful act or irregularity shall or may recover full satisfaction for the special damage he shall have sustained thereby, and no more, in a suit for that purpose:

Distresses for rent not unlawful for any irregularity in them.

Provided always that when the plaintiff shall recover in such suit, he shall be paid his full costs of suit and have all the like remedies for the same as in other cases of costs:

Provided further that no tenant or lessee shall recover in any suit for any such unlawful act or irregularity as aforesaid, if tender of amends has been made by the party distraining or his agent before such suit is brought.

16. (1) The following goods and chattels shall be exempt from distress for rent, namely—

Articles, etc., exempted from distress.

- (a) the property of the Crown;
- (b) goods or chattels in the possession of the law;
- (c) things delivered to a person exercising a public trade, to be carried, wrought, worked up, or managed in the way of his trade;

- (d) things in actual use or occupation of the person distrained upon at the time of the distress;
- (e) things of a perishable nature, or such as cannot be restored again in the same state and condition that they were before being taken or must necessarily be damaged by removal or severance;
- (f) animals *feræ naturæ*;
- (g) wearing apparel and bedding of the persons whose goods and chattels are being distrained upon and the tools and implements of his trade to the total value of five pounds;
- (h) things exempted from distress under the provisions of the Electric Power Ordinance (Chapter 165 of the Revised Edition) or any Ordinance amending or replacing the same; and
- (i) any meter (together with any fittings thereto) supplied and let on hire by any corporation or company supplying water to the premises on which the distress is levied for the purpose of ascertaining the quantity of water consumed on or supplied to such premises.

(2) A subordinate court of the first, second or third class, on complaint that goods or chattels exempt under this section from distress for rent, have been taken under such distress, may, by summary order direct that the goods and chattels so taken, if not sold, be restored; or, if they have been sold that such sum as the Court may determine to be the value thereof shall be paid to the complainant by the person who levied the distress or directed it to be levied.

**Bailiff to give copy of charges to person distrained.**

**17.** Every person who shall make and levy any distress shall, if requested to do so by the person or persons on whose goods and chattels distress shall be levied, give a copy of his charges, and of all the costs and charges of any distress, signed by him, to such person, and, in default of doing so, shall be liable, on conviction, to a penalty not exceeding five pounds.

**Distress to be levied by certified bailiff.**

**18.** (1) No person shall act as a bailiff to levy any distress for rent unless he shall be authorized to act as a bailiff by a certificate in writing to that effect, and such certificate may be



general or apply to a particular distress or distresses, and may be granted at any time in such manner as may be prescribed by Rules under this Ordinance.

(2) The Registrar, a Deputy Registrar, or a District Registrar of the Supreme Court of Kenya may exercise the power of granting certificates in cases in which such officers may be authorized to do so by Rules made under this Ordinance.

(3) If any person not holding a certificate under this section shall levy a distress contrary to the provisions of this section, the person so levying shall be guilty of an offence, and shall be liable on conviction, to a penalty not exceeding ten pounds or to imprisonment for any term not exceeding three months, in addition to any other liability which he may have incurred by his proceedings.

(4) Any person who shall authorize any person not holding a certificate under this section to levy a distress contrary to the provisions of this Ordinance shall be guilty of an offence, and shall be liable, on conviction, to a fine not exceeding ten pounds in addition to any other liability which he may have incurred by his proceedings.

(5) A certificate granted to a bailiff under this section may at any time be cancelled or declared void by a judge.

19. (1) If any superior landlord shall levy, or authorize to be levied, a distress on any furniture, goods, or chattels of—

(a) any under-tenant liable to pay by equal instalments not less often than every quarter of a year a rent which would return in any whole year the full annual value of the premises or of such part thereof as is comprised in the under-tenancy; or

(b) any lodger; or

(c) any other person whatsoever not being a tenant of the premises or of any part thereof, and not having any beneficial interest in any tenancy of the premises or of any part thereof,

for arrears of rent due to such superior landlord by his immediate tenant such under-tenant, lodger, or other person aforesaid may serve such superior landlord, or the bailiff or other agent employed by him to levy such distress, with a declaration in writing made by such under-tenant, lodger, or

Under-tenant or lodger, if distress levied, to make declaration that immediate tenant has no property in goods distrained.

other person aforesaid, setting forth that such immediate tenant has no right of property or beneficial interest in the furniture, goods, or chattels so distrained or threatened to be distrained upon, and that such furniture, goods, or chattels are the property of or in the lawful possession of such under-tenant, lodger, or other person aforesaid, and are not goods or live stock to which this section is expressed not to apply; and also, in the case of an under-tenant or lodger, setting forth the amount of rent (if any) then due to his immediate landlord, and the times at which future instalments of rent will become due, and the amount thereof, and containing an undertaking to pay to the superior landlord any rent so due or to become due to his immediate landlord, until the arrears of rent in respect of which the distress was levied or authorized to be levied have been paid off, and to such declaration shall be annexed a correct inventory subscribed by the under-tenant, lodger or other person aforesaid, of the furniture, goods, and chattels referred to in the declaration, and if any such tenant, lodger, or other person aforesaid, shall make or subscribe such declaration and inventory knowing the same or either of them to be untrue in any material particular, he shall be guilty of an offence and shall be liable on conviction to a term of imprisonment not exceeding two years, or to a fine not exceeding one hundred pounds or to both such imprisonment and fine.

(2) The provisions of this section shall not apply—

- (a) to goods belonging to the husband or wife of the tenant whose rent is in arrear, nor to goods comprised in any bill of sale, chattels mortgage, hire purchase agreement, or settlement made by such tenant, nor to goods in the possession, order, or disposition of such tenant by the consent and permission of the true owner under such circumstances that such tenant is the reputed owner thereof; nor to any live stock to which section 25 of this Ordinance applies;
- (b) (i) to goods of a partner of the immediate tenant;
- (ii) to goods (not being goods of a lodger) upon premises where any trade or business is carried on in which both the immediate tenant and the under-tenant have an interest;
- (iii) to goods (not being goods of a lodger) on premises used as offices or warehouses where the owner of the goods neglects for one calendar month after notice

(which shall be given in a like manner as a notice to quit) to remove the goods and vacate the premises; (iv) to goods belonging to and in the offices of any company or corporation on premises the immediate tenant whereof is a director or officer, or in the employment of such company or corporation :

Provided that a subordinate court of the first, second or third class, upon application by the superior landlord, or any under-tenant or other such person as aforesaid, upon hearing the parties may determine whether any goods are in fact goods covered by sub-section (2) of this section.

**20.** If any superior landlord, or any bailiff or other agent employed by him shall, after being served with the before-mentioned declaration and inventory, and in the case of an under-tenant or lodger after such undertaking as aforesaid has been given, and the amount of rent (if any) then due has been paid or tendered in accordance with that undertaking, levy or proceed with a distress on the furniture, goods, or chattels, of the under-tenant, lodger or other person aforesaid, such superior landlord, bailiff, or other agent shall be deemed guilty of an illegal distress, and the under-tenant, lodger, or other person aforesaid may apply to a magistrate of the first or second class for an order for the restoration to him of such goods, and such application shall be heard before a magistrate of the first or second class, and such magistrate shall inquire into the truth of such declaration and inventory, and shall make such order for the recovery of the goods or otherwise as to him may seem just, and the superior landlord shall also be liable to an action at law at the suit of the under-tenant, lodger, or other person aforesaid, in which action the truth of the declaration and inventory may likewise be inquired into.

Penalty on superior landlord disregarding lodger's declaration.

**21.** For the purposes of the recovery of any sums payable by an under-tenant or lodger to a superior landlord under such an undertaking as aforesaid, or under notice served in accordance with section 23 of this Ordinance the under-tenant or lodger shall be deemed to be the immediate tenant of the superior landlord, and the sums payable shall be deemed to be rent; but where the under-tenant or lodger has in pursuance of any such undertaking or notice as aforesaid, paid any sums to the superior landlord, he may deduct the amount thereof from any rent due or which may become due from him to his immediate landlord, and any person (other than the tenant for whose rent the distress is levied or authorized to be levied)

Payments by lodger to superior landlord.

from whose rent a deduction has been made in respect of such a payment may make the like deductions from any rent due or which may become due from him to his immediate landlord.

Exclusion of certain tenants.

**22.** The provisions of sections 19, 20 and 21 of this Ordinance shall not apply to any under-tenant where the under-tenancy has been created in breach of any covenant or agreement in writing between the landlord and his immediate tenant or where the under-tenancy has been created under a lease existing at the date of the passing of this Ordinance contrary to the wish of the landlord in that behalf, expressed in writing and delivered at the premises within a reasonable time after the circumstances had come or with due diligence would have come, to his knowledge.

To avoid distress.

**23.** In cases where the rent of the immediate tenant of the superior landlord is in arrear it shall be lawful for such superior landlord to serve upon any under-tenant or lodger a notice (by registered post addressed to such under-tenant or lodger upon the premises) stating the amount of such arrears of rent, and requiring all future payments of rent, whether the same has already accrued due or not, by such under-tenant or lodger to be made direct to the superior landlord giving such notice until such arrears shall have been duly paid, and such notice shall operate to transfer to the superior landlord the right to recover, receive, and give a discharge for such rent.

No goods, etc., to be taken in execution unless the party before the removal of the goods, etc., pay the landlord the rent due up to one year's arrears.

**24.** No goods or chattels whatsoever, lying or being in or upon any land which is or shall be leased for life or lives, term of years, at will or otherwise, shall be liable to be taken by virtue of any execution on any pretence whatsoever, unless the party at whose suit the said execution is levied shall, before the removal of such goods from off the said premises, by virtue of such execution, pay to the landlord of the said premises or his bailiff (provided that a request for such payment is made by such landlord or his bailiff before the removal of such goods) all such sum or sums of money as are or shall be due for rent for the said premises at the time of the taking such goods or chattels by virtue of such execution :

Provided that the said arrears of rent do not amount to more than one year's rent, and in case the said arrears shall exceed one year's rent, then the said party at whose suit such execution is levied, paying the said landlord or his bailiff one year's rent, may proceed to execute his judgment as he might

have done before the passing of this Ordinance, and the bailiff or other officer is hereby empowered and required to levy and pay to the plaintiff as well the money so paid for rent as the execution money.

25. (1) Where live stock belonging to another person has been taken in by the tenant of an agricultural holding to be fed at a fair price, the stock shall not be distrained by the landlord for rent where there is other sufficient distress to be found, and, if so distrained by reason of other sufficient distress not being found, there shall not be recovered by that distress a sum exceeding the amount of the price agreed to be paid for the feeding, or any part thereof which remains unpaid.

Limitation of distress in respect of things to be distrained.

(2) The owner of the stock may, at any time before it is sold, redeem the stock by paying to the distrainer a sum equal to such amount as aforesaid, and any payment so made to the distrainer shall be in full discharge as against the tenant of any sum of the like amount which would be otherwise due from the owner of the stock to the tenant in respect of the price of feeding.

(3) Any portion of the stock so long as it remains on the agricultural holding shall continue liable to be distrained for the amount for which the whole of the stock is distrainable.

(4) Agricultural or other machinery which is the property of a person other than the tenant, and is on the agricultural holding under an agreement with the tenant for the hire or use thereof in the conduct of his business, and live stock which is the property of a person other than the tenant and is on the agricultural holding solely for breeding purposes, shall not be distrained for rent.

26. (1) Where any dispute arises—

- (a) in respect of any distress having been levied on an agricultural holding contrary to the provisions of this Ordinance; or
- (b) as to the ownership of any live stock distrained or as to the price to be paid for the feeding of that stock; or
- (c) as to any other matter or thing relating to a distress on an agricultural holding,

Remedy for wrongful distress.

the dispute may be heard and determined by a subordinate court of the first, second or third class, and any such court may make an order for restoration of any live stock or things unlawfully distrained, or may declare the price agreed to be paid for feeding, or may make any other order which justice requires.

(2) Any person aggrieved by any decision of a subordinate court under this section may appeal to the Supreme Court.

Power to  
make Rules.

**27.** The Chief Justice may from time to time make, alter and revoke Rules—

- (a) for regulating the security (if any) to be required from bailiffs;
  - (b) for regulating the fees, charges and expenses in and incidental to distresses;
  - (c) for establishing pounds and pound-masters, for the purposes of this Ordinance, and for regulating the fees, charges and expenses in connection therewith;
  - (d) for carrying into effect the objects of this Ordinance.
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**ORDINANCE No. II of 1937**

Assented to in His Majesty's name this twenty-fourth day of March, 1937.

A. DE V. WADE,  
Acting Governor.

[24TH MARCH, 1937.] Date of assent.

**An Ordinance to Make Provision in Regard to the Powers and Duties of Native Official Headmen and Local Native Councils and to provide for matters incidental thereto.**

24th March, 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:—

**PART I.—GENERAL.**

1. This Ordinance may be cited as the Native Authority Ordinance, 1937. Short title.

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

“native” means a native as defined by section 2 of the Interpretation (Definition of “Native”) Ordinance, 1934, but shall include a Somali; No. 55 of 1934.

“native tribunal” means a native tribunal established in accordance with the provisions of the Native Tribunals Ordinance, 1930. No. 39 of 1930.

3. The Governor may appoint any native he may think suitable to be the official headman (hereinafter referred to as headman) of any area which shall be specified in such appointment, and to make the headman of any area subordinate to the headman of any other area, and may at any time suspend or cancel any such appointment. Every appointment under this section and every suspension or cancellation of such appointment shall be notified in the Gazette. Appointment of headmen. *Standing Committee means the Standing Advisory Committee established under the provisions of section 207 of this Ordinance.*

4. It shall be the duty of every headman to maintain order in the area in respect of which he is appointed, and for such purpose he shall have and exercise the jurisdiction and powers by this Ordinance conferred over the natives residing or being within such area. Duty of headman to maintain order.

Headman may employ persons to assist him in carrying out his duties.

5. A headman may employ any person or persons subject to his jurisdiction to assist him in carrying out the duties imposed upon him by this Ordinance or otherwise by law, and any person so employed may carry out and give effect to any lawful order given by a headman.

Power of headman in the prevention of crime and the arrest of offenders.

6. (1) Any headman may interpose for the purpose of preventing, and shall, to the best of his ability prevent, the commission of any offence by any native within the local limits of his jurisdiction.

(2) Any headman knowing of a design by a native to commit an offence within the local limits of his jurisdiction, may, if it appears to such headman that the commission of the offence cannot be otherwise prevented, arrest or direct the arrest of such native. Any person arrested under the powers conferred by this sub-section shall, unless he be released from arrest within twelve hours of his arrest, be taken before the district officer, or if the person so arrested is within the limits of the Protectorate, before the District Officer, Luvale or Mundir.

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(3) Every headman receiving information that any native who has committed a cognizable offence triable by some court other than a native tribunal, or for whose arrest a warrant has been issued by a magistrate, is within the local limits of his jurisdiction, shall cause such native to be arrested and

arrested is within the limits of the Protectorate, before the District Officer, Luvale or Mundir, or if the person so arrested is within the limits of the Protectorate, before the District Officer, Luvale or Mundir.

(4) Every headman receiving information that any cattle or other live stock or other property of any description which has been stolen outside the local limits of his jurisdiction has been brought and is within such local limits shall cause such cattle or other live stock or other property to be seized and detained pending the orders of the district officer, and shall forthwith report such seizure and detention to the district officer, or if such cattle, live stock or other property seized & detained is within the limits of the Protectorate, to the District Officer, Luvale or Mundir.

Luvale or Mundir, as the case may be

Headman may compel the attendance of natives before native tribunals.

7. (1) Any headman may compel the attendance before a native tribunal of any native within the local area of his jurisdiction and subject to the jurisdiction of such tribunal.

Arrest of person neglecting to attend when ordered.

(2) Any native who, when so directed to attend before a native tribunal, without reasonable excuse fails or neglects to attend as and when directed, may be arrested by or under the orders of a headman and taken before such tribunal.



8. Any headman may from time to time issue orders to be obeyed by the natives residing or being within the local limits of his jurisdiction for any of the purposes following:—

Power of headman to issue orders for certain purposes.

- (a) prohibiting or restricting the manufacture, distilling, consumption or possession of native intoxicating liquors and the supply of such liquors to young persons;
- (b) prohibiting or restricting the holding of drinking bouts;
- (c) prohibiting or restricting the cultivation of poisonous or noxious plants, and the manufacture, transfer, sale and possession of noxious drugs or poisons;
- (d) prohibiting or restricting the carrying of arms;
- (e) prohibiting any act or conduct which in the opinion of the headman might cause a riot or a disturbance or a breach of the peace;
- (f) preventing the pollution of the water in any stream, watercourse, or water-hole, and preventing the obstruction of any stream or watercourse;
- (g) regulating the cutting of timber and prohibiting the wasteful destruction of trees;
- (h) preventing the spread of disease, whether of human beings or animals;
- (i) prohibiting natives from holding or attending any meeting or assembly within the local limits of his jurisdiction which in his opinion might tend to be subversive of peace and good order;
- (j) prohibiting any act or thing which may cause damage to any public road or to any work constructed or maintained for the benefit of the community;
- (k) preventing the construction of game pits and rendering game pits already constructed harmless;
- (l) prohibiting or restricting excessive dancing by natives or the public performance of any native dance of indecent or immoral character or of such nature that it is likely to lead to immorality or a breach of the peace and determining the hours within which, the place or places at which, and the conditions under which, any native dance may be publicly performed;
- (m) destroying locusts in any stage of development;

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(m) (n) regulating the collection or receipt of money or property from natives;

(n) (o) controlling grass fires; and

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Further powers of headmen to issue orders.

(g) for any other purpose approved by the Governor in writing. *regulating the use of artificial water supplies. includes from public funds.*  
(p) Any headman may from time to time issue orders to be obeyed by the natives residing within the local limits of his jurisdiction for any of the purposes following:—

- (a) preventing the evasion of any tax or legal duty;
- (b) regulating the movement of natives from the jurisdiction of one headman to that of another;
- (c) requiring natives to report the presence within the local limits of his jurisdiction of any property stolen or believed to have been stolen outside such local limits;
- (d) suppressing or controlling animal or insect pests or plant pests, noxious weeds or diseases;
- (e) requiring natives to attend, for any purpose in the interest of good government; before a provincial commissioner or district officer, *at any time and at any place appointed by him, or before himself at any place within the local limits of his jurisdiction;*
- (f) requiring any native to report to his headman without delay the arrival in or the passage through his location from without of any cattle in the possession of natives;
- (g) requiring the provision of baggage animals at current rates of payment for the use of Government servants on tour and for the transport of urgent Government stores;
- (h) requiring the proper burial of deceased persons in cemeteries or otherwise;
- (i) forbidding the deliberate exposure of persons supposed to be dying;

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(j) restricting or prohibiting the use of grazing by any form of stock in any area for the purpose of reconditioning planted with any fodder-pro and specified crops for their families when threatened with or any other purpose approved in writing.

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*requiring able-bodied adult male natives to work for any other purpose approved in writing.*  
(k) purposes declared to be necessary for the maintenance of public health under paragraph (n) of sub-section (1) of section 2.

10. (1) Whenever a provincial commissioner or district officer, considers that, for the proper administration and good government of the area for which any headman has been appointed, it is necessary or desirable that any order or orders should be issued for any of the purposes enumerated in the last two preceding sections he may direct the headman to issue and enforce such order or orders as aforesaid as to the provincial commissioner or district officer may seem proper.

Administrative officers may require headman to issue orders for any of the purposes enumerated in sections 8 and 9.

If any headman neglects to issue any order which he may be directed to issue as aforesaid, the provincial commissioner or district officer may himself issue the order or orders.

In case of neglect by headman administrative officers may issue orders.

(2) Whenever a provincial commissioner or district officer considers that any order issued by a headman should not have been issued or should not be enforced he may direct the headman to cancel the order or to refrain from enforcing the order.

Power to direct cancellation of any order.

11. Any native who without lawful excuse disobeys or fails to comply with any lawful order issued or given by a headman under this Ordinance, or by a provincial commissioner or district officer, under the powers conferred by the last preceding section, shall be guilty of an offence and shall, on conviction before a magistrate or before a native tribunal having jurisdiction over such native, be liable to imprisonment for a period not exceeding two months, or to a fine not exceeding one hundred and fifty shillings and in default of payment to imprisonment for a period not exceeding two months, or to both such fine and such imprisonment.

Penalty on natives for disobeying orders.

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

Administrative officers may order natives occupying land outside a native reserve to remove into the reserve.

(2) Any native who, without lawful excuse, neglects to obey an order issued under this section shall be guilty of an offence, and on conviction before a magistrate shall be liable to a fine not exceeding one hundred and fifty shillings and in default of payment to imprisonment for a period not exceeding

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under the provisions of the law being in force in the colony

shall be liable to imprisonment for a period not exceeding two months, or to a fine not exceeding one hundred and fifty shillings and in default of payment to imprisonment for a period not exceeding two months, or to both such fine and such imprisonment.

two months, and any hut or crops belonging to such native on the land from which he has been ordered to remove shall be forfeited to the Government, and may be destroyed or otherwise dealt with as the magistrate in his discretion may direct.

Offences by  
headman.

13. Any headman may be fined a sum not exceeding six hundred shillings and in default of payment may be sentenced to imprisonment for a term not exceeding six months, if he is convicted before a magistrate of any of the following acts or omissions:—

(a) if when summoned by a provincial commissioner, district officer, <sup>judge or magistrate</sup> or a headman to whom he is subordinate to meet a provincial commissioner <sup>judge or magistrate</sup> or district officer, he neglects without good and sufficient excuse to obey such summons;

(b) if he wilfully neglects to exercise the powers by this Ordinance conferred upon him for or in respect of the prevention of offences and the bringing of offenders to justice, and the seizure of property stolen or believed to have been stolen;

(c) if when directed by a provincial commissioner, <sup>judge or magistrate</sup> or a district officer to issue orders for any of the purposes specified in section 8 or section 9 of this Ordinance he wilfully neglects to issue the orders directed;

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(d) if he wilfully neglects to enforce any orders issued by him under the directions of a provincial commissioner <sup>judge or magistrate</sup> or district officer, or issued by a provincial commissioner <sup>judge or magistrate</sup> or district officer, under the powers conferred by sub-section (1) of section 10 of this Ordinance;

(e) if he neglects to cancel an order when directed by a provincial commissioner <sup>judge or magistrate</sup> or district officer under the powers conferred by sub-section (2) of section 10 of this Ordinance, or if he enforces or attempts to enforce any order after he has been ordered as aforesaid to refrain from so doing; or

(f) if he wilfully neglects to enforce any lawful orders issued by a headman to whom he is subordinate.

## PART II.—FAMINE RELIEF.

14. Whenever a proclamation has been issued by the Governor in Council under the provisions of the Native Foodstuffs Ordinance in respect of any area the provincial commissioner in charge of the province in which such area is situated may require any district officer, in such area to direct any headman to issue orders to be obeyed by the natives within the jurisdiction of such headman for all or any of the following purposes :—

Power to issue orders for employment of natives suffering from famine.  
Cap. 135.

- (1) requiring any able-bodied male native to work on any public works, irrigation works, relief works, or in any other employment approved by the Governor for such period as the Governor may prescribe;
- (2) requiring any native to move to such place as the headman may direct in order that such native may be more conveniently fed;
- (3) requiring any native residing in his jurisdiction to cultivate land within the local limits of such jurisdiction to such reasonable extent as the headman may prescribe. The crops accruing from any such cultivation shall be the property of the native; and
- (4) preventing the export of grain or vegetable foodstuffs from the local limits of his jurisdiction during any period of scarcity in the Colony.

15. The district officer may direct any headman to accompany any male natives required to work under the preceding section or to accompany any natives to any place where they can be more conveniently fed and such headman shall continue to exercise his jurisdiction over such natives.

Headman may be ordered to accompany natives.

16. There shall be given and paid to any native working under the provisions of the first two sub-sections of section 14 such rations and wages as the Governor may by order determine and it shall be lawful at the request of the native for such wages to be paid wholly or in part in food at such rate as the district officer may from time to time prescribe.

Rations and pay.

17. Any native who fails to comply with any order issued or given by a headman under this part shall be guilty of an offence and shall on conviction before any magistrate or before a native tribunal be liable to a fine not exceeding thirty shillings and such native may be required to conform with the order issued or given.

Offences by natives.

Offences by headmen.

18. Any headman who wilfully neglects to give or enforce any orders issued to him under this part shall on conviction by any magistrate be liable to a fine not exceeding six hundred shillings and in default of payment may be sentenced to imprisonment for a period not exceeding six months.

PART III.—LOCAL NATIVE COUNCILS.

Power to establish Local Native Councils.

19. The Governor in Council may establish a council, to be known as a Local Native Council, in any area which may be a district or part of a district in the Colony, which shall be composed of the district commissioner and the district officers (if any) of such district together with such headmen and other natives as the Governor may appoint thereto ;

Provided that before any person other than a headman is so appointed the natives of the area shall be given an opportunity to nominate any suitable persons, who may or may not be headmen, to represent their interests and a complete list of persons so nominated shall be submitted to the Governor together with the recommendation of the district commissioner.

Period of appointments.

20. Appointments of native members of Local Native Councils shall ordinarily be for a period of three years but shall be terminable at the Governor's pleasure.

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President of Council.

21. The district commissioner shall be the president of Local Native Council, and in his absence the next senior district officer present shall preside over such Council.

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Meetings of Council.

22. A Local Native Council shall meet at intervals of not more than three months, at such place and at such time as the president thereof shall determine. The president shall cause minutes of each meeting to be recorded.

*Members of Council generally appointed as district officers*

General powers of Council.

23. (1) A Local Native Council may make and pass resolutions for the welfare and good government of the native inhabitants of such area in respect of any matters affecting purely local native administration and without prejudice to the generality of the foregoing, particularly concerning the following :—

- (a) the provision, maintenance and regulation of—
  - (i) food and water supplies,
  - (ii) forests and the fees to be paid for cutting or removing timber therefrom ;

- (iii) outspans,  
 (iv) cattle dips,  
 (v) roads, bridges and culverts;
- (b) public health;  
 (c) the use of land;  
 (d) any purpose provided in section 8 or section 9 of this Ordinance;  
 (e) education;  
 (f) the establishment and regulation of markets;  
 (g) agriculture and live stock;  
 (h) the regulation of drying and cleaning of hides and skins;  
 (i) the registration of births, deaths and marriages;  
 (j) the regulation of payment of marriage dowries;  
 (k) empowering headmen to require the able-bodied men to take such measures for dealing with soil erosion as may be necessary;  
 (l) empowering headmen to require the able-bodied men to extinguish bush and forest fires and to cut fire-breaks in or adjacent to forest reserves in native reserves;  
 (m) minor communal services within the meaning of paragraph (d) of section 2 of the Compulsory Labour (Regulation) Ordinance, 1932: Provided that no person shall be required to perform any service for more than six days in any quarter; and  
 (n) any other purpose approved by the Governor in writing.
- (2) Any such resolution may require such inhabitants to do or to abstain from doing any act therein specified.

24. (1) A Local Native Council may, before the first day of December in each year, make and pass a resolution for the imposition of a rate or rates, to be levied on and collected from the native inhabitants of the area or any portion of the area during the ensuing year.

(2) Such rates shall be known as the local native rates, and shall be of such amount and paid in such manner as may be prescribed by such resolution.

(3) Payment of such rates which is made otherwise than by legal tender may be so converted by such Local Native Council.

Special power  
of Council

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Resolutions of Council to be submitted to Governor in Council.

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25. (1) Every resolution passed under sections 23 and 24 shall be submitted to the Governor in Council together with a copy of the minutes relating thereto.

any resolution passed under § 23 (The Advance)

(2) When any such resolution has been approved by the Governor in Council, any native affected thereby who refuses, neglects or fails to comply therewith shall be guilty of an offence and shall on conviction before a magistrate or before a native tribunal be liable to imprisonment for a period not exceeding two months or to a fine not exceeding one hundred and fifty shillings and in default of payment to imprisonment for a period not exceeding two months, or to both such fine and such imprisonment.

Repealed

(3) Such imprisonment or fine shall not operate as a satisfaction or extinguishment of any local native rate payable under this Ordinance and any such rate shall, on application made to any magistrate by any member of a Local Native Council, be recovered as if it were a fine imposed by the magistrate and shall when recovered be paid into the Local Native Fund established under the provisions of section 26 of this Ordinance.

(3) ~~It~~ It shall be the duty of the district officer to notify each headman of the approval of the Governor to any resolution of the Local Native Council affecting the natives living within the local limits of the jurisdiction of such headman, and such headman shall thereupon take steps to make such resolution and the approval thereof known to such natives.

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Establishment of Local Native Fund.

PART IV.—LOCAL NATIVE FUNDS.

26. A Local Native Council may establish a fund, to be known as the Local Native Fund, which shall consist of—

- (a) all local native rates collected under the provisions of this Ordinance;
- (b) with the approval of the Governor, moneys subscribed by the native inhabitants of the area (or any part thereof) for their common benefit; and
- (c) any other moneys which may lawfully be paid into such fund.

Receipt of moneys for Local Native Funds.

27. (1) All moneys payable to a Local Native Fund shall be received by the president of the Local Native Council which administers such fund or by any other person authorized by him in that behalf.



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No. II

(2) The president may <sup>invest</sup> place all or any portion of such moneys ~~on fixed deposit in the Post Office Savings Bank established under the Post Office Savings Bank Ordinance, 1936, No. 29 1936.~~ <sup>or with a banker approved by the Governor</sup> ~~at the Post Office Savings Bank.~~

27. <sup>vide Ord: xxx/42 (Salimaleo)</sup>

28. (1) Moneys in a Local Native Fund shall be expended only for such purposes as may be prescribed by any resolution which has been approved by the Governor in Council under section 25 of this Ordinance :

Expenditure of Local Native Funds.

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

vide Ord: xxx/42

Provided further that if the Governor in Council is satisfied that a decree for the payment of money has been made by a competent court against a Local Native Council, or that for other good and sufficient reason money is due and payable from a Local Native Council and such council refuses or fails to make due payment, he may order that such payment be made from such fund, and may further order that any rate necessary to produce the sum required be levied on and collected from the inhabitants of the area in which such council is established.

St

(2) The provisions of sub-sections (2) and (3) of section 25 of this Ordinance shall apply to a rate imposed under this section in the same manner as if it had been imposed by a resolution of a Local Native Council and approved by the Governor in Council.

29. The accounts of Local Native Funds shall be kept in such manner as the Governor may prescribe, and shall be subject to audit by the Auditor of the Colony.

Accounts of Local Native Funds.

30. An annual statement showing the summary of the receipts and expenditure of every Local Native Fund established under the provisions of this Ordinance shall be laid on the table of the Legislative Council as soon as may be after the close of the accounts of the year.

Council's annual statement of accounts.

Part IV A. Standing Advisory Committee

vide Ord: xxx/42

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Repealed 2  
 RD:KKU/42

## PART V.—LOCAL NATIVE JOINT INVESTMENT FUND.

Establishment  
of Local  
Native Joint  
Investment  
Fund.

**31.** There is hereby established a Local Native Joint Investment Fund (in this Part referred to as "the Fund") in which surplus balances of Local Native Funds may be invested.

Trustees of  
the Local  
Native Joint  
Investment  
Fund.

**32.** The Fund shall be vested in trustees who shall be the Treasurer, the Chief Native Commissioner and such other person or persons as the Governor in Council may appoint.

Investment  
in Local  
Native Joint  
Investment  
Fund.

**33.** (1) In any case where there are in a Local Native Fund moneys which are not required for current use, the Local Native Council administering such Local Native Fund may authorize its president to transfer all or any portion of such moneys into the Fund.

(2) If the trustees approve of such transfer, the president shall pay such moneys into the Fund and the trustees shall give to the president a receipt for the moneys so received and shall invest such moneys in trustee stock or, in special circumstances with the prior approval of the Governor, in other securities or in advances to other Local Native Councils.

Distribution  
of profits.

**34.** The net profits arising from such investments after deducting any expenses incurred in the administration of the Fund and after making allowance, if deemed necessary, for depreciation shall be distributed annually by the trustees to the Local Native Councils in proportion to the balances standing to their credit in the Fund.

Conditions of  
receipt and  
repayment.

**35.** The trustees may, with the approval of the Governor, make such conditions regarding the receipt and repayment of moneys invested in the Fund as appear to them to be advisable.

Accounts of  
Local Native  
Joint  
Investment  
Fund.

**36.** The accounts of the Fund shall be kept by the Treasurer and shall be audited by the Auditor of the Colony and a statement of the audited accounts shall be published by the trustees annually in the Gazette.

## PART VI.—MISCELLANEOUS.

Power to  
make rules.

**37.** The Governor in Council may make rules for the better carrying into effect of the provisions of this Ordinance.

Repeal.

**38.** The Native Authority Ordinance (Chapter 129 of the Revised Edition) and all amendments thereto and section 17 of the Compulsory Labour (Regulation) Ordinance, 1932, are hereby repealed.

No. 42 of 1932.

**ORDINANCE No. III of 1937**

Assented to in His Majesty's name this twenty-fourth day of March, 1937.

A. DE V. WADE,  
*Acting Governor.*

[24TH MARCH, 1937.] Date of assent.

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

*1st 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 Widows' and Orphans' Pension (Amendment) Ordinance, 1937, and shall be read as one with the Widows' and Orphans' Pension Ordinance (Chapter 34 of the Revised Edition), hereinafter referred to as the Principal Ordinance. Short title.

Repeal and replacement of Table A in Schedule A to the Principal Ordinance.

2. Subject to the provisions of section 5 of this Ordinance Pension Table A in Schedule A to the Principal Ordinance is hereby repealed and the following Pension Table A is substituted therefor:—

TABLE A

THE YEARLY PENSION, PAYABLE BY MONTHLY INSTALMENTS,  
WHICH A SINGLE PAYMENT OF 1 WILL SECURE

Age of Husband Last Birthday	Age of Wife Last Birthday									
	20	25	30	35	40	45	50	55	60	65
23	.656	.686	.722	.767	.826	.904	1.011	1.155	1.333	1.568
24	.640	.669	.704	.749	.806	.883	.989	1.128	1.306	1.531
25	.622	.651	.687	.730	.787	.862	.964	1.102	1.279	1.492
26	.605	.633	.669	.711	.766	.840	.940	1.075	1.248	1.460
27	.590	.616	.650	.692	.745	.818	.916	1.047	1.216	1.428
28	.574	.600	.632	.674	.726	.796	.893	1.021	1.186	1.398
29	.559	.583	.615	.656	.708	.776	.872	.996	1.159	1.372
30	.545	.566	.598	.640	.689	.757	.851	.973	1.132	1.346
31	.530	.551	.582	.622	.671	.737	.830	.950	1.106	1.316
32	.515	.537	.566	.606	.655	.717	.809	.927	1.079	1.286
33	.501	.522	.550	.589	.637	.699	.787	.905	1.053	1.255
34	.488	.508	.535	.572	.619	.681	.766	.884	1.027	1.227
35	.473	.493	.520	.555	.603	.661	.746	.861	1.005	1.198
36	.460	.479	.505	.538	.586	.644	.727	.839	.980	1.172
37	.448	.466	.490	.523	.569	.627	.706	.818	.958	1.145
38	.435	.453	.476	.507	.553	.611	.689	.797	.938	1.121
39	.422	.440	.462	.493	.536	.594	.671	.777	.918	1.097
40	.410	.428	.449	.478	.520	.578	.653	.757	.897	1.074
41	.397	.415	.436	.464	.503	.561	.635	.737	.873	1.051
42	.385	.402	.422	.449	.487	.543	.617	.716	.848	1.028
43	.373	.389	.408	.435	.471	.526	.598	.695	.826	1.006
44	.361	.376	.396	.421	.455	.508	.581	.676	.804	.985
45	.350	.366	.384	.408	.441	.491	.565	.657	.784	.965
46	.340	.354	.372	.395	.428	.475	.549	.641	.766	.947
47	.330	.344	.361	.384	.415	.461	.534	.627	.751	.929
48	.321	.334	.351	.374	.404	.447	.520	.614	.736	.916
49	.312	.325	.342	.364	.393	.436	.505	.602	.723	.906
50	.303	.317	.332	.355	.383	.425	.491	.591	.713	.900
51	.295	.309	.324	.346	.374	.414	.478	.581	.706	.894
52	.287	.300	.316	.337	.365	.404	.466	.570	.700	.888
53	.279	.292	.308	.328	.357	.396	.454	.558	.695	.883
54	.271	.283	.300	.319	.349	.388	.444	.546	.690	.878

3. Subject to the provisions of section 5 of this Ordinance Pension Table C in Schedule A to the Principal Ordinance is hereby repealed and the following Pension Table C is substituted therefor:—

Repeal and replacement of Table C in Schedule A to the Principal Ordinance.

TABLE C

THE SINGLE PAYMENT WHICH WILL SECURE A YEARLY PENSION OF 1, PAYABLE BY MONTHLY INSTALMENTS.

Age of Husband Last Birthday	Age of Wife Last Birthday									
	20	25	30	35	40	45	50	55	60	65
23	1.524	1.457	1.385	1.304	1.211	1.106	.989	.866	.750	.638
24	1.563	1.495	1.420	1.336	1.241	1.132	1.011	.886	.766	.653
25	1.608	1.536	1.456	1.371	1.272	1.160	1.037	.907	.782	.670
26	1.652	1.579	1.496	1.407	1.306	1.191	1.064	.931	.802	.685
27	1.695	1.623	1.538	1.445	1.343	1.223	1.092	.955	.823	.701
28	1.742	1.669	1.581	1.485	1.378	1.256	1.119	.980	.843	.715
29	1.789	1.715	1.625	1.524	1.414	1.289	1.147	1.004	.863	.729
30	1.835	1.767	1.670	1.564	1.451	1.322	1.174	1.028	.883	.743
31	1.887	1.816	1.718	1.607	1.489	1.356	1.205	1.053	.904	.760
32	1.940	1.861	1.766	1.651	1.529	1.395	1.237	1.079	.927	.778
33	1.996	1.914	1.819	1.699	1.571	1.431	1.271	1.105	.950	.797
34	2.053	1.970	1.871	1.750	1.615	1.470	1.304	1.132	.973	.815
35	2.113	2.028	1.923	1.804	1.661	1.512	1.340	1.161	.997	.834
36	2.173	2.086	1.980	1.859	1.708	1.552	1.376	1.192	1.021	.853
37	2.236	2.146	2.041	1.914	1.757	1.594	1.417	1.223	1.044	.873
38	2.301	2.208	2.101	1.971	1.809	1.638	1.451	1.254	1.067	.892
39	2.370	2.273	2.163	2.029	1.865	1.683	1.490	1.287	1.090	.912
40	2.441	2.341	2.227	2.091	1.925	1.730	1.532	1.320	1.115	.931
41	2.518	2.413	2.297	2.156	1.988	1.783	1.575	1.357	1.146	.952
42	2.598	2.491	2.371	2.227	2.055	1.841	1.621	1.397	1.179	.973
43	2.681	2.572	2.447	2.301	2.125	1.902	1.671	1.438	1.211	.994
44	2.768	2.657	2.527	2.377	2.196	1.969	1.721	1.480	1.244	1.015
45	2.854	2.742	2.607	2.452	2.267	2.038	1.771	1.523	1.275	1.036
46	2.940	2.827	2.686	2.527	2.336	2.105	1.821	1.559	1.306	1.057
47	3.030	2.911	2.767	2.602	2.407	2.171	1.873	1.596	1.332	1.077
48	3.119	2.994	2.846	2.675	2.477	2.235	1.924	1.630	1.359	1.091
49	3.206	3.075	2.926	2.747	2.543	2.295	1.979	1.661	1.381	1.104
50	3.298	3.156	3.007	2.821	2.611	2.355	2.038	1.692	1.402	1.111
51	3.388	3.241	3.091	2.895	2.677	2.414	2.093	1.722	1.416	1.119
52	3.481	3.333	3.169	2.968	2.743	2.473	2.146	1.755	1.429	1.126
53	3.583	3.430	3.246	3.049	2.801	2.525	2.202	1.791	1.439	1.132
54	3.695	3.535	3.333	3.134	2.865	2.578	2.252	1.831	1.449	1.139

Repeal and replacement of Schedule B of the Principal Ordinance.

4. Subject to the provisions of section 5 of this Ordinance Schedule B to the Principal Ordinance is hereby repealed and the following Schedule is substituted therefor :—

“SCHEDULE B.

INSTRUCTIONS FOR THE USE OF THE TABLES.†

A.—CONTRIBUTOR WHO COMMENCED TO CONTRIBUTE WHILE  
A BACHELOR.

*I.—First Wife's Prospective Pension.*

The registered pension to be recorded on marriage is found by adding together the two amounts calculated in accordance with the following Rules :—

If the contributor began to contribute on 1st July, 1936, or later—apply Rule I (a) (1) and Rule I (b) ;

If the contributor began to contribute prior to 1st July, 1936—apply Rule I (a) (2) and Rule I (b).

(a) Pension in consideration of the contributions paid during bachelorhood.

Rule I (a) (1).—For contributors who began to contribute on 1st July, 1936, or later.

Accumulate the contributions at 6 per cent compound interest with yearly rests at each 31st December, and multiply the result by the quantity found from Table A corresponding to the respective ages last birthday of the husband and wife at the date of marriage.

The product gives the registered pension on account of the contributions paid during bachelorhood.

Rule I (a) (2).—For contributors who began to contribute prior to 1st July, 1936.

Accumulate the contributions at 8 per cent compound interest with yearly rests at each 31st December up to the 31st December, 1935. Add simple interest at 8 per cent per annum up to the 30th June, 1936. Add simple interest at 6 per cent per annum on the accumulated contributions thus obtained to the 31st December, 1936. Accumulate thereafter at 6 per cent compound interest

†In the case of contributors who fall under section 28 (1), the pension given by the pension tables and these instructions must be multiplied by four-fifths.

with yearly rests at each 31st December, and multiply the result by the quantity found from Table A corresponding to the respective ages last birthday of the husband and wife at the date of marriage (as at I (a) (1) above). The product gives the registered pension on account of the contributions paid during bachelorhood.

(b) Pension in consideration of the annual contribution current at the date of marriage.

Rule I (b)—Multiply the amount of the current annual contribution by the quantity found from Table B corresponding to the respective ages last birthday of the husband and wife at the date of marriage.

The product gives the registered pension on account of the annual contribution current at the date of marriage.

*Examples :—*

(1) Officer born on ... .. 31st July, 1908  
 ,, commenced to contribute on 1st January, 1937  
 ,, married on ... .. 30th June, 1940  
 Wife born on ... .. 12th August, 1914  
 Officer's age last birthday at date of marriage ... 31  
 Wife's age last birthday at date of marriage ... 25  
 Annual contribution—1st January, 1937, to 31st December, 1939, £24. Annual contribution—1st January, 1940, to date of marriage, £30.

Accumulation of contributions paid during bachelorhood—

Rule I (a) (1).

	£	s.	d.
Contributions from 1st January, 1937, to 31st December, 1937	24	0	0
Contributions during 1938	24	0	0
One year's interest at 6 per cent on £24	1	8	10
	<hr/>		
	49	8	10
Contributions during 1939	24	0	0
One year's interest at 6 per cent on £49/8/10	2	19	4
	<hr/>		
	76	8	2
Contributions from 1st January, 1940 to 30th June, 1940	15	0	0
Half-year's interest at 6 per cent on £76/8/2	2	5	10
	<hr/>		
Total accumulation	93	14	0

Quantity found from Table A :—

Husband	...	...	31	} .551
Wife	...	...	25	

$\pounds 93/14/- \times .551 = \pounds 51/12/7 =$  registered pension in consideration of contributions paid during bachelorhood.

Rule I (b).

Annual contribution current at date of marriage,  $\pounds 30$ .

Quantity found from Table B :—

Husband	...	...	31	} 4.958
Wife	...	...	25	

$\pounds 30 \times 4.958 = \pounds 148/14/10 =$  registered pension in consideration of annual contribution current at marriage.

Total registered pension recorded on the bachelor contributor marrying :—

					$\pounds$	<i>s.</i>	<i>d.</i>
By Rule I (a) (1)	...	...	...	...	51	12	7
By Rule I (b)	...	...	...	...	148	14	10
					<hr/>		
Total	...	...	...	...	200	7	5

- (2) Officer born on ... .. 31st July, 1903  
 ,, commenced to contribute on 1st January, 1932  
 ,, married on ... .. 30th June, 1940  
 Wife born on ... .. 12th August, 1909  
 Officer's age last birthday at date of marriage ... 36  
 Wife's age last birthday at date of marriage ... 30

Annual contribution—1st January, 1932 to 31st December, 1934,  $\pounds 24$ . Annual contribution—1st January, 1935, to date of marriage,  $\pounds 30$ .

Accumulation of contributions paid during bachelorhood—

Rule I (a) (2).

				$\pounds$	<i>s.</i>	<i>d.</i>
Contributions from 1st January, 1932, to 31st						
December, 1932	...	...	...	24	0	0
Contributions during 1933	...	...	...	24	0	0
One year's interest at 8 per cent on $\pounds 24$	...	...	...	1	18	5
				<hr/>		
				49	18	5



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Contributions during 1934	...	...	...	24	0	0
One year's interest at 8 per cent on £49/18/5	...	...	...	3	19	10
				<hr/>		
				77	18	3
Contributions from 1st January, 1935 to 31st December, 1935	...	...	...	30	0	0
One year's interest at 8 per cent on £77/18/3	...	...	...	6	4	8
				<hr/>		
				114	2	11
Contributions from 1st January, 1936, to 30th June, 1936	...	...	...	15	0	0
Half-year's interest at 8 per cent on £114/2/11	...	...	...	4	11	4
				<hr/>		
				133	14	3
Contributions from 1st July, 1936 to 31st December, 1936	...	...	...	15	0	0
Half-year's interest at 6 per cent on £133/14/3	...	...	...	4	0	3
				<hr/>		
				152	14	6
Contributions during 1937	...	...	...	30	0	0
Interest at 6 per cent on £152/14/6	...	...	...	9	3	3
				<hr/>		
				191	17	9
Contributions during 1938	...	...	...	30	0	0
Interest at 6 per cent on £191/17/9	...	...	...	11	10	3
				<hr/>		
				233	8	0
Contributions during 1939	...	...	...	30	0	0
Interest at 6 per cent on £233/8/-	...	...	...	14	0	1
				<hr/>		
				277	8	1
Contributions from 1st January, 1940 to 30th June, 1940	...	...	...	15	0	0
Half-year's interest at 6 per cent on £277/8/1	...	...	...	8	6	5
				<hr/>		
				300	14	6

Quantity found from Table A :—

Husband	...	...	36	} .505
Wife	...	...	30	

$£300/14/6 \times .505 = £151/17/4 =$  registered pension in consideration of contributions paid during bachelorhood.

## Rule I (b).

Annual contribution current at date of marriage, £30.

Quantity found from Table B :—

Husband	...	...	36	} 3.911.
Wife	...	...	30	

£30 × 3.911 = £117/6/7 = registered pension in consideration of annual contribution current at marriage.

Total registered pension recorded on the bachelor contributor marrying :—

	£	s.	d.
By Rule I (a) (2)	...	...	...
By Rule I (b)	...	...	...
	269	3	11

(c) Variations of pension consequent on increments to, and decrements from, the current annual contribution while the contributor is married to his first wife.

Rule I (c)—Multiply the amount of the increment to, or the decrement from, the current annual contribution by the quantity found from Table B corresponding to the respective ages last birthday of the husband and wife at the date of the variation of the contribution.

The product gives the amount to be added to the registered pension consequent on the increment to the current annual contribution, or, as the case may be, the amount to be deducted from the registered pension consequent on the decrement from the current annual contribution.

The cessation of the contribution from any cause before the completion of the full period of contribution must be regarded as a decrement from the current annual contribution equal to the amount of such current annual contribution.

*Example of the application of Rule I (c) :—*

Assume particulars as in the example subjoined to Rules I (a) (2) and I (b).

Annual contribution increased on 31st May, 1945, from £30 to £36.

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Annual contribution increased on 30th April, 1950, from £36 to £42.

Annual contribution ceased on 31st March, 1952.

1945, May 31st—Increment to current annual contribution, £6.

Quantity found from Table B :—

Husband	...	...	41	} 2.723
Wife	...	...	35	

£6 × 2.723 = £16/6/9 = amount to be added to the registered pension.

	£	s.	d.
Registered pension at marriage ( <i>see</i> example sub-joined to Rules I (a) (2) and I (b))	...	...	269 3 11
Add	...	...	16 6 9
Registered pension at 31st May, 1945	...	...	<u>285 10 8</u>

1950, April 30th—Increment to current annual contribution, £6.

Quantity found from Table B :—

Husband	...	...	46	} 1.275
Wife	...	...	40	

£6 × 1.275 = £7/13/- = amount to be added to the registered pension.

	£	s.	d.
Registered pension at 31st May, 1945, as above	...	...	285 10 8
Add	...	...	7 13 0
Registered pension at 30th April, 1950	...	...	<u>293 3 8</u>

1952, March 31st—Cessation of contribution regarded as a decrement from current annual contribution, £42.

Quantity found from Table B :—

Husband	...	...	48	} .592*
Wife	...	...	42	

£42 × .592 = £24/17/3 = amount to be deducted from the registered pension.

	£	s.	d.
Registered pension at 30th April, 1950, as above	...	...	293 3 8
Deduct	...	...	24 17 3
Registered pension at 31st March, 1952	...	...	<u>268 6 5</u>

\*For calculation, *see* F

*II.—Second and Subsequent Wife's Prospective Pension.*

(a) Variations of pension consequent on increments to, and decrements from, the current annual contribution while the contributor is a widower.

Rule II (a)—Assume that the contributor is married to a wife of the age that his last preceding wife would have been had she survived to the date of the variation of the contribution, and proceed in accordance with Rule I (c).

*Example of the application of Rule II (a) :—*

If the particulars be as in the example subjoined to Rule I (c) except that the first wife, who was born on 12th August, 1909, died on 30th November, 1943, it would be assumed that the contributor was, at the date of each of the three variations of the contribution, married to a wife who was born on the 12th August, 1909. The calculations will then be identical with those given in the example subjoined to Rule I (c).

(b) Variations of pension consequent on the re-marriage of the contributor.

If the second or subsequent wife was, at the date of the re-marriage, of the same age last birthday as the last preceding wife would have been had she survived to that date, the registered pension remains the same.

Rule II (b)—If the second or subsequent wife was, at the date of the re-marriage, of a less or greater age next birthday than the last preceding wife would have been had she survived to that date, multiply the amount of the registered pension by the quantity found from Table C corresponding to the age last birthday of the husband at the date of re-marriage, and the age last birthday which the last preceding wife would have attained had she survived to that date; multiply the product so obtained by the quantity found from Table A corresponding to the respective ages of the husband and of the second or subsequent wife at the date of the re-marriage.

The result gives the registered pension to be recorded on the re-marriage of the contributor.

*Example of the application of Rule II (b) :—*

Assume particulars as in the example subjoined to Rule I (c).

First wife died on           ...     ... 30th November, 1943  
Contributor re-married on     ...     31st January, 1947

Contributor's age last birthday at date of re-marriage ... ..	43
Second wife born on ... ..	30th June, 1911
Second wife's age last birthday at date of re-marriage ... ..	35
Age last birthday which the first wife would have attained had she survived to date of the re-marriage ... ..	37

1947, January, 31st—The second wife being of a less age next birthday at the date of the re-marriage than the first wife would have been had she survived, the registered pension £285/10/8 (*see* example subjoined to Rule I (c)) is to be recalculated.

Quantity found from Table C :—

Husband ... ..	43	} 2.231*
Wife ... ..	37	

Quantity found from Table A :—

Husband ... ..	43	} .435
Wife ... ..	35	

$£285/10/8 \times 2.231 \times .435 = £277/2/1 =$  registered pension at 31st January, 1947.

(c) Variations of pension consequent on increments to, and decrements from, the current annual contributions while the contributor is married to his second or subsequent wife.

Rule II (c).—Proceed as in Rule I (c).

#### B.—CONTRIBUTOR WHO COMMENCED TO CONTRIBUTE WHILE MARRIED.

##### III.—*First Wife's Prospective Pension.*

In every case of a public officer who commenced to contribute while married, the wife at the date of commencement of contributions is to be considered as the officer's first wife, and no particulars are to be recorded respecting any former wife to whom he may have been married, unless there is issue of such former wife of a pensionable age (*see* C. V.).

(a) Pension in consideration of the annual contribution current at the date of commencement of the contribution.

\*For calculation, *see* F

Rule III (a)—Multiply the amount of the current annual contribution by the quantity found from Table B corresponding to the respective ages last birthday of the husband and wife at the date of commencement of the contributions.

The product gives the registered pension on account of the annual contribution current at the date of commencement of the contribution.

*Example of the application of Rule III (a) :—*

Officer born on	...	...	31st July, 1893
„ married on	...	...	30th June, 1920
„ commenced to contribute on	...	...	1st January, 1924
Annual contribution current on 1st January, 1924...	£18		
Wife born on	...	...	12th August, 1898
Officer's age last birthday on 1st January, 1924 ...	30		
Wife's age last birthday on 1st January, 1924 ...	25		

Quantity found from Table B :—

Husband	...	...	30	} 5.207
Wife	...	...	25	

$£18 \times 5.207 = £93/14/6 =$  registered pension in consideration of annual contribution current at commencement of contribution.

(b) Variations of pension consequent on increments to, and decrements from, the current annual contribution while the contributor is married to his first wife.

Rule III (b)—Proceed as in Rule I (c).

#### IV.—*Second and Subsequent Wife's Prospective Pension.*

(a) Variations of pension consequent on increments to, and decrements from, the current annual contribution while the contributor is a widower.

Rule IV (a)—Proceed as in Rule II (a).

(b) Variations of pension consequent on the re-marriage of the contributor.

Rule IV (b)—Proceed as in Rule II (b).

(c) Variations of pension consequent on increments to, and decrements from, the current annual contribution while the contributor is married to his second or subsequent wife.

Rule IV (c)—Proceed as in Rule I (c).

C.—CONTRIBUTOR WHO COMMENCED TO CONTRIBUTE WHILE  
A WIDOWER.

V.—*Prospective Pension to Children by his First  
Marriage.*

So long as a contributor's children by his first marriage are eligible for pension, a pension must be registered on their behalf. If there are no such children, the widower should be treated as if he were a bachelor.

Rule V.—For the purpose of calculating the registered pension of the children assume that the deceased wife lived until the date of commencement of contribution and died immediately afterwards, and proceed in accordance with Rules III (a) and (b).

VI.—*Second and Subsequent Wife's Prospective Pension.*

Rule VI.—For the purpose of calculating the registered pension of the wife assume that the deceased wife survived to the date of commencement of contribution and died immediately afterwards; then proceed in accordance with the Rules applicable to the case of officers who commenced to contribute while married (*see B*).

D.—CONTRIBUTOR WITH TWO OR MORE BENEFICIARIES.

Rule VII.—Where there are children eligible for pension by two or more deceased wives, or where there is a wife and also children eligible for pension by one or more previous marriages, the pension of each beneficiary as found by the above rules must be divided by the total number of the beneficiaries then existing in order to find the registered pension of that beneficiary.

E.—TREATMENT OF VOLUNTARY LUMP SUM CONTRIBUTIONS.

Rule VIII.—(a) If the contributor is a bachelor or a widower without children of a pensionable age, the lump sum contribution should be accumulated as from the date of payment and treated in accordance with Rule I (a) (2).

Rule VIII.—(b) If the contributor is married or a widower with children of a pensionable age, the amount of the lump sum contribution should be multiplied by the quantity found from Table A corresponding to the respective ages last birthday of the

husband and wife at the date of payment of the contribution. If the contributor is a widower assume that the deceased wife lived until the date of payment of the lump sum contribution and died immediately afterwards.

F.—CALCULATION OF QUANTITIES (OR TABULAR RESULTS)  
FOR AGES NOT GIVEN IN THE TABLES.

The wife's age in the tables is given at quinquennial intervals only. Ages of husbands and wives younger than the youngest or older than the oldest given are to be dealt with as if identical with the youngest and oldest respectively.

For the intermediate ages of wives, interpolate by exact fifths.

*Examples :—*

To find the quantity in Table A corresponding to the ages of a husband and wife respectively 35 and 27 last birthday :

The quantity for ages 35 and 25 given in Table A is .493

The quantity for ages 35 and 30 given in Table A is .520

So that the addition of five years to the age of the wife results in an addition of .027 to the quantity given in the table for ages 35 and 25.

An addition of two years to the age of the wife accordingly results, by proportion, in an addition of two-fifths of .027 to the quantity given in the table for ages 35 and 25.

Two-fifths of .027 = .011, which added to .493 gives .504, which is the required quantity corresponding to ages 35 and 27.

Similarly the quantity found from Table B corresponding to the ages of a husband and wife aged respectively 48 and 42 last birthday is two-fifths of .061 added to .568, which gives .592.

In the case of Table C it must be noted that an addition to the age of the wife results in a *deduction* from the quantity given in the table.

To find the quantity in Table C corresponding to the ages of a husband and wife aged respectively 43 and 37 last birthday :

The quantity for ages 43 and 35 given in the table is 2.301

The quantity for ages 43 and 40 given in the table is 2.125



So that the addition of five years to the age of the wife results in a deduction of .176 from the quantity given in the table for ages 43 and 35.

An addition of two years to the age of the wife accordingly results, by proportion, in a deduction of two-fifths of .176 from the quantity given in the table for ages 43 and 35.

Two-fifths of .176 = .070, which deducted from 2.301 leaves 2.231, which is the required quantity corresponding to ages 43 and 37."

5. This Ordinance shall have effect as from the first day of July, 1936, and shall apply to any pension payable in respect of a contributor dying on or after that date, but not to any pension payable in respect of a contributor dying before that date in which case the Tables and Instructions repealed and replaced by this Ordinance shall continue to apply: *provided* New Tables and instructions not to apply to pensions payable before 1st July, 1936.

*etc. 62: x/38*

**ORDINANCE No. IV of 1937**

Assented to in His Majesty's name this twenty-ninth day of March, 1937.

A. DE V. WADE,  
*Acting Governor.*

Date of assent.

[29TH MARCH, 1937.]

**An Ordinance to Provide for the Establishment of  
a Regiment to be known as the Kenya Regiment  
(Territorial Force).**

Date of commencement.

*By Notice*

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

PART I.

PRELIMINARY.

Short title and commencement.

1. This Ordinance may be cited as the Kenya Regiment (Territorial Force) Ordinance, 1937, and shall come into operation upon such date as the Governor may by notice in the Gazette appoint, and shall apply to such military districts as the Governor may appoint and establish under section 12 of this Ordinance.

Interpretation.

2. In this Ordinance, unless the context otherwise requires, the following expressions shall have the following meanings :—

“active service”: every officer and member shall be deemed to be on active service when he is attached to or forms part of a force engaged in operations against the enemy or in aiding the civil authority in the protection of life and property or in the prevention or suppression of internal disorder;

“Act” or “Ordinance” includes all regulations made thereunder;

“cadets” means all boys serving in cadet units established under the provisions of this Ordinance;

“commanding officer” means the officer in command of any military district, unit or detachment;

“member” means any warrant officer, non-commissioned officer or man enrolled in or belonging to the Regiment;

“military district” means a military district appointed and established under this Ordinance;

“officer” means any person appointed by the Governor to hold commissioned rank in the Regiment;

W: XIII/38  
XII/29  
XIV/46

W: Commandes  
XIII/46

W: XII/29

*or of the Governor of Legation*

"peace training" means such training, other than training on active service, as may be prescribed;

"permanent staff" means all officers, warrant officers, non-commissioned officers, armourers, clerks and storekeepers or any other persons appointed under section 34 of this Ordinance;

"prescribed" means prescribed by regulations;

"Regiment" means the regiment established under the provisions of section 3 of this Ordinance *include the units established under the provisions of the Uganda Ordinance;*

"regulations" means regulations made under the provisions of this Ordinance;

"Reserve" means the Reserve established under the provisions of section 7 of this Ordinance *include the Reserve established under the provisions of the Uganda Ordinance;*

"Special Reserve" means the Special Reserve established under the provisions of section 8 of this Ordinance;

"unit" means any portion of the Regiment declared by the Governor to be a unit for the purposes of this Ordinance *or established by the Governor of Uganda under the provisions of the Uganda Ordinance.*

#### PART II.

#### CONSTITUTION OF REGIMENT.

3. (1) The Governor may by notice in the Gazette, establish a regiment for the Colony which shall be known as the Kenya Regiment (Territorial Force), and may accept on behalf of His Majesty the services of any qualified persons to become officers or members of the Regiment.

Establishment  
of Kenya  
Regiment  
(Territorial  
Force).

(2) As and from the date of such notice the Regiment shall be deemed to be lawfully established.

(3) The Regiment shall be under the supreme command of the Governor, and under the command of the Commander, ~~Local Forces, Kenya and Uganda~~, who shall be responsible to the Governor for the organization, discipline, and efficiency of the Regiment.

AD: X111 26

(4) The officers of the Regiment shall be commissioned by the Governor.

(5) The Governor may, by notice in the Gazette, declare any portion of the Regiment to be a unit for the purposes of this Ordinance.

(6) As from the date of such notice a unit shall be deemed to be lawfully constituted.

No. IV

Kenya Regiment (Territorial Force)

1937

Membership.

4. (1) Every officer shall be a British subject of European race or origin and shall upon being commissioned take the prescribed oath.

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(2) Every member shall be a British subject of European race or origin between the ages of eighteen and thirty-five years, and shall upon enrolment take the prescribed oath and complete the prescribed attestation form :

Provided that the age limit may be extended by regulations for such warrant officers, non-commissioned officers and men as the Governor may decide.

Liability of officers and members.

AD: XII/38

5. Every officer and every member shall be liable to be called out for active service and to undergo such peace training as may be prescribed from time to time.

Period of service.

6. Every member enrolled under the provisions of this Ordinance for service in the Regiment shall except as hereinafter provided serve for a minimum period of four years, and thereafter shall serve in the Reserve established under the provisions of section 7 of this Ordinance for a period of four years or, if at the expiration of such period of four years he has not attained the age of thirty years, until he attains such age :

No. XIII / 40

Provided that the Governor may, on the recommendation of the Commander, ~~Local Forces, Kenya and Uganda~~, curtail, to such extent as he may think reasonable, the period of service to be undergone, under this section, by any person who produces evidence of previous service with the Kenya Defence Force established under the Kenya Defence Force Ordinance, 1937, or with any of His Majesty's Forces, regular or auxiliary, of such a nature as to satisfy the Governor that his service with the Regiment should be so curtailed.

No. 5 of 1937.

Establishment of Kenya Regiment (Territorial Force) Reserve.

AD: XII/38

7. The Governor may establish a Reserve to the Regiment, which shall be known as the Kenya Regiment (Territorial Force) Reserve, in such manner as may be prescribed, and such Reserve shall form part of the Regiment.

Special Reserve to the Regiment.

In order to hold itself in readiness for immediate calling out

8. The Governor may establish a Special Reserve to the Regiment in such manner as may be prescribed, and those persons who offer their services and whose services are accepted, shall be liable, when the whole or any part of the Regiment is called out for active service, to render services with such

portion of any local force as the Governor may decide. The Special Reserve shall be subject to such peace training as may be prescribed from time to time.

PART III.

CADETS.

9. The Governor may establish Cadet Units, the description of, numbers in, enrolment in, and organization of which shall be such as the Governor may from time to time prescribe. Cadet Units shall not form part of the Regiment, but shall be affiliated to it and regarded as a training unit for the Regiment. Cadet Units shall be composed of boys between the ages of fourteen and eighteen years.

Cadet Units.

10. All boys who, with the consent of their parents or guardians, have enrolled as members of a Cadet Unit shall be liable to undergo such annual course of peace training as may be prescribed.

Cadets' liability for peace training.

11. A cadet who has undergone the prescribed course of instruction for any one year, and passed the prescribed tests, shall be deemed to be an efficient cadet for that year, and if he is deemed to be efficient for not less than three years, and his conduct under instruction in cadet training has proved satisfactory, he shall be entitled, on attaining the age of eighteen years, to receive a certificate of efficiency.  ~~Holders of such certificates may be transferred to the Regiment as trained men.~~

Certificate of efficiency.

PART IV.

ADMINISTRATION.

12. The Governor may, by notice in the Gazette, appoint and establish military districts throughout the Colony with the number and designation of units of the Regiment to be allotted to and trained in any military district.

Military districts.

W:RN/38

out and suc de on du "13. (1) The Governor may, by proclamation in the Gazette, call out the whole or any part of the Regiment, the Reserve and the Special Reserve for active service and when so called out they shall be held to that service until such time as the Governor may, by proclamation in the Gazette, declare that they are relieved from that service:

Calling out of Regiment for active service.

Provided that the Governor may, by such proclamation in lieu of calling out the Regiment, the Reserve and the Special Reserve or any part thereof for active service order the Regiment, the Reserve and the Special Reserve or such part or parts thereof as he may deem necessary to hold itself in readiness for immediate calling out.

Not entitled to discharge when on active service

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

Power to  
disband or  
discharge.

15. The Governor may at any time discontinue the service of any unit of the Regiment or cause the same to be disbanded, or release from service any officer, or discharge any of the members, of such unit.

Officers in  
executive  
command.

16. The executive military command and inspection of the Regiment or units thereof shall be vested in such officers as may be appointed by the Governor.

Tests for  
appointment  
and promotion  
to various  
ranks.

17. The Governor may prescribe such tests as he may think fit which candidates for appointments to commissions and for promotion shall pass.

Cancellation  
of commission.

18. The Governor may cancel the commission of any officer at any time: Provided that such commission shall not be cancelled unless the holder thereof has been notified in writing of any complaint or charge made, of the action proposed to be taken against him, and has been called upon to show cause in relation thereto. No such notification shall be necessary in the case of an officer absent from duty without leave for a period of three months or more.

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19. (1) The Governor may place officers on the retired list, and officers on that list may, with the approval of the Governor, retain their rank and wear the prescribed uniform.

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(2) The ages of compulsory retirement of officers of the Regiment shall be as prescribed.

Resignation of  
commission.

20. An officer, except when on active service, or in anticipation of being called out on such service, may, by writing under his hand, tender the resignation of his commission, but shall not, unless otherwise ordered by the Governor, be relieved of the duties of his appointment until the acceptance of his resignation is notified in the Gazette.

Uniforms,  
arms, and  
accountre-  
ments.

21. (1) A uniform, with distinctive marks or badges, shall be prescribed for every unit of the Regiment and issued to members thereof. Such uniform shall be maintained at their own expense for such periods and under such conditions as may be prescribed.

(2) Arms, ammunition, and equipment, shall be issued under prescribed conditions to officers and members, and each officer or member to whom a rifle has been issued shall be bound to keep it in his personal possession, to be responsible for its maintenance in good order and condition, and to produce it for inspection whenever called upon to do so.

[14TH MAY, 1938]

**An Ordinance to Amend the Kenya Regiment  
(Territorial Force) Ordinance, 1937**

14th May, 1938

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

(3) When called out for active service, or when undergoing peace training, officers and members shall bring with them their equipment and any ammunition which may have been issued to them.

22. Officers and members shall be paid at a prescribed daily rate for the days on which they are called out for active service under the provisions of this Ordinance, and they may also be granted such monetary or other allowances as are laid down in regulations.

Pay and allowances.

23. (1) The service of each officer and member shall be calculated from the date of his appointment or enrolment, as the case may be. Every officer and member shall during each prescribed training year undergo such course of annual peace training, instruction, and other such exercises as may be prescribed.

Duration of peace training.

(2) The time occupied in proceeding to or returning from a camp or place of assembly or instruction shall not be taken into account as part of any period of peace training, instruction, or service prescribed under this Ordinance.

(3) Any member who in any year without reasonable cause or excuse or without such leave or permission as may be prescribed evades or fails to perform the full course of training allotted to him for that year, shall be guilty of an offence against this Ordinance.

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PART V.

DISCIPLINE.

24. The provisions of the Army Act, 44 and 45 Vict., Ch. 58, and all Acts amending or substituted for the same (hereinafter together referred to as the Army Act) shall apply to the permanent staff and officers at all times and to members, the Reserve and the Special Reserve when they are on active service, when they are called out for active service, during peace training, when they are engaged in any military exercise of drill or musketry, when they are carrying out any escort duty or guard of honour and when they are in uniform at any time or place, subject to the following modifications—

Officers and members of Regiment, Reserve and Special Reserve on mobilization to be under Army Act.

shall as before contained provisions therein respecting discipline, apply to officers of the permanent staff (if not otherwise subject thereto)

(a) the words "the Regiment" shall be read therein for the words "regular forces", the words "officer or member of the Regiment" for the words "officer or soldier", and the word "Governor" for the words "His Majesty" and "Secretary of State", and

- (b) no sentence of a court martial upon the trial of an officer or a member of the Regiment, Reserve or Special Reserve shall be carried into execution unless confirmed by the Governor or such officer as he may appoint on his behalf.

Officers and members not punishable under this Ordinance as well as under the Army Act.

25. Notwithstanding the provisions contained in section 24 of this Ordinance, no officer or member of the Regiment, Reserve or Special Reserve shall be liable to be punished for any offence under the provisions of this Ordinance as well as under the provisions of the Army Act.

Reservation of right to prosecute otherwise than under Ordinance.

26. Nothing in this Ordinance contained shall prevent any offender from being prosecuted otherwise than under the provisions of this Ordinance, in all cases in which he would by law, without this Ordinance, be liable to such prosecution, but no person convicted or acquitted of any offence under the provisions of this Ordinance or under the Army Act, shall be liable to be again tried for the same offence.

Aiding or inducing officers or members to dereliction of duty.

27. Any person who—

- (1) agrees with, or induces, or attempts to induce any officer or member to neglect or to act in conflict with his military duty; or
- (2) is a party to, or aids or abets, or incites to the commission of, any act whereby any lawful order given to any officer or member, or any law or regulation with which it is the duty of any officer or member to comply, may be evaded or infringed; or
- (3) supplies, or is a party to supplying, any officer or member with intoxicating liquor when that officer or member is on military duty and prohibited under regulations or instructions from receiving or taking intoxicating liquor,

shall be guilty of an offence against this Ordinance.

Personation.

28. Any officer or member who, with the intent to obtain conveyance at special rates or to evade payment of any toll, fraudulently personates or represents himself to be an officer or member of the Regiment travelling on service of that force; shall be guilty of an offence against this Ordinance.



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~~29.~~ Any person who commits any offence against the regulations providing for and regulating the requisitioning of accommodation or supplies in pursuance of this Ordinance shall be guilty of an offence and shall be liable on conviction to imprisonment for a period not exceeding five years. *Repealed No. XI/38*

Offences  
against com-  
mandeering  
regulations.

30. Any officer or member who, without proper authority and permission, gives, sells, pledges, lends or otherwise disposes of any moneys, animals, ammunition, accoutrements, clothing, supplies or any other article entrusted to or held by him for the service of the Regiment shall be guilty of an offence against this Ordinance, and, in addition to any penalty for such an offence which may be imposed under this Ordinance, may be ordered by the court to make good the loss or deficiency caused by such gift, sale, pledge, loan or other disposition. Every such gift, sale, pledge, loan or disposition shall be null and void, except as against a bona fide purchaser for value without notice.

Wrongful  
disposal of  
property.

31. Any person who commits an offence against this Ordinance or who wilfully contravenes or fails to comply with any of the provisions of this Ordinance, or the regulations shall, where no other penalty is specifically provided, be liable on conviction by a subordinate court of the first class to a fine not exceeding ten pounds or to a term of imprisonment for a period not exceeding one month, or to both such fine and such imprisonment.

Penalty for  
contravening  
the Ordinance  
in any way.

32. Every civil action against, and every criminal prosecution of, any person in respect of anything done in pursuance or in contravention of this Ordinance shall be commenced within six months after the cause of the proceedings has arisen, and notice in writing of any civil action and the cause thereof shall be given to the defendant one month at least before the commencement thereof.

Limitation of  
action.

33. (1) Any officer or member or any person employed in the public service, who discloses any information or any other secret or confidential information relating to the defence of the Colony, which comes within his cognizance shall, unless acting under the due authority and in the execution of his duty (the burden of proof whereof shall be upon him) be guilty of an offence against this Ordinance.

Disclosure of  
information.

Cap. 64. (2) The provisions of this section shall be in addition to and not in derogation of the provisions of the Official Secrets Ordinance.

## PART VI.

## MISCELLANEOUS.

Power to constitute permanent staff.

34. The Governor may from time to time constitute for the Regiment a permanent staff, consisting of such officers, warrant officers, non-commissioned officers and men as he may deem necessary.

Governor may award gratuity or pension in certain events.

35. (1) If any officer or member is temporarily or permanently disabled by reason of any wound or injury received or sickness contracted by him during peace training or when on active service, the Governor may award such officer or member such compensation, gratuity or yearly pension as to him may seem fit.

(2) The Governor may grant to the widow or family of any such officer or member who may be killed in action or on active service a pension or allowance of such amount as to him may seem fit.

(3) No gratuity or compensation granted under this section shall exceed two hundred and fifty pounds and no pension granted under this section shall exceed one hundred pounds per annum except with the sanction of the Legislative Council.

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

Regulations.

36. The Governor may from time to time make regulations for all or any of the matters or things following connected with the Regiment—

- (1) the numerical establishment of units of the Regiment and cadets, and the various grades, ranks and appointments therein;
- (2) the appointment, promotion, transfer, leave, resignation and release from service of officers;
- (3) the enrolment, posting, transfer, leave, promotion, reduction, discharge and dismissal of warrant officers, non-commissioned officers and men, and the disbandment of any units;

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- (4) the appointment and posting of the permanent staff and the control, discipline, pay, allowances, leave, transfer, release from service, and dismissal thereof;
- (5) the discipline of the Regiment;
- (6) the convening of courts of inquiry, and the attendance of witnesses;
- (7) the exemption of officers and members from carrying out the full course of peace training for any one training year;
- (8) the issue and care of arms, accoutrements, ammunition, supplies, animals and transport, clothing and equipment for the Regiment and for cadets;
- (9) the conveyance by air, road, rail, or water of officers and members and their transport and equipment when travelling on duty;
- (10) the general government control and management of the Regiment;
- (11) drill, peace training instruction, camps and medical treatment thereat;
- (12) the establishment, control and management of the Reserve and Special Reserve;
- (13) the establishment, control and management of Cadet Units; ~~and~~
- (14) all matters which are by this Ordinance required or permitted to be, or which are necessary or convenient to be prescribed, or for assuring the discipline and good government of the Regiment, or for carrying out and giving effect to this Ordinance.

AJ: 27/11/38

36A. ad 21/39

37. The Territorial Force Ordinance and all regulations made thereunder are hereby repealed.

Repeal. Cap. 42.

Ordinance suspended (No): 2022/01/43.

ad. xv/38.  
xv/29

**ORDINANCE No. V of 1937**

Gh. 680/39.  
p. 558

Assented to in His Majesty's name this twenty-ninth day of March, 1937.

A. DE V. WADE,  
Acting Governor.

Date of assent.

[29TH MARCH, 1937.]

**An Ordinance to Provide for the Establishment of the Kenya Defence Force.**

Date of commencement.

By Notice

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

PART I.

ESTABLISHMENT, ORGANIZATION AND ADMINISTRATION.

Short title and commencement.

1. This Ordinance may be cited as the Kenya Defence Force Ordinance, 1937, and shall come into operation on such date as the Governor may, by notice in the Gazette, appoint.

Interpretation.

2. In this Ordinance unless the context otherwise requires, the following expressions have the following meanings:—

nde  
Gh. 657/29.  
p. 520.

"active service"—every member of the Defence Force when called out for the purpose of repelling external aggression or for aiding the civil authority in the protection of life and property or for the prevention or the suppression of internal disorder in the Colony shall be deemed to be on active service;

"Commander" means the Commander, Local Forces, Kenya and Uganda;

"Defence Force" means the Force established under the provision of section 3 of this Ordinance;

"peace training" means such training, other than training on active service, as may be prescribed;

"prescribed" means prescribed by regulations;

"regulations" means regulations made under the provisions of this Ordinance.

Kenya Defence Force.

3. (1) There shall be established in the Colony a force to be known as the Kenya Defence Force which shall be under the supreme command of the Governor, and the members of which shall be liable, in accordance with the provisions of this Ordinance, to be called out for active service within the limits of the Colony and to undergo such peace training as may be prescribed.

either in or beyond the Colony

the requisitioning of goods, provisions, accommodation for officers and members of the Reserve and the Special Reserve under section 13 of this Ordinance; and

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

Class III - <sup>five years</sup> Persons who have attained ~~the~~ age of fifty years.

Compulsory enrolment of male British subjects between the ages of 18 and 55 years.

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

Any person failing to enrol himself as provided for in this sub-section shall be guilty of an offence, and shall be liable, on conviction, to a fine not exceeding ten pounds or to imprisonment for a term not exceeding one month, or to both such fine and such imprisonment.

(2) With the permission of the Governor, any male person, who is not a British subject but who has the other qualifications required by sub-section (1) of this section, may volunteer to serve in the Defence Force, and in such case such person shall attend at the office of the District Commissioner as aforesaid and ~~upon taking the prescribed oath~~ shall enrol himself as a member of the Defence Force in the Class appropriate to his age.

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

(4) For the purpose of ascertaining what persons are liable to serve in the Defence Force and the best use which can be made of their services in time of emergency, regulations may be made requiring all or any persons to give, from time to time, such particulars regarding themselves as may be prescribed and requiring employers to give, from time to time, particulars of all persons in their employ and the nature of their employment.

(2) xv/38

(2) The Governor shall from time to time constitute for the Defence Force a permanent staff, consisting of such officers, warrant officers, non-commissioned officers and men as he may deem necessary.

4. (1) The Defence Force shall be under the command of the Commander, who shall be responsible to the Governor for the organization, administration, discipline and efficiency of the Defence Force. Organization of the Defence Force.

(2) The headquarters of the Defence Force shall be in Nairobi, or at such other place as the Governor may from time to time appoint.

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

(2) The Governor shall commission in each Defence Force District a District Commandant and such other officers as he may deem expedient.

(3) Every such District and the members of the Defence Force resident therein shall be organized in accordance with the provisions of this Ordinance and of the regulations.

6. The Governor may at any time dispense with the services of any officer or member of the Defence Force. Power of Governor to dispense with services.

7. The Governor may, for all or any of the purposes of this Ordinance, by writing under his hand delegate all or any of the functions, powers and duties under this Ordinance or the regulations to such person or persons as he may deem expedient. Power of Governor to delegate authority.

## PART II.

### CONSTITUTION AND ENROLMENT.

8. Members of the Defence Force shall be divided into the following Classes, namely:— Division of the Defence Force into Classes.

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

10. Notwithstanding anything in the last preceding section contained, any person liable to be enrolled and to serve in the Defence Force or who volunteers for service therein may, with the permission of the Commander, elect to enrol as a member of the Class preceding the Class appropriate to his age.

Right of persons to elect as to serve with Class in which they are ~~preceding~~ enrolled. ~~their~~ appropriate class.

Upon enrolment such person shall be liable to perform all the duties and shall be subject to all the obligations imposed by this Ordinance and by the regulations upon the members of the Class in which he is enrolled.

11. Notwithstanding anything to the contrary in this Ordinance contained, the classes of persons set out in the First Schedule to this Ordinance shall be exempted from such of the obligations imposed by this Ordinance as are specified in such Schedule.

Exemptions.

12. (1) All persons who are certified under the hand of a medical officer, specially appointed by the Governor, to be medically unfit for service under this Ordinance by reason of bodily or mental infirmity or unfitness shall be exempt from service in the Defence Force.

Other exemptions.

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(2) The Governor in Council may by order appoint a Tribunal consisting of a Chairman and such number of members as he may deem fit for the purpose of hearing and determining applications for exemptions from all or any of the obligations imposed by this Ordinance or by the Regulations.

Exempt any obligations administrative placement of

Preparation of lists of persons liable to serve.

(3) Such Tribunal may exempt any person, either temporarily or permanently, from all or any of the obligations imposed by this Ordinance or by the Regulations, and any decision of the Tribunal shall be final and conclusive and not subject to appeal to any court.

ry in each the Second all persons service or this Ordin-

(4) The provisions of sub-sections (2) and (3) of this section shall be deemed to have come into operation on the 5th day of September, 1939."

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

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

(4) As soon as all questions as to the correctness of the list have been determined as aforesaid, the District Commissioner shall forthwith transmit such corrected list to the Commander.

Change of residence.

14. Any member of the Defence Force who leaves a Defence Force District to reside in another Defence Force District shall forthwith notify the District Commissioner and the District Commandant of each such District and any such member who fails to make such notification shall be guilty of an offence and shall be liable on conviction to a term of imprisonment not exceeding one month or to a fine not exceeding ten pounds.

PART III.

ARMS, EQUIPMENT AND TRAINING.

Government to provide rifles and ammunition.

15. Such rifles, ammunition, equipment and uniform as may be prescribed shall be provided by the Government for officers and members of the Defence Force and will be issued in accordance with the regulations.

Duties in regard to Government rifles, etc.

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

17. (1) The peace training of each Class of the Defence Force shall be carried out in accordance with the regulations and every member of the Defence Force shall undergo such peace training in any year as shall be notified in accordance with the provisions of section 19 of this Ordinance.

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Kenya Defence Force



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

18. A District Commandant may, with the approval of the Commander, exempt any member of the Defence Force in his District from the performance of the whole or any part of his compulsory peace training under the provisions of section 17 of this Ordinance.

Power to exempt from peace training.

19. The date and place of every course of peace training shall be notified by the Commander and notice of such date and place published in the Gazette and in the Defence Force Orders and in such other manner as may be prescribed shall be sufficient notice to every member of the Defence Force.

Notification of time and place of peace training.

20. If any member of the Defence Force without reasonable cause or excuse, after due publication of the notice prescribed by the last preceding section, fails to attend at the place mentioned in such notice for the purpose of undergoing the prescribed course of peace training, or fails to complete such course, then and in any such case such member shall be liable, on conviction before a magistrate of the first or second class, to a fine not exceeding ten pounds or to imprisonment for a term not exceeding one month or to both such fine and such imprisonment:

Penalty for non-attendance at peace training.

Provided that no such conviction shall be deemed to exempt the person convicted from all or any of his duties and obligations under this Ordinance or the regulations.

PART IV.

MOBILIZATION.

21. (1) Whenever in the opinion of the Governor it shall be necessary to repel external aggression, or to aid the civil authority in the protection of life and property and to prevent and suppress internal disorder in the Colony, the Governor may, by proclamation, call out and mobilize the Defence Force or such part or parts thereof as he may deem necessary for active service:

Calling out and mobilization of the Defence Force.

Provided that a proclamation under this sub-section may call out the members of either Class or both Classes mentioned in section 8 of this Ordinance, but so that the members enrolled in Class II shall not be called out until the members enrolled in Class I have been called out:

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

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

Liability of population to provide transport, etc.

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

PART V.

MISCELLANEOUS PROVISIONS.

23. The provisions of the Army Act, 44 and 45 Vict., Ch. 58, and all Acts amending or substituted for the same ~~hereinafter together referred to as the Army Act) shall apply to the permanent staff and officers of the Defence Force at all times and to members of the Defence Force when they are on active service, when they are called out for active service, during peace training, when they are engaged in any military exercise of drill or musketry, when they are carrying out any escort duty or guard of honour and when they are in uniform at any time or place, subject to the following modifications—~~

(a) the words "the Defence Force" shall be read therein for the words "Regular Forces"; the words "officer or member of the Defence Force" for the words

Provided that a proclamation under this section shall call out the members of any one or more of the classes mentioned in section 8 of this Ordinance and the members enrolled in any Class shall be liable to be called out until the members enrolled in every previous class have been called out."

Discipline of the Defence Force on mobilization

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*Kenya Defence Force*

"officer or soldier", and the word "Governor" for the words "His Majesty" and "Secretary of State", and

- (b) no sentence of a court martial upon the trial of an officer or member of the Defence Force shall be carried into execution unless confirmed by the Governor or such officer as he may appoint on his behalf.

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

Defence Force not to be called out for ceremonial parades.

25. Notwithstanding the provisions of section 23 of this Ordinance no officer or member of the Defence Force shall be liable to be punished for any offence under the provisions of this Ordinance as well as under the provisions of the Army Act.

Member not to be punished for same offence.

26. The provisions of this Ordinance shall not apply to any member of the Defence Force during his temporary absence from the Colony, nor to any person while serving in the Kenya Regiment (Territorial Force) established under the Kenya Regiment (Territorial Force) Ordinance, 1937, or in the Reserve or Special Reserve thereof :

Temporary absence of members, exemptions from service of certain persons.  
No. 4 of 1937.

Provided that except as hereinafter provided every person on the date of the completion of his service with the Kenya Regiment (Territorial Force) or with the Reserve or Special Reserve thereof shall be deemed to be a member of the Defence Force in Class II thereof as provided for in section 8 of this Ordinance and to be subject in all respects to the provisions of this Ordinance :

Provided further that the provisions of the above proviso shall not apply to any officer or member of the Kenya Regiment (Territorial Force) (excluding the Reserve thereof) between the ages of eighteen and thirty who has been permitted to resign therefrom before having completed the full term of his service therewith, nor to any such officer or member of the Kenya Regiment (Territorial Force) (excluding the Reserve thereof) whose service with the Regiment has been unsatisfactory. A certificate signed by the Commanding Officer of the unit to which such officer or member belongs to the effect that such officer or member was permitted to resign or a certificate signed by the Commanding Officer of such Unit

and approved by the Commander, to the effect that the service of any officer or member of the Kenya Regiment (Territorial Force) has been unsatisfactory shall be sufficient for the purposes of this proviso, provided that in the latter case the certificate shall be shown to the officer or member of the Defence Force concerned before being sent to the Commander. Any such officer or member who has been permitted to resign or whose service has been unsatisfactory shall be deemed to be a member of the Defence Force in Class I thereof and to be subject in all respects to the provisions of this Ordinance, except that the amount of peace training to be done by him shall be in the discretion of the Commander.

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

Co-operation of employers.

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

28.(1) Any employer who—

- (a) by dismissing an employee or by reducing his wages or in any other manner whatever penalizes him for entering upon or carrying out any service or training under this Ordinance; or
- (b) by words, conduct, or otherwise directly or indirectly compels, induces, or prevails upon, or attempts to compel, induce, or prevail upon, any person in or seeking his employ to do or refrain from doing any service or peace training under this Ordinance for which he is liable,

shall be guilty of an offence and shall be liable, on conviction before a first or second class magistrate, to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

Governor may award gratuity or pension in certain events.

29. (1) If any officer or member of the Defence Force is temporarily or permanently disabled by reason of any wound or injury received or sickness contracted by him during peace training or when on active service the Governor may award to such officer or member such compensation, gratuity or yearly pension as to him may seem fit.

(2) The Governor may grant to the widow or family of any such officer or member who may be killed in action or on active service a pension or allowance of such amount as may be prescribed.

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(3) No gratuity or compensation granted under this section shall exceed two hundred and fifty pounds and no pension granted under this section shall exceed one hundred pounds per annum except with the sanction of the Legislative Council.

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

**30.** Any person who contravenes or fails to comply with any of the provisions of this Ordinance for which no other penalty is provided shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty pounds. Penalty.

**31.** (1) The Governor may from time to time make regulations 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 following matters— Power to  
make regula-  
tions.

- (a) the general government, discipline, peace training and management of the Defence Force;
- (b) the establishment of units of the Defence Force and the various grades, numerical establishment, ranks and appointments therein;
- (c) the attendance at drills, inspection, classes and courses of instruction of members of the Defence Force and the examination of members of the Defence Force as to proficiency in military professional subjects, and the granting of certificates of proficiency in military professional subjects;
- (d) ~~the establishment of a permanent staff for the Defence Force;~~ O.S. XV/38
- (e) the appointment to, seniority of, promotion in and tenure of commissioned or non-commissioned ranks in the Defence Force;

- (f) the leave of absence, suspension, reduction and discharge of members of the Defence Force;
- (g) the condition as to physical fitness for service in the various units of the Defence Force;
- (h) the fixing of rates of pay and allowances and issues of rations to members of the Defence Force when called out under section 21 of this Ordinance;
- (i) the enrolment of ~~all~~ <sup>as officers and</sup> persons liable for service in the Defence Force;
- (j) the convening, composition, procedure and power of boards of officers and courts of inquiry;
- (k) the provision of medical treatment at camps;
- (l) the requisitioning of means of conveyance and transport for service with the Defence Force when called out under section 21 of this Ordinance;
- (m) the conveyance by air, road, rail, or water of members of the Defence Force and their transport and equipment when travelling on duty;
- (n) the requisitioning of goods, provisions, supplies and accommodation for members of the Defence Force when called out under section 21 of this Ordinance;
- (o) the issue and care of arms, accoutrements, ammunition, supplies, animals and transport, clothing and equipment for the Defence Force;
- (p) the compiling of registers of transport and the duties of members of the Defence Force in connection therewith;
- (q) the establishment and conduct of camp, regimental, or district institutions for providing recreation and refreshment to members of the Defence Force;
- (r) the returns, books, forms and correspondence relating to the Defence Force; ~~and~~
- (u) ~~(s)~~ <sup>xx</sup> all matters which are by this Ordinance required or permitted to be prescribed.

(2) Such regulations may provide as a penalty in respect of any breach thereof for a fine not exceeding fifty pounds which may be recovered in any court of competent jurisdiction at the instance of the District Commandant of the Defence Force District in which the person infringing the same resides.

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32. Any member of the permanent staff of the Defence Force may institute proceedings against any officer or member of the Defence Force or against any person for offences against this Ordinance or the regulations made thereunder, and may thereafter appear in any magistrate's court and prosecute the person against whom such proceedings have been instituted, and for such purpose every member of the permanent staff of the Defence Force shall have the right of audience in any magistrate's court. This provision shall be in addition to and not in derogation of any similar provisions or part thereof relating to any person under this Ordinance or under any other Ordinance.

Member of permanent staff may institute proceedings and appear thereat.

33. Every civil action against, and every criminal prosecution of, any person in respect of anything done in pursuance or in contravention of this Ordinance shall be commenced within six months after the cause of the proceedings has arisen and notice in writing of any civil action and the cause thereof shall be given to the defendant one month at least before the commencement thereof.

Limitation for prosecutions and notice.

34. Notwithstanding anything contained in this Ordinance, the Kenya and Uganda Railways and Harbours Administration shall be deemed to be a Defence Force District (in this section referred to as the "Railway District"), and every person in the service of such Administration who, under this Ordinance, is liable to be enrolled as a member of the Defence Force shall be deemed to be enrolled as a member thereof in the Railway District.

Railway District.

35. The Defence Force Ordinance, 1927, as amended by the Defence Force (Amendment) Ordinance, 1930, and the Defence Force (Amendment) Ordinance, 1931, and all regulations made thereunder are hereby repealed.

Repeal.  
No. 12 of 1928.  
No. 17 of 1930.  
No. 47 of 1931.

*vide Section 1 of Ord. No. 35*

#### FIRST SCHEDULE.

(1) The following persons are exempted from all the obligations imposed by the Ordinance—

Ministers of Religion who have undergone a ceremony of ordination in a recognized church;

Judges of the Supreme Court;

Members of the Executive and Legislative Councils;

Officers and British warrant and non-commissioned officers of the King's African Rifles;





**ORDINANCE No. VI of 1937**

Assented to in His Majesty's name this twenty-fourth day of March, 1937.

A. DE V. WADE,  
*Acting Governor.*

[24TH MARCH, 1937.] Date of assent.

**An Ordinance to Amend the Stamp Ordinance.**

*24th March, 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 Stamp (Amendment) Ordinance, 1937, and shall be read as one with the Stamp Ordinance (Chapter 57 of the Revised Edition), hereinafter referred to as the Principal Ordinance.

Short title.

Cap. 57.

2. Section 37 of the Principal Ordinance is hereby amended by the addition of the following paragraph to the proviso thereto :—

Amendment of section 37 of the Principal Ordinance.

“(f) Notwithstanding anything to the contrary herein contained a bill of exchange (including a cheque) which is presented for acceptance, or accepted, or payable outside the Colony shall not be invalid by reason only that it is not stamped in accordance with the provisions of this Ordinance, and any such bill of exchange which is unstamped or not properly stamped may be received in evidence on payment of the proper duty and penalties prescribed under paragraph (a) of this section.”

3. (1) Notwithstanding anything in the Principal Ordinance contained, no power, warrant, or letter of attorney granted or to be granted by the Postmaster General, nor any power, warrant or letter of attorney given by any depositor in the savings bank to any other person, authorizing him to make any deposit of any sum of money in the savings bank on behalf of the said depositor or to sign any document or instrument required by the rules or regulations of the savings bank to be signed on making such deposit or to receive back any sum of money deposited in the savings bank, or the interest arising therefrom, nor any receipt nor any entry in any book of receipts for money deposited in the savings bank, nor for any money received by any depositor, his executors or administrators, assigns, attorneys or agents, from the funds thereof, nor any draft or order, nor any appointment of any agent, nor any

Exemption of savings bank documents from stamp duty.

certificate, or other instrument or document whatsoever required or authorized to be given, issued, signed, made or produced in pursuance of the Savings Bank Ordinance, 1936, or of any Rules made thereunder, or of any Ordinance amending or replacing the same, shall be subject to, or be charged with any stamp duty or duties whatsoever.

(2) The term "savings bank" in this section contained means the Savings Bank established under the provisions of the Savings Bank Ordinance, 1936, or any Ordinance amending or replacing the same.

(3) This section shall be deemed to have come into operation on the first day of January, 1937.

Amendment of  
Schedule  
to the  
Principal  
Ordinance.

4. The Schedule to the Principal Ordinance is hereby amended by deleting therefrom the following exemption to item 45 thereof :—

“(a) Power of Attorney exempted under section twenty-three of the East Africa Post Office Savings Bank Ordinance, 1909, or any Ordinance amending or in substitution for the same.”

**ORDINANCE No. VII of 1937**

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Assented to in His Majesty's name this twenty-fourth day of March, 1937.

A. DE V. WADE,  
*Acting Governor.*

[24TH MARCH, 1937.] Date of assent.

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

*24th March, 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:—

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|---|--|
| <p><b>1.</b> This Ordinance may be cited as the State Railway Provident Fund (Amendment) Ordinance, 1937, and shall be read as one with the State Railway Provident Fund Ordinance (Chapter 35 of the Revised Edition), hereinafter referred to as the Principal Ordinance.</p> | <p><small>Short title.</small></p> <p><small>Cap. 35</small></p>         |
| <p><b>2.</b> Section 3 of the Principal Ordinance is hereby repealed.</p>   | <p><small>Repeal of Section 3 of the Principal Ordinance.</small></p>    |
| <p><b>3.</b> Section 4 of the Principal Ordinance is hereby amended by deleting therefrom paragraph (c) thereof and substituting therefor the following:—</p> <p style="padding-left: 40px;">“(c) ‘Servant’ means a servant as defined by the Rules of the Fund.”</p>           | <p><small>Amendment of Section 4 of the Principal Ordinance.</small></p> |

## ORDINANCE No. VIII of 1937

Assented to in His Majesty's name this twenty-fourth day of March, 1937.

A. DE V. WADE,  
*Acting Governor.*

Date of Assent.

[24TH MARCH, 1937.]

### An Ordinance to Amend the Mining Ordinance, 1933.

Date of commencement.

*24th March, 1937*

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

Short title.

1. This Ordinance may be cited as the Mining (Amendment) Ordinance, 1937, and shall be read as one with the

No. 61 of 1933.

Mining Ordinance, 1933, hereinafter referred to as the Principal Ordinance.

Repeal and replacement of section 31 of the Principal Ordinance.  
No. 44 of 1936.

2. Section 31 of the Principal Ordinance, as repealed and replaced by section 16 of the Mining (Amendment) Ordinance, 1936, is hereby repealed and the following section is substituted therefor:—

Rights under a location.

“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 conferred upon a lessee by section 50 of this Ordinance and shall have the right to enter upon the land the subject of the location, and the exclusive right to prospect or mine thereon and to remove therefrom and dispose of the minerals in respect of which the location shall have been registered.”

Amendment of section 68 (1) of the Principal Ordinance.

3. Sub-section (1) of section 68 of the Principal Ordinance is hereby amended by deleting the word “warden” which occurs in the fifth line thereof and by substituting therefor the word “Commissioner”.

**ORDINANCE No. IX of 1937**

Assented to in His Majesty's name this twenty-fourth day of March, 1937.

A. DE V. WADE,  
*Acting Governor.*

[24TH MARCH, 1937.] Date of Assent.

**An Ordinance to Amend the Kerosene Oil (Repayment of Duty) Ordinance, 1930.**

*24th March, 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 Kerosene Oil (Repayment of Duty) (Amendment) Ordinance, 1937, and shall be read as one with the Kerosene Oil (Repayment of Duty) Ordinance, 1930, hereinafter referred to as the Principal Ordinance. Short title.  
No. 58 of 1930.

2. Section 3 of the Principal Ordinance is hereby amended— Amendment of section 3 of the Principal Ordinance.

(a) by deleting therefrom sub-section (2) thereof and substituting therefor the following sub-section—

“(2) For the purpose of making such claim the user of imported kerosene oil shall submit a certificate, in the form set out in the Schedule hereto, to the Treasurer not later than one month after the expiration of the three months in respect of which the claim is made, and the Treasurer shall pay to the user, out of such funds as may be provided by the Legislative Council for that purpose, such sum as may be due under the provisions of this Ordinance.”;

and

(b) by deleting therefrom sub-section (3) thereof and substituting therefor the following sub-section—

“(3) Any person who knowingly makes any false statement or entry in a certificate submitted to the Treasurer under the provisions of sub-section (2) of this section shall be guilty of an offence and shall be liable on conviction for a first offence to a fine of fifty pounds or to

No. IX

Kerosene Oil (Repayment of Duty)

1937

imprisonment for any period not exceeding twelve months and for a second or subsequent offence to a fine of one hundred pounds or to imprisonment for any period not exceeding two years."

Repeal of section 4 of the Principal Ordinance.

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

Repeal and replacement of Schedule to the Principal Ordinance.

4. The Schedule to the Principal Ordinance is hereby repealed and the following is substituted therefor:—

"SCHEDULE CERTIFICATE

I, ..... of ..... hereby certify that during the three months ending\* ..... I have owned and/or used the undermentioned farm tractor(s), namely—

Table with 2 columns: Make, Engine No. and several rows of dotted lines for entries.

and that during the said period of three months I have used † ..... gallons of imported kerosene oil which was purchased by me, as shown on the attached invoices, solely for the purpose of supplying motive power to the above-mentioned farm tractor(s) while such tractor(s) were actually employed by me in agriculture and that no portion of the above-mentioned † ..... gallons of imported kerosene oil was used for any other purpose.

AND I further hereby certify that I have not made any previous claim in respect of any portion of the said quantity of † ..... gallons of imported kerosene oil.

Signature.

Witnessed by .....

\*Insert 31st March, 30th June, 30th September or 31st December as the case may be. †In words.

## ORDINANCE No. X of 1937

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Assented to in His Majesty's name this twenty-fourth day of March, 1937.

A. DE V. WADE,  
*Acting Governor.*

[24TH MARCH, 1937.] Date of Assent.

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

*24th March, 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 Traffic (Amendment) Ordinance, 1937, and shall be read as one with the Traffic Ordinance, 1928, hereinafter referred to as the Principal Ordinance.

Short title.  
No. 26 of 1928.

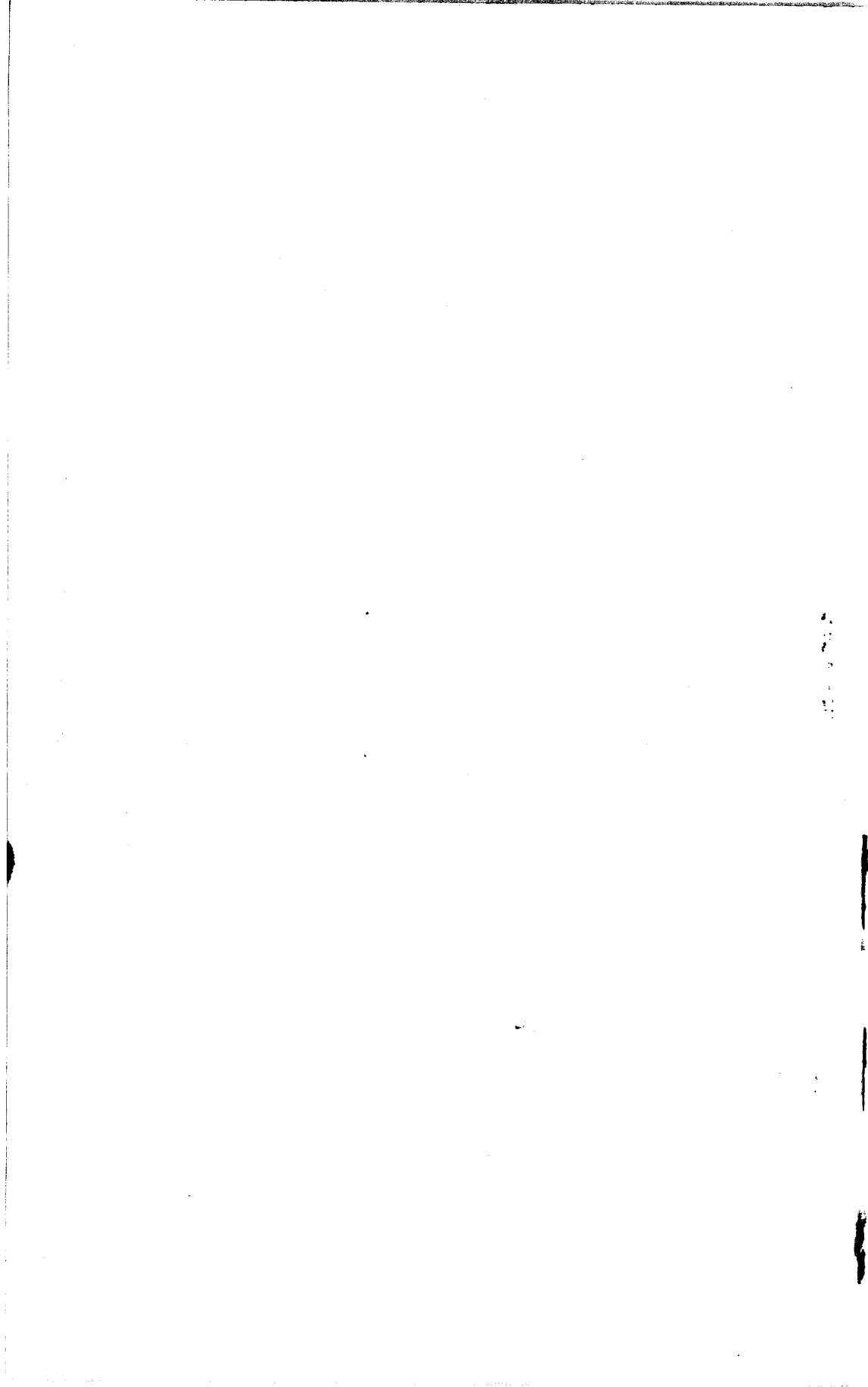
2. Section 31 of the Principal Ordinance as amended by the Traffic (Amendment) Ordinance, 1934, is hereby repealed and the following section is substituted therefor:—

Repeal and  
replacement of  
section 31 of  
the Principal  
Ordinance.  
No. 41 of 1934.

“31. Every driver or person in charge of a motor vehicle or carriage on a road shall provide and maintain such motor vehicle or carriage with a lamp or lamps in proper working order to be fixed or carried and lighted in such manner and during such hours as may be prescribed by rules made under this Ordinance.”

Lights on  
carriages.

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**ORDINANCE No. XI of 1937**

Assented to in His Majesty's name this fourth day of May, 1937.

**R. BROOKE-POPHAM,**  
*Governor.*

[4TH MAY, 1937.] Date of assent.

**An Ordinance relating to the Advancement of the Passion Fruit Industry**

*4th May, 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 Passion Fruit Ordinance, 1937. Short title.

2. In this Ordinance—

Interpretation.

“agency” means the person or body of persons from time to time appointed by the Governor in Council to be the agency for the purposes of this Ordinance;

“Conference” means any meeting of persons <sup>licensed</sup> registered under the provisions of this Ordinance, convened for the purpose of the election of members of the Board as provided under section 7 of this Ordinance;

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“Director” means the Director of Agriculture;

“export” means export from the Colony to a place outside the limits of the Protectorate of Uganda or of the Tanganyika Territory or of the Zanzibar Protectorate or of the Colony; <sup>land reference number</sup>

“levy” means the levy imposed under the provisions of section 10 of this Ordinance;

“<sup>licenced & have</sup> passion fruit” means the fruit of the plant known botanically as *Passiflora edulis*, and the fruit of any other plant that the Governor may, by proclamation, declare to be included in this definition for the purpose of this Ordinance, and any product of such fruit;

“purchase” includes agree or contract to purchase, and connotes taking delivery of the article purchased and making payment therefor within a reasonable time.

Appointment of agency.

3. (1) The Board may, with the approval of the Governor in Council, appoint any person or body of persons to be the agency for the purposes of this Ordinance, and may in like manner revoke or vary such appointment. As and from the date of any such appointment, and so long as there is an agency so appointed, the provisions of sections 4 and 16 of this Ordinance shall apply.

(2) Any appointment made under sub-section (1) of this section, or the revocation or variation of such appointment, shall be published in the Gazette.

Registration of passion fruit growers.

*ad: xxxv/1/66*

4. (1) From the commencement of this Ordinance any person growing passion fruit for the purpose of selling such fruit for export shall register himself as a passion fruit grower at the office of the District Commissioner of the district or one of the districts in which he grows such passion fruit.

(2) A fee of five shillings shall be payable for such registration.

Passion fruit not to be exported except by agency.

*ad: xxxv/1/66*

5. No passion fruit shall be exported from the Colony except by the agency.

Agency only to purchase.

*ad: xxxv/1/66*

6. No person other than the agency shall purchase passion fruit for the purpose of export.

Constitution of the Board.

7. (1) There shall be constituted a Board, to be known as "the Passion Fruit Board", which shall consist of—

- (a) the Director;
- (b) one member to be appointed by the Governor;
- (c) three <sup>persons</sup> ~~persons registered under the provisions of this Ordinance~~ who shall be elected at the Conference.

(2) The first appointments of members of the Board under paragraph (c) of sub-section (1) of this section shall be made by the Governor on the recommendation of the Director. The Board shall convene a Conference in the second half of each calendar year after the passing of this Ordinance at which elections of such members to the Board as is provided in sub-section (5) of this section shall be made.

(3) The Board shall elect a chairman and a vice-chairman annually.

(4) Members of the Board other than those referred to in paragraph (c) of sub-section (1) of this section shall hold office during the Governor's pleasure.

(5) The following provisions shall apply in respect of the members elected at each Conference—

- (a) one shall retire annually;
- (b) the order of the retirement shall be by rotation ~~which shall be decided by the Board by ballot;~~
- (c) any member retiring as aforesaid shall be eligible for re-election;
- (d) a candidate for election shall lodge with the Secretary of the Board, at least ~~thirty~~ days before the date of the election, a ~~nomination~~ paper signed by not less than five persons ~~registered~~ under the provisions of this Ordinance.

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

8. (1) The Board shall meet not less than once in three months. Meetings of the Board.

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

(3) In the absence of the chairman and vice-chairman from any meeting of the Board a chairman for such meeting shall be chosen by the members present.

(4) The chairman of a meeting shall have a deliberative vote, and in the case of equality of votes shall also have a casting vote. A decision of a majority of the members present at a meeting of the Board shall be deemed to be the decision of the Board.

(5) The chairman shall, upon receipt of a requisition signed by two members of the Board calling upon him to do so, within one month after the date of such requisition, or may, in his discretion, at any time call a special meeting of the Board.

(6) The Board may make standing orders regulating—

- (a) the conduct of its business; and
- (b) the procedure for the election of members at the Conference.

Board to be a  
body corporate.

9. The Board shall be a body corporate having perpetual succession and a common seal, and may sue and be sued, and may purchase, hold and dispose of land and other property for the purposes of this Ordinance.

Levy.

AD. XXXVII/6  
Licenses  
Graves

10. (1) The Governor may, on the recommendation of the Board, from time to time by proclamation in the Gazette impose a levy on all passion fruit produced ~~in and exported from~~ the Colony.

(2) No levy shall become operative until two months after the date of the proclamation imposing it.

Passion fruit  
levy fund.

AD. XXXVII/6

11. (1) There shall be established a fund, to be known as "the passion fruit levy fund", which shall consist of all moneys paid in respect of the levy and such other contributions or donations as may from time to time be made to the passion fruit levy fund.

(2) The passion fruit levy fund shall be in the custody of the Treasurer, who, as soon as possible after the last day of each month, shall pay the amount of such fund into an account opened in the name of the Board with a Bank approved by the Governor, and the receipt of such Bank for sums so paid shall be a full and effectual discharge to the Treasurer.

(3) The Board shall apply such moneys to all or any of the following purposes—

- (a) experiment, investigation and research in connexion with the passion fruit industry;
- (b) the cost of advertising the merits of Kenya passion fruit and increasing its sale by efforts to extend existing markets and exploiting new markets, and any matters incidental thereto;
- (c) the employment of such staff as the Board may deem necessary for the purpose of carrying out its functions;
- (d) the payment of travelling and out-of-pocket expenses to individual members of the Board at rates to be approved by the Governor;
- (e) with the approval of the Governor in Council to any other service which in the opinion of the Board is calculated to promote the welfare of the passion fruit industry or the more economic production or preparation of passion fruit.

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Passion Fruit

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12. The accounts of the passion fruit levy fund shall be audited in such manner as the Governor may direct, and shall, as soon as may be after the close of each year, and after audit as aforesaid, be published in such manner as the Governor may direct.

Audit and publication of accounts.

*ude.*  
No. XXXVII/46

13. The Board shall prepare annually a report of its operations which shall be submitted to the Conference and be published in such manner as the Governor may direct.

Annual report.

14. No member of the Board shall be personally liable for any act or default of the Board done or omitted to be done in good faith in the course of the operations of the Board.

Liability of members of the Board.

15. Any person aggrieved by any decision of the agency may appeal to the Board, whose decision shall be final, but nothing in this section contained shall be deemed to deprive any person of any right of action which he may have in any competent court of the Colony.

Appeal from agency to the Board.

16. Any person who is guilty of a breach of the provisions of any of the foregoing sections of this Ordinance or of any rules made under this Ordinance shall, on conviction before a magistrate of the first or second class, be liable for a first offence to a fine not exceeding one hundred pounds or to imprisonment for six months, or to both such fine and such imprisonment, and for a second or subsequent offence to a fine not exceeding five hundred pounds or to imprisonment for twelve months, or to both such fine and such imprisonment.

Penalty for offences.

17. The Board, with the approval of the Governor in Council, may make rules for the regulation and control of the passion fruit 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 conditions on which the agency may be appointed;
- (b) prescribing the duties and functions of the agency;
- (c) controlling the manufacture and sale of products of passion fruit grown in the Colony;
- (d) regulating the distribution of the proceeds to passion fruit growers registered under this Ordinance of sales of passion fruit by the agency;

*licensed*  
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- (e) empowering the Conference to fix and vary the fees to be charged by the agency for preparation of passion fruit products;
- (f) providing for the submission of returns to the agency relating to the cultivation of passion fruit and the quantities of passion fruit which shall be available for ~~export~~; *sale*;
- (g) providing for the grading of passion fruit received by the agency;
- (h) regulating the quantities and grades of passion fruit which shall be accepted by the agency;
- ad xxxvii/46* (i) ~~regulating the procedure for the collection of the levy;~~
- ~~(f)~~ generally for the better carrying out of the provisions of this Ordinance.
-

Repealed }

Ord. No. 140 - **ORDINANCE No. XII of 1937**

Assented to in His Majesty's name this fourth day of May, 1937.

**R. BROOKE-POPHAM,**  
*Governor.*

[4TH MAY, 1937.] Date of assent.

**An Ordinance to Impose a Tax upon Incomes and to Regulate the Collection thereof**

*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:—

**PART I.**

**PRELIMINARY**

1. This Ordinance may be cited as the Income Tax Ordinance, 1937, and shall be deemed to have come into operation on the first day of January, 1937. Short title and commencement.

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

“body of persons” means any body politic corporate or collegiate and any company fraternity fellowship or society of persons whether corporate or incorporate;

“chargeable income” means the aggregate amount of the income of any person from the sources specified in section 5 of this Ordinance remaining after allowing the appropriate deductions and exemptions under this Ordinance;

“Commissioner” means the Commissioner charged with the administration of this Ordinance, and includes a Deputy Commissioner or an Assistant Commissioner for all the purposes of this Ordinance except the exercise of the powers conferred upon the Commissioner by sections 84, 85 and 87 of this Ordinance;

“company” means—

(i) a company incorporated or registered under the provisions of the Companies Ordinance, 1933 No. 28 of 1933.  
(including an “existing company” as defined in that Ordinance) or under the provisions of any Ordinance amending or replacing the same;

(ii) any company which, though incorporated or registered outside the Colony, carries on business or has an office or place of business therein;

“debenture interest” means interest payable by a company or body of persons under or by virtue of a debenture or debenture trust deed whether in the form of a mortgage or any other instrument or document acknowledging indebtedness;

“incapacitated person” means any infant, lunatic, idiot, or insane person;

No. 19 of 1928. “local authority” means a municipal council or a municipal board established under the Local Government (Municipalities) Ordinance, 1928, or a district council established under the Local Government (District Councils) Ordinance, 1928, or a local native council established under the Native Authority Ordinance, 1937;

No. 2 of 1937. “local committee” means a committee appointed by the Governor under section 68 of this Ordinance;

“permanent” or “semi-permanent” crop means citrus, coco-nuts, coffee, essential oils, New Zealand flax, passion fruit, pyrethrum, sisal, sugar cane, tea, wattle, and such other crops as the Governor in Council may from time to time prescribe;

“person” includes any company or association or body of persons corporate or unincorporate;

“premises” includes dwelling-house;

“resident in the Colony”, when applied to an individual, means an individual who resides in the Colony except for such temporary absences as to the Commissioner may seem reasonable and not inconsistent with the claim of such individual to be resident in the Colony;

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

“year of assessment” means the period of twelve months commencing on the first day of January, 1937, and each subsequent period of twelve months.

Administra-  
tion.

3. For the due administration of this Ordinance the Governor may appoint a Commissioner, a Deputy Commissioner, an Assistant Commissioner, and such other officers and persons as may be necessary.

Official  
secrecy.

4. (1) Every person having any official duty or being employed in the administration of this Ordinance shall regard and deal with all documents, informations, returns, assessment lists and copies of such lists relating to the income or items of income of any person, as secret and confidential, and shall make and subscribe a declaration in the form prescribed to that effect before a magistrate. No stamp duty shall be charged in respect of any such declaration.



(2) Every person having possession of or control over any documents, information, returns or assessment lists or copies of such lists relating to the income or items of income of any person, who at any time communicates or attempts to communicate such information or anything contained in such documents, returns, lists or copies to any person—

(a) other than a person to whom he is authorized by the Governor to communicate it; or

(b) otherwise than for the purposes of this Ordinance,

shall be guilty of an offence against this Ordinance and shall be liable on conviction by a magistrate of the first or second class to a fine not exceeding one hundred pounds or to imprisonment for any term not exceeding six months, or to both such fine and such imprisonment.

(3) No person appointed under or employed in carrying out the provisions of this Ordinance shall be required to produce in any court any return, document or assessment, or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his duties under this Ordinance.

(4) Where under any law in force in any part of His Majesty's Dominions or in any place under His Majesty's protection or in any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty and is being exercised by His Majesty's Government in the United Kingdom provision is made for the allowance of relief from income tax in respect of the payment of income tax in this Colony, the obligation as to secrecy imposed by this section shall not prevent the disclosure to the authorized officers of the Government in that part, place or territory of such facts as may be necessary to enable the proper relief to be given in cases where relief is claimed from income tax in this Colony or from income tax in that part, place or territory aforesaid.

(5) Notwithstanding anything contained in this section the Commissioner may permit any officer duly authorized in that behalf by the Auditor of the Colony to have such access to any records or documents as may be necessary for the performance of his official duties. The Auditor or any such officer shall be deemed to be a person employed in carrying out the provisions of this Ordinance for the purposes of sub-section (2) of this section.

## PART II

## IMPOSITION OF INCOME TAX

Charge of  
income tax.

5. (1) Income tax shall, subject to the provisions of this Ordinance, be payable at the rate or rates specified hereafter for the year of assessment commencing on the first day of January, 1937, and for each subsequent year of assessment upon the income of any person accruing in, derived from, or received in, the Colony in respect of—

- (a) gains or profits from any trade, business, profession or vocation for whatever period of time such trade, business, profession, or vocation may have been carried on or exercised;
- (b) gains or profits from any employment, including the estimated annual value of any quarters or board or residence or of any other allowance (other than a subsistence or travelling allowance, or an entertainment allowance which is proved to the satisfaction of the Commissioner to have been expended for the purposes for which it was made) granted in respect of employment whether in money or otherwise.

The expression "any other allowance" in this paragraph contained includes any passage allowance paid to or on behalf of an employee by an employer in respect of such employee's and/or family's passage from the Colony to, or to the Colony from, a place outside the Colony, but shall not include any such passage allowance granted in respect of a passage to the Colony on first appointment or a passage from the Colony on termination of such appointment;

- (c) the net annual value of land and improvements thereon used by or on behalf of the owner or used rent free by the occupier, for the purpose of residence or enjoyment, and not for the purpose of gain or profit;
- (d) dividends, interest or discounts;
- (e) any pension, charge or annuity;
- (f) rents, royalties, premiums and other profits arising from property.

(2) Any employee in receipt of a passage allowance under paragraph (b) of sub-section (1) of this section may elect within the prescribed period to apportion such allowance over a prescribed number of years:

Provided that nothing in this section contained shall be deemed to apply to the value of any quarters or of any houses situated on a farm and bona fide occupied by an owner, or by any employee of such owner, solely for the purpose of carrying on farming operations.

6. Tax shall be charged, levied and collected for each year of assessment upon the chargeable income of any person for the year immediately preceding the year of assessment: notwithstanding that the source of income may have ceased before or during the year of assessment. Basis of assessment.

7. Where the Commissioner is satisfied that any person usually makes up the accounts of his trade or business on some day other than that immediately preceding any year of assessment, the Commissioner may permit the gains or profits of that trade or business to be computed for the purposes of this Ordinance upon the income of the year terminating on, or any day before, the thirty-first day of March in the year of assessment or on any day subsequent to the thirty-first day of March in the year immediately preceding the year of assessment on which the accounts of the said trade or business have been usually made up: Special periods of assessment.

Provided that, where permission has been given for any year of assessment, tax shall be charged, levied and collected for each subsequent year upon the gains and profits for the full year terminating on the like date in the year of assessment or in the year immediately preceding the year of assessment, as the case may be, subject to any such adjustment as, in the opinion of the Commissioner, may be just and reasonable.

#### EXEMPTIONS

8. There shall be exempt from the tax— Exemptions.
- (a) the official emoluments received by the officer administering the Government of the Colony;
  - (b) the income of the Kenya and Uganda Railways and Harbours Services;
  - (c) the income of the Asiatic Widows' and Orphans' Fund established under the Asiatic Widows' and Orphans' Pension Ordinance, 1927; No. 20 of 1927.
  - (d) the income of the European Civil Service Provident Fund established under the European Civil Service Provident Fund Ordinance, 1934; No. 27 of 1934

No. 64 of 1934

- (e) The income of the Asian Civil Service Provident Fund established under the Asian Civil Service Provident Fund Ordinance, 1934;
- (f) the income of any provident fund lawfully established by a local authority;
- (g) the income of any other provident fund declared by the Governor under section 18 of this Ordinance to be an approved fund;
- (h) the income of any local authority in so far as such income is not derived from a trade or business carried on by the local authority for the purpose of gain or profit:  
Provided that the Governor in Council by order, subject to such conditions as he may impose and for such period as may be stated in the order, may exempt from the tax the income of any local authority derived from a trade or business if he is satisfied that the public interest is best served by such an exemption;
- (i) the income of any ecclesiastical, charitable or educational institution of a public character in so far as such income is not derived from a trade or business carried on by such institution, or the income of trusts of a public character;
- (j) the emoluments payable to members of the permanent consular services of foreign countries in respect of their offices or in respect of services rendered by them in their official capacity;
- (k) the emoluments payable from Imperial funds to members of His Majesty's Forces and to persons in the permanent service of the Imperial Government in the Colony in respect of their offices under the Imperial Government;
- (l) the emoluments payable from Dominion funds to any accredited representative in the Colony of any Dominion;
- (m) pensions or gratuities granted in respect of wounds or disabilities caused in war;
- (n) any capital sum received by way of retiring or death gratuity or as consolidated compensation for death or injuries;

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- (o) the income of the Post Office Savings Bank;
- (p) the income of the Land and Agricultural Bank of Kenya established under the Land and Agricultural Bank Ordinance, 1930; No. 3 of 1931.
- (q) the income of the Farmers Conciliation Board established under the Farmers Assistance Ordinance, 1936; No. 18 of 1936.
- (r) the income of the Coffee Board established under the Coffee Industry Ordinance, 1934; No. 54 of 1934.
- (s) the income of the Sisal Industry Committee established under the Sisal Industry Ordinance, 1934; No. 11 of 1934.
- (t) the profits of a non-resident shipowner as defined in section 41 of this Ordinance provided that the State to which such non-resident shipowner belongs extends a similar exemption to British and Colonial non-resident shipowners carrying on business in such State:

Provided that nothing in this section shall be construed to exempt in the hands of the recipients any dividends, interest, annuities, bonuses, salaries, wages, pensions or other profits paid wholly or in part out of the income so exempted.

9. The Governor may by proclamation published in the Gazette provide that the interest payable on any loan charged on the public revenue of the Colony shall be exempted from the tax, either generally or only in respect of interest payable to persons not resident in the Colony; and such interest shall as from the date and to the extent specified in the proclamation be exempt accordingly.

Government  
loans.

### PART III.

#### ASCERTAINMENT OF CHARGEABLE INCOME

10. (1) For the purpose of ascertaining the chargeable income of any person there shall be deducted all outgoings and expenses wholly and exclusively incurred during the year preceding the year of assessment by such person in the production of the income, including—

Deductions  
allowed.

- (a) except as hereinafter provided, sums payable by such person by way of interest upon any money borrowed by him, where the Commissioner is satisfied that the interest was payable on capital employed in acquiring the income;
- (b) rent paid by any tenant of land or buildings occupied by him for the purpose of acquiring the income;

- (c) where any person engaged in any trade, business, profession or vocation has expended any sum in replacing any premises, plant or machinery used or employed in such trade, business, profession or vocation, an amount equivalent to the cost of the premises, plant or machinery replaced, after deducting from the cost such sum as shall represent the total depreciation which has been allowed by reason of wear and tear since the date of erection or purchase of such premises, plant or machinery, or, in the case of such premises, plant or machinery erected or purchased before the first day of January, 1937, since that date, and any sum realized by the sale thereof or recovered under any insurance or indemnity:

Provided that for the purposes of this paragraph and notwithstanding the definition of the term "premises" contained in section 2 of this Ordinance, and subject to the provisions of the proviso to section 12 of this Ordinance, the term "premises" means any building in which such plant or machinery was situated;

- (d) any sum expended for structural alterations to premises employed in acquiring the income and any sum expended for repairs of premises, plant or machinery employed in acquiring the income, or for the renewal, repair or alteration of any implement, utensil or article so employed:

Provided that no deduction shall be made for the cost of renewal of any property which has been the subject of an allowance under section 12 of this Ordinance;

- (e) bad debts incurred in any trade, business, profession or vocation, proved to the satisfaction of the Commissioner to have become bad during the year immediately preceding the year of assessment, and doubtful debts to the extent that they are respectively estimated to the satisfaction of the Commissioner to have become bad during the said year notwithstanding that such bad or doubtful debts were due and payable prior to the commencement of the said year, provided that all sums recovered during the said year on account of amounts previously written off or allowed in respect of bad or

doubtful debts shall for the purposes of this Ordinance be treated as receipts of the trade, business, profession or vocation for that year;

(f) such other deductions as may be prescribed by any rule made under this Ordinance.

(2) In ascertaining the chargeable income of an individual who is not resident in the Colony there shall be allowed a deduction of one hundred and fifty pounds—

(a) if such individual is in receipt of a pension from a fund to which such individual contributed in pursuance of a statutory or contractual obligation;

(b) if such individual is in receipt of a pension as the wife or child of an individual who, in pursuance of a statutory or contractual obligation, contributed to a fund or scheme in order to provide on his decease for the payment of such pension:

Provided that for ascertaining the chargeable income of an individual who is not resident in the Colony, other than an individual referred to in paragraph (a) or in paragraph (b) of this sub-section, the Governor in Council may make rules for determining—

(a) what deductions may be allowed from the income of such individual;

(b) the individual or classes of individuals to which any such deductions shall apply.

Any such rules shall be laid before the Legislative Council and shall come into force upon such date as the Legislative Council may, by Resolution, appoint.

(3) In ascertaining the chargeable income of any person who shall have been subject to a levy on salary imposed under the Levy on Official Salaries Ordinance, 1931, the amount of salary shall be deemed to be the amount of the salary as reduced by such levy.

No. 57 of 1931.

(4) The Governor in Council may by rules provide for the method of calculating or estimating the deductions allowed or prescribed under this section.

11. For the purposes of ascertaining the chargeable income of any person no deduction shall be allowed in respect of—

Deductions not to be allowed.

(a) domestic or private expenses;

(b) any item of expenditure or of charge except so far as it is attributable to, and incurred for the purpose of, acquiring the income;

- (c) subject to the provisions of this Ordinance, income carried to any reserve fund or capitalized in any way;
- (d) any loss or expense which is recoverable under any insurance, contract or indemnity;
- (e) rent of any premises or part of premises not paid for the purpose of producing the income;
- (f) any amounts paid or payable in respect of United Kingdom income tax or surtax, Kenya income tax or Empire income tax as defined in this Ordinance.

Allowance for wear and tear.

**12.** In ascertaining the chargeable income of any person engaged in a trade, business, profession or vocation, there shall be allowed as a deduction a reasonable amount for the wear and tear of property owned by him, including plant and machinery, arising out of the use or employment of such property in the trade, business, profession or vocation during the year immediately preceding the year of assessment:

Provided that in no case shall any allowance be made for the depreciation of buildings, or other structures of a permanent nature.

Allowance of trade losses.

**13.** (1) Where the amount of a loss incurred in the year preceding any year of assessment in any trade, business, profession or vocation carried on by any person either solely or in partnership is such that it cannot be wholly set off against his income from other sources for the same year, the amount of such loss shall to the extent to which it is not allowed against his income from other sources for the same year be carried forward and shall, subject as is hereinafter provided, be set off against what would otherwise have been his chargeable income for the next five years in succession:

Provided that the amount of any such loss allowed to be set off in computing the chargeable income of any year shall not be set off in computing the chargeable income of any other year.

(2) For the purposes of this section any losses incurred during the years 1932, 1933, 1934 and 1935 shall, after deducting therefrom any profits made during those years, be deemed to have been a loss incurred in a year preceding the year of assessment commencing on the first day of January, 1937:

Provided that where any person proves to the satisfaction of the Commissioner that he is unable to produce any evidence of his profit or loss during the year 1932, the Commissioner



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shall apply the provisions of this sub-section to such person as if the figures "1932" were deleted therefrom.

(3) Nothing in this section contained shall be construed as permitting the set-off of any loss incurred in any trade, business, profession or vocation which is carried on outside the Colony.

14. In ascertaining the chargeable income of an individual who is resident in the Colony there shall be allowed a deduction of three hundred and fifty pounds.

Deduction in case of residents in the Colony.

15. In ascertaining the chargeable income of an individual who is resident in the Colony and who proves to the satisfaction of the Commissioner that he had during the year immediately preceding the year of assessment a wife or wives living with or wholly maintained by him there shall be allowed a deduction of one hundred and fifty pounds.

Deduction for wife.

16. In ascertaining the chargeable income of an individual who is resident in the Colony and who proves to the satisfaction of the Commissioner that he had any child living at any time within the year preceding the year of assessment who was either under the age of sixteen or who if over the age of sixteen years at any time within that year was receiving full time instruction at any university, college, school, or other educational establishment, or was serving under articles or indentures with a view to qualifying in a trade or profession there shall be allowed a deduction of seventy-five pounds in respect of one such child, and a deduction of sixty pounds in respect of each subsequent such child:

Deduction for children.

Provided that the total deduction to be allowed under this section shall not exceed a total amount of two hundred and fifty-five pounds.

The expression "child" in this section includes a step-child, an illegitimate child, or an adopted child who was during the year preceding the year of assessment wholly maintained by the individual.

17. (1) Subject to the provisions of this section, in ascertaining the chargeable income of an individual who is resident in the Colony and who proves to the satisfaction of the Commissioner that during the year immediately preceding the year of assessment he has maintained or contributed to the maintenance of a dependent relative, there shall be allowed a deduction of the sum expended on such maintenance.

Deduction for dependants.

(2) The conditions to be fulfilled to entitle an individual to a deduction for a dependent relative under the provisions of this section are—

- (a) that the individual at his own expense maintains, or contributes towards the maintenance of, a person being a relative of the individual or of the individual's spouse; and
- (b) that the person maintained is either incapacitated by old age or infirmity from maintaining himself, or is the widowed mother (whether so incapacitated or not) of the individual or of the individual's spouse.

(3) No individual shall be allowed a deduction under the provisions of this section of a sum exceeding one hundred pounds.

(4) For the purposes of this section any sum paid by way of alimony or maintenance, under an order of a competent court made on the dissolution of a marriage, or under an agreement in writing made between the parties whose marriage has been dissolved, shall be deemed to be a sum expended on the maintenance of a dependent relative.

Deductions in respect of life insurance and contributions to Widows' and Orphans' Fund, etc.

18. In ascertaining the chargeable income of any person who is resident in the Colony and who—

- (a) shall have made insurance (including insurance against death by accident) on his life or on the life of his wife in any insurance company; or
- (b) shall, whether as employer or employee, have contributed to the Widows' and Orphans' Pension Scheme in the Colony or to an approved scheme as defined in the Widows' and Orphans' Pension Ordinance, or to the Asiatic Widows' and Orphans' Pension Fund, or to the European Civil Service Provident Fund, or to the Asian Civil Service Provident Fund, or to any provident fund lawfully established by a local authority, or to such other public or private fund as the Governor may by order declare to be an approved fund for the purposes of this section,

there shall be allowed a deduction of the annual amount of the premium paid by him for such insurance and the annual amount of such contribution as aforesaid:

Provided that no deduction shall be allowed of any contribution made to any such provident fund unless such contribution is made pursuant to a statutory or contractual obligation to a provident fund under the rules of which such contribution may not be withdrawn from the fund except upon the death of the contributor or upon the termination of his employment:

Provided further that no such deduction shall be allowed in respect of any such annual amount of premium and/or contribution beyond an amount equal to one-sixth part of the assessable income: And provided further that the total deduction to be allowed under this section shall not exceed two hundred pounds in amount.

19. In ascertaining the chargeable income of a company, or of a co-operative society registered under any law for the time being in force relating to the registration of such societies, there shall be allowed a deduction from gains or profits (which would but for the provisions of this section be chargeable to tax under this Ordinance) such sum as to the Commissioner may appear reasonable:

Deduction  
allowed for  
reserve fund.

Provided that—

- (a) any such sum shall be carried to a special reserve fund which shall be maintained in cash or in readily realizable securities;
- (b) any sum so transferred shall be taken into account and set off against any loss which may be incurred in any subsequent year;
- (c) any sum of money withdrawn from such reserve fund for any purpose whatsoever, or charged in any way whatsoever, other than for the purpose of being set off against a loss incurred under the provisions of paragraph (b) of this section, shall be deemed to be part of the chargeable income of the year in which such sum is withdrawn or charged, as the case may be, and shall be assessable accordingly;
- (d) where any company is being wound up or reconstructed, any sum in such reserve fund shall be deemed to have been distributed and shall be assessable accordingly, and the tax due in respect of such sum shall, notwithstanding anything to the contrary contained in any law for the time being in force, be a first charge on the reserve fund and on the other assets of the company.

Proof of  
claims.

**20.** Every person who claims an allowance under this Part shall make his claim on the prescribed form. Such allowance shall be granted if the claim contains such particulars and is supported by such proof as the Commissioner may require.

#### PART IV.

##### RATE OF TAX.

Rates of tax.

**21.** (1) The tax upon the chargeable income of any person, other than a company, shall be charged at the following rates:—

For every pound of the first £700: one shilling;

For every pound of the next £500: one shilling fifty cents;

For every pound of the next £1,500: two shillings;

For every pound of the remainder of the chargeable income: two shillings fifty cents.

(2) The tax upon the chargeable income of a company shall be charged at the rate of two shillings on every pound of the chargeable income thereof.

Deduction of  
tax from  
dividends of  
companies.

**22.** (1) Every company which is registered in the Colony shall be entitled to deduct from the amount of any dividend paid to any shareholder tax at the rate paid or payable by the company on the income out of which such dividend is paid: Provided that where the tax is not paid or payable by the company on the whole income out of which the dividend is paid the deduction shall be restricted to that portion of the dividend which is paid out of income on which tax is paid or payable by the company.

(2) Every such company shall upon payment of a dividend whether tax is deducted therefrom or not furnish each shareholder with a certificate setting forth the amount of the dividend paid to that shareholder and the amount of tax which the company has deducted or is entitled to deduct in respect of that dividend.

Deduction of  
tax from  
debenture  
interest paid  
by company.

(3) Every company which is registered in the Colony shall upon payment of debenture interest deduct therefrom tax at the rate of two shillings on every pound of such interest and shall forthwith render an account to the Commissioner of the amount so deducted, and every such amount shall be a debt due from such company to the Government of the Colony and shall be recoverable as such.

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(4) Every such company shall upon payment of such interest furnish each person to whom such payment is made with a certificate setting forth the amount of the interest paid to him and the amount of tax which the company has deducted from such interest.

(5) The account aforesaid shall be rendered by the manager or other principal officer of the company.

(6) Any such officer of a company who fails or neglects to render an account due or to furnish a certificate under this section shall be guilty of an offence against this Ordinance.

23. (1) Any tax which a company has deducted or is entitled to deduct under the last preceding section from a dividend paid to a shareholder or debenture interest paid to a debenture-holder shall, when such dividend or debenture interest is included in the chargeable income of such shareholder or debenture-holder, be set off for the purpose of collection against the tax charged on that chargeable income.

Set-off in respect of tax deducted.

(2) In the year of assessment commencing on the first day of January, 1937, the chargeable income of any person from any dividend, portion of dividend or debenture interest to which section 22 of this Ordinance would have applied if this Ordinance had been in force at the time of the payment of such dividend, portion of dividend or debenture interest shall be deemed to have borne tax at the rate of two shillings in the pound, and such person shall be entitled to the set-off provided by this section :

Provided, however, that, in the case of the chargeable income of any person from any debenture interest, the total tax chargeable to such person for such year of assessment shall not be less than the tax which would be chargeable if such debenture interest were omitted from his chargeable income and no set-off under this section were allowed.

24. (1) Where any person pays mortgage interest to a person not resident in the Colony or to the agent of such person and is entitled to deduct such interest under section 10 of this Ordinance he shall upon paying the interest deduct therefrom tax at the rate of two shillings on every pound of such interest and shall forthwith render an account to the Commissioner of the amount so deducted and every such amount shall be a debt from him to the Government of the Colony and shall be recoverable as such.

Deduction of tax from mortgage interest payable by individual.

(2) Any person who fails or neglects to render an account due under this section shall be guilty of an offence against this Ordinance.

(3) The Commissioner shall, upon receipt of any tax deducted from any mortgage interest under the provisions of this section, furnish the person who has deducted and paid the tax with a certificate setting forth the amount of tax so paid and the name of the person on whose behalf it has been paid. It shall be the duty of the person to whom a certificate has been furnished under the provisions of this section forthwith to forward such certificate to the person in whose name and on whose behalf the tax has been paid or to the recognized agent of such person.

(4) In the year of assessment commencing on the first day of January, 1937, the chargeable income of any person from any mortgage interest to which sub-section (1) of this section would have applied if this Ordinance had been in force at the time of the payment of such mortgage interest, shall be deemed to have borne tax at the rate of two shillings in the pound, and such person shall, if such mortgage interest is included in the chargeable income of such person, be entitled to set off the tax so deemed to have been paid against the tax charged on the chargeable income of such person, but so, however, that the total tax chargeable to such person for such year of assessment shall not be less than the tax which would be chargeable if such mortgage interest were omitted from his chargeable income and no set-off under this section were allowed.

Temporary residents.

25. Tax shall not be payable in respect of any income arising outside the Colony and received therein by any person who is in the Colony for some temporary purpose only and not with any intent to establish his residence therein and who has not actually resided in the Colony at one or more times for a period equal in the whole to six months in the year preceding the year of assessment.

#### PART V.

##### PROVISIONS RELATING TO SPECIAL CASES.

###### *A.—Husband and Wife.*

Wife's income.

26. The income of a married woman not separated from her husband under a judicial order or written agreement shall, for the purposes of this Ordinance, be deemed to be the income of the husband, and shall be charged in the name

of the husband and not in her name: Provided that that part of the total amount of tax charged upon the husband which bears the same proportion to that total amount as the amount of the income of the wife bore to the amount of the total income of the husband and wife may, if necessary, be collected from the wife notwithstanding that no assessment has been made upon her.

*B.—Trustees, Agents, etc.*

27. A receiver appointed by the court, a trustee, guardian, curator, or committee, having the direction, control or management of any property or concern on behalf of any incapacitated person shall be assessable and chargeable to tax in like manner and to the like amount as such person would be assessable and chargeable if he were not an incapacitated person.

Chargeability  
of trustees,  
etc.

28. (1) A person not resident in the Colony (hereinafter in this section referred to as a non-resident person) shall be assessable and chargeable to tax in the name of his trustee, guardian, curator, or committee, or of any attorney, factor, agent, receiver, branch, or manager, whether such factor, agent, receiver, branch or manager has the receipt of the income or not, in like manner and to the like amount as such non-resident person would be assessable and chargeable if he were resident in the Colony and in the actual receipt of such income:

Chargeability  
of agent of  
person resid-  
ing out of the  
Colony.

Provided that in the case of any individual who is not resident in the Colony no deduction shall be allowed under sections 14, 15, 16, 17 or 18 of this Ordinance.

A non-resident person shall be assessable and chargeable to tax in respect of any income arising whether directly or indirectly, through or from any factorship, agency, receivership, branch or management, and shall be so assessable and chargeable in the name of the factor, agent, receiver, branch or manager.

(2) Where a non-resident person carries on business with a resident person, and it appears to the Commissioner that owing to the close connection between the resident person and the non-resident person and to the substantial control exercised by the non-resident person over the resident person, the course of business between those persons can be so arranged and is so arranged, that the business done by the resident person in pursuance of his connection with the non-resident person produces to the resident person either no profits or less than the

ordinary profits which might be expected to arise from that business, the non-resident person shall be assessable and chargeable to tax in the name of the resident person as if the resident person were an agent of the non-resident person.

(3) Where it appears to the Commissioner by whom the assessment is made, or to the judge or local committee by whom an appeal is heard, that the true amount of the gains or profits of any non-resident person assessable and chargeable to tax in the name of a resident person cannot in any case be readily ascertained, the Commissioner or judge if he, or a local committee if it, thinks fit, may assess and charge the non-resident person on a fair and reasonable percentage of the turnover of the business done by the non-resident person through or with the resident person in whose name he is assessable and chargeable as aforesaid, and in such case the provisions of this Ordinance relating to the delivery of returns or particulars by person acting on behalf of others shall extend so as to require returns or particulars to be furnished by the resident person of the business so done by the non-resident person through or with the resident person, in the same manner as returns or particulars are to be delivered by persons acting for incapacitated or non-resident persons of income to be charged:

Provided that the amount of the percentage shall in each case be determined having regard to the nature of the business; and shall, when determined by the Commissioner, be subject to an appeal as provided by Part VIII of this Ordinance.

(4) Nothing in this section shall render a non-resident person assessable or chargeable in the name of a broker or general commission agent or other agent where such broker, general commission agent or agent is not an authorized person carrying on the regular agency of the non-resident person, or a person assessable and chargeable as if he were an agent in pursuance of sub-sections (2) and (3) of this section, in respect of gains or profits arising from sales or transactions carried out through such a broker or agent.

(5) The fact that a non-resident person executes sales or carries out transactions with other non-residents in circumstances which would make him assessable and chargeable in pursuance of sub-sections (2) and (3) of this section in the



name of a resident person shall not of itself make him assessable or chargeable in respect of gains or profits arising from those sales or transactions.

(6) Where a non-resident person is assessable and chargeable to tax in the name of any attorney, factor, agent, receiver, branch or manager, in respect of any gains or profits arising from the sale of goods or produce manufactured or produced out of the Colony by the non-resident person, the person in whose name the non-resident person is so assessable and chargeable may, if he thinks fit, apply to the Commissioner or, in the case of an appeal to a local committee or the judge, to have the assessment to tax in respect of those gains or profits made or amended on the basis of profits which might reasonably be expected to have been earned by a merchant, or, where the goods are retailed by or on behalf of the manufacturer or producer, by a retailer of the goods sold, who had bought from the manufacturer or producer direct, and on proof to the satisfaction of the Commissioner, local committee or judge of the amount of the profits on the basis aforesaid the assessment shall be made or amended accordingly.

29. The person who is assessable and chargeable in respect of an incapacitated person or in whose name a non-resident is assessable and chargeable, shall be answerable for all matters required to be done by virtue of this Ordinance for the assessment of the income of any person for whom he acts and for paying the tax chargeable thereon.

Acts, etc., to be done by trustees.

30. Every person who in whatever capacity is in receipt of any money or value being income arising from any of the sources mentioned in this Ordinance of or belonging to any other person who is assessable and chargeable in respect thereof, or who would be so assessable and chargeable if he were resident in the Colony and not an incapacitated person, shall, whenever required to do so by any notice from the Commissioner, prepare and deliver within the period mentioned in such notice a list in the prescribed form, signed by him, containing—

Lists to be prepared by representative or agent.

- (a) a true and correct statement of all such income;
- (b) the name and address of every person to whom the same shall belong,

and the provisions of this Ordinance with respect to the failure to deliver lists or particulars in accordance with a notice from the Commissioner shall apply to any such list or particulars.

Manager of  
corporate  
bodies of  
persons.

**31.** The manager or other principal officer of every corporate body of persons shall be answerable for doing all such acts, matters and things as are required to be done by virtue of this Ordinance for the assessment of such body and payment of the tax.

Indemnifica-  
tion of repre-  
sentative.

**32.** Every person answerable under this Ordinance for the payment of tax on behalf of another person may retain out of any money coming to his hands on behalf of such other person so much thereof as shall be sufficient to pay such tax; and shall be and is hereby indemnified against any person whatsoever for all payments made by him in pursuance and by virtue of this Ordinance.

Deceased  
persons.

**33.** When any individual dies and at the time of his death such individual, although liable to pay tax, has not paid tax in respect of any year of assessment, the liability to pay such tax shall pass to his personal representative and such personal representative shall, to the extent to which the assets of the estate of such individual are acquired by him in the due and proper administration of such estate, be assessable and chargeable to the tax to which such individual would have been assessable and chargeable, and shall be answerable for doing all such acts, matters, and things as such individual, if he were alive, would be liable to do under this Ordinance.

Joint trustees.

**34.** Where two or more persons act in the capacity of trustees of a trust they may be charged jointly or severally with the tax with which they are chargeable, in that capacity, and shall be jointly and severally liable for payment of the same.

*C.—Partnership.*

Partnerships.

**35.** Where a trade, business, profession or vocation is carried on by two or more persons jointly—

- (1) the income of any partner from the partnership shall be deemed to be the share to which he was entitled during the year preceding the year of assessment in the income of the partnership (such income being ascertained in accordance with the provisions of this Ordinance) and shall be included in the return

of income to be made by such partner under the provisions of this Ordinance;

- (2) (a) the precedent partner, that is to say, the partner who of the partners resident in the Colony—
- (i) is first named in the agreement of partnership; or
  - (ii) if there be no agreement, is specified by name or initials singly or with precedence to the other partners, in the usual name of the partnership; or
  - (iii) is first named in the statement made under section 5 of the Registration of Business Names Cap. 92 Ordinance; or
  - (iv) is the precedent acting partner if the partner named with precedence is not an acting partner,

shall, when required by the Commissioner, make and deliver a return of the income of the partnership for any year, such income being ascertained in accordance with the provisions of this Ordinance, and declare therein the names and addresses of the other partners in the firm together with the amount of the share of the said income to which each partner was entitled for that year;

- (b) where no partner is resident in the Colony the return shall be made and delivered by the attorney, agent, manager or factor of the partnership resident in the Colony;
  - (c) the provisions of this Ordinance with respect to the failure to deliver returns or particulars in accordance with a notice from the Commissioner shall apply to any return required under this section;
- (3) the income of any non-resident partner or partners from the partnership shall be assessable in the name of the partnership or of any resident partner or of any agent of the partnership in the Colony, and the tax charged thereon shall be recoverable by all means provided in this Ordinance out of the assets of the partnership or from any partner or from any such agent.

*D.— Agriculture.*

Ascertainment  
of profits from  
certain  
agricultural  
undertakings.

36. (1) In this section—

“permanent cultivation” means the cultivation of land for the purpose of producing permanent or semi-permanent crops;

“estate” means any area of land used mainly for the purpose of permanent cultivation;

“immature area” means an estate or part of an estate, first planted in any one year, in which the permanent or semi-permanent crop planted in that year is not fully mature, or not in full bearing.

(2) For the purpose of ascertaining the profits from an estate the provisions of this section shall apply in addition to, and shall be read with, sections 10, 11 and 13 of this Ordinance.

(3) The income and expenditure in connection with any immature area shall be separately considered and it shall be lawful for the Commissioner to require production of such particulars as may be necessary for that purpose.

(4) Where for any accounting period the expenditure other than capital expenditure incurred by any person on any immature area exceeds the receipts therefrom, and such excess is mainly due to the fact that the permanent or semi-permanent crop in that area, or a substantial proportion thereof, is not yet in bearing, the amount of such excess shall be allowed as a deduction from the profits of that person from the estate on which such immature area exists:

Provided that the initial cost of clearing and/or planting any such immature area shall be deemed to be capital expenditure.

Special  
deductions  
allowed to  
farmers.

37. (1) In ascertaining the chargeable income of a farmer there shall, in addition to any other deductions to which the farmer may be entitled under the provisions of this Ordinance, be allowed a deduction of any sum expended on his farm during a year preceding a year of assessment on the provision of—

- (a) dipping tanks;
- (b) new fencing;
- (c) approved measures for the prevention of soil erosion;
- (d) rotation planting of permanent or semi-permanent crops;

- (e) measures of a permanent nature for the conservation and/or distribution of water (other than for domestic purposes) incidental to dipping tanks erected, or approved measures taken for the prevention of soil erosion, or necessary in consequence of the erection of new fencing, provided that the Commissioner is satisfied that such measures are essential to the production of the income;
- (f) imported cattle, sheep, horses, and swine purchased for stud purposes, imported poultry, and such other imported live stock as the Governor in Council may prescribe.

(2) Where the income is derived from the cultivation of land for the purpose of producing any permanent or semi-permanent crop, there shall, in ascertaining the chargeable income of a farmer, be set off against his gains or profits such annual sum as to the Commissioner may seem reasonable for the purpose of redeeming the initial cost of planting and maintaining such crop up to and during its productive life and for providing for the cost of clearing and reclaiming the land on which such crop is growing when the normal productive life of such crop has ceased:

Provided that where any farmer avails himself of the provisions of this sub-section, the provisions of section 36 and of paragraph (d) of sub-section (1) of this section shall not apply to him.

(3) Where any farmer wishes to avail himself of the provisions of sub-section (2) of this section he shall notify the Commissioner in writing when rendering his first return subsequent to the first day of January, 1937, and the decision so notified shall be binding upon him in respect of all subsequent returns: Provided that the Commissioner may, for reasons which appear to him to be good and sufficient, permit any farmer who has so notified his decision to revoke such decision and to avail himself of the provisions of section 36 and of paragraph (d) of sub-section (1) of this section instead of the provisions of sub-section (2) of this section in respect of any years of assessment subsequent to the year of assessment commencing on the first day of January, 1937.

(4) For the purposes of this section the word "farmer" has the meaning assigned to it in section 38 of this Ordinance.

Option to  
farmers.

38. (1) Notwithstanding anything in this Ordinance contained, the provisions of this section shall apply to the determination of the chargeable income derived by any person from pastoral, agricultural or other similar operations (hereinafter referred to as a farmer).

(2) Every farmer shall be entitled to the exercise of an option whether the values of live stock and produce held by him and not disposed of at the beginning and end of each year preceding a year of assessment shall or shall not be taken into account in the determination of the chargeable income derived by him from such operations.

(3) Subject to such adjustment as to the Commissioner may seem to be fair and reasonable in respect of the value of any live stock or produce held by any farmer on the first day of January, 1936, or the date upon which he commenced farming operations, whichever date is the later, every farmer who elects not to take into account the values of such live stock and produce shall be chargeable in each year of assessment in respect of all amounts whatsoever for which live stock or produce have been disposed of by him or on his behalf during the year preceding a year of assessment:

Provided that when the Commissioner is satisfied that the sale of any stock is in the nature of a capital transaction and that the money received therefrom has been expended in purchasing stock of a different kind or on purposes essential to a change over from one type of farming to another type of farming, he may exempt the money so received and expended from being taken into account as part of the income of such farmer.

(4) Every farmer making his election as in sub-section (3) of this section provided shall furnish to the Commissioner at any time when the Commissioner so requires a statement setting out to the best of his knowledge and belief the value of the live stock and produce held by him on the date specified in that sub-section which is applicable to his case.

(5) The decision as to the basis upon which a farmer elects to be assessed shall be notified by him in writing to the Commissioner when rendering his first return subsequent to the first day of January, 1937, under this Ordinance, and the decision so notified shall be binding upon him in respect of all subsequent returns: Provided that the Commissioner

may, for reasons which appear to him to be good and sufficient, permit any farmer who has so notified his election to adopt the alternative method in respect of any years of assessment subsequent to the year of assessment commencing on the first day of January, 1937.

(6) Every farmer who elects to continue to take into account the value of his live stock and produce shall include in the return rendered by him for income tax purposes the values of all live stock and produce held by him and not disposed of at the beginning and end of each year preceding a year of assessment.

(7) The value to be placed upon such live stock (other than live stock acquired by purchase for stud purposes) shall be—

(a) in the case of live stock acquired by the farmer by purchase, either the purchase price paid or such standard value as is applicable to such live stock; and

(b) in the case of live stock acquired by the farmer otherwise than by purchase, the standard value applicable to such live stock.

(8) The standard value applicable to any class of live stock shall be such as may be prescribed by rules under this Ordinance.

(9) The value to be placed upon live stock acquired by purchase for stud purposes shall be the purchase price paid for that live stock.

(10) The value to be placed upon produce included in any return shall be such fair and reasonable value as the Commissioner may fix.

39. Where a non-resident person carries on in the Colony an agricultural, manufacturing or other productive undertaking and sells any product of such undertaking outside the Colony or for delivery outside the Colony, whether the contract is made within or without the Colony, the full profit arising from the sale in a wholesale market shall be deemed to be income arising in or derived from the Colony:

Profits of non-resident persons from sale of exported produce.

Provided that if it is shown that the profit has been increased through treatment of the product outside the Colony other than handling, grading, blending, sorting, packing and disposal, such increase of profit shall not be deemed to be income arising in or derived from the Colony. Where any

such produce is not sold in a wholesale market, the profit arising in the Colony shall be deemed to be not less than the profit which might have been obtained if such person had sold such produce wholesale to the best advantage.

*E.—Insurance Companies.*

40. Notwithstanding anything to the contrary contained in this Ordinance, it is hereby provided that—

Special provision as to certain companies and businesses.

Insurance companies other than life insurance companies.

(a) in the case of an insurance company (other than a life insurance company) where the gains or profits accrue in part outside the Colony the gains or profits on which tax is payable shall be ascertained by taking the gross premiums and interest and other income received or receivable in the Colony (less any premiums returned to the insured and premiums paid on re-insurance), and deducting from the balance so arrived at a reserve for unexpired risks at the percentage adopted by the company in relation to its operations as a whole for such risks at the end of the year preceding the year of assessment and adding thereto a reserve similarly calculated for unexpired risks outstanding at the commencement of the said year and from the net amount so arrived at deducting the actual claims paid or outstanding (less the amount recovered in respect thereof under re-insurance), the agency expenses in the Colony and a fair proportion of the expenses of the head office of the company;

Life insurance companies.

(b) in the case of a life insurance company, whether mutual or proprietary, the gains or profits on which tax is payable shall be the investment income less the management expenses (including commission): Provided that where such a company received premiums outside the Colony the gains or profits shall be the same proportion of the total investment income of the company as the premiums received in the Colony bore to the total premiums received after deducting from the amount so arrived at the agency expenses in the Colony and a fair proportion of the expenses of the head office of the company:



Provided that in the case of an insurance company having its head office outside the Colony, the Commissioner may, by regulation, substitute some basis other than that herein prescribed for the purpose of ascertaining the portion of the income from investments to be so charged as being income derived from business carried on in the Colony.

*F.—Shipping.*

41. (1) Subject to the provisions of paragraph (t) of section 8 of this Ordinance, where a non-resident person carries on the business of shipowner or charterer and any ship owned or chartered by him calls at a port in the Colony, his full profits arising from the carriage of passengers, mails, live stock or goods shipped in the Colony shall be deemed to arise in the Colony:

Profits of  
non-resident  
shipowners

Provided that this section shall not apply to goods which are brought to the Colony solely for transshipment.

(2) Where for any accounting period such person produces the certificate mentioned in sub-section (3) of this section, the profits arising in the Colony from his shipping business for such period, before deducting any allowance for depreciation, shall be a sum bearing the same ratio to the sums receivable in respect of the carriage of passengers, mails, live stock, and goods shipped in the Colony as the ratio for the said period shown by that certificate of the total profits to the total sum receivable by him in respect of the carriage of passengers, mails, live stock and goods.

(3) The certificate shall be one issued by or on behalf of any income tax authority with regard to which the Commissioner is satisfied that it computes and assesses the full profits of the non-resident person from his shipping business, on a basis not materially different from that prescribed by this Ordinance, and shall certify for any accounting period as regards such business—

- (a) the ratio of the profits, or, where there are no profits, of the loss, as computed for the purposes of income tax by that authority, without making any allowance by way of depreciation, to the total sums receivable in respect of carriage of passengers, mails, live stock or goods; and

(b) the ratio of the allowance for depreciation as computed by that authority to the said total sums receivable in respect of the carriage of passengers, mails, live stock and goods.

(4) Where at the time of assessment the provisions of sub-section (2) of this section cannot for any reason be satisfactorily applied, the profits arising in the Colony may be computed on a fair percentage of the full sum receivable on account of the carriage of passengers, mails, live stock and goods shipped in the Colony.

Provided that where any person has been assessed for any year of assessment by reference to such percentage, he shall be entitled to claim at any time within six years after the end of such year of assessment that his liability to tax for that year be recomputed on the basis provided by sub-section (2) of this section.

(5) Where the Commissioner decides that the call of a ship belonging to a particular non-resident shipowner or charterer at a port in the Colony is casual and that further calls by that ship or others in the same ownership are improbable, the provisions of this section shall not apply to the profits of such ship and no tax shall be chargeable thereon.

Master of ship  
to be an agent.

(6) The master of any ship owned or chartered by a non-resident person who is chargeable under the provisions of this section shall (though not to the exclusion of any other agent) be deemed the agent of such non-resident person for all the purposes of this Ordinance.

Refusal of  
clearance  
where tax is  
in arrear.

**42.** (1) In addition to any other powers of collection and recovery provided in this Ordinance, the Commissioner may, where the tax charged on the income of any person who carries on the business of shipowner or charterer has been in default for more than three months (whether such person is assessed directly or in the name of some other person), issue to the Commissioner of Customs or other authority by whom clearance may be granted a certificate containing the name or names of the said person and particulars of the tax in default. On receipt of such certificate, the Commissioner of Customs or other authority shall be empowered and is hereby required to refuse clearance from any port in the Colony to any ship owned wholly or partly or chartered by such person until the said tax has been paid.

(2) No civil or criminal proceedings shall be instituted or maintained against the Commissioner of Customs or other authority in respect of a refusal of clearance under this section, nor shall the fact that a ship is detained under this section affect the liability of the owner, charterer, or agent to pay harbour dues and charges for the period of detention.

43. Where a non-resident person carries on the business of air transport or the business of the transmission of messages by cable or by wireless telegraphy he shall be assessable to tax as if he were a non-resident shipowner as defined in section 41 of this Ordinance and the provisions of the said section shall apply *mutatis mutandis* to the computation of the profits or gains of such business.

Profits of non-resident air transport, cable, etc., undertakings.

#### G.—Relief in Cases of Double Taxation

44. (1) Any person who has paid, by deduction or otherwise, or is liable to pay, tax under this Ordinance for any year of assessment on any part of his income and who proves to the satisfaction of the Commissioner that he has paid, by deduction or otherwise, or is liable to pay, income tax in the United Kingdom for that year in respect of the same part of his income, shall be entitled to relief from tax under this Ordinance paid or payable by him on that part of his income at a rate equal to the amount by which the rate of tax appropriate to his case under this Ordinance exceeds half the appropriate rate of United Kingdom tax. If, however, the rate of tax appropriate to his case under this Ordinance exceeds the appropriate rate of United Kingdom tax he shall be entitled only to relief at a rate equal to half the appropriate rate of United Kingdom tax.

Relief in respect of United Kingdom income tax.

(2) For the purposes of this section, a certificate issued by or on behalf of the Commissioners of Inland Revenue in the United Kingdom shall be receivable in evidence to show what is the appropriate rate of United Kingdom tax in any particular case.

(3) For the purposes of this section, the expression "rate of tax" when applied to tax paid or payable under this Ordinance means the rate determined by dividing the amount of the tax paid or payable for the year (before the deduction of the relief granted under this section) by the amount of the income in respect of which the tax paid or payable under this Ordinance has been charged for that year except that

where the income which is the subject of a claim to relief under this section is computed by reference to the provisions of section 28 of this Ordinance on an amount other than the ascertained amount of the actual profits, the rate of tax shall be determined by the Commissioner.

Relief in  
respect of  
Empire  
income tax.

45. (1) If any person resident in the Colony who has paid, by deduction or otherwise, or is liable to pay, tax under this Ordinance for any year of assessment on any part of his income, proves to the satisfaction of the Commissioner that he has paid, by deduction or otherwise, or is liable to pay, Empire income tax for that year in respect of the same part of his income, he shall be entitled to relief from tax in the Colony paid or payable by him on that part of his income at a rate thereon to be determined as follows:—

- (a) If the Empire rate of tax does not exceed one-half of the rate of tax appropriate to his case under this Ordinance in the Colony, the rate at which relief is to be given shall be the Empire rate of tax.
- (b) In any other case the rate at which relief is to be given shall be half the rate of tax appropriate to his case under this Ordinance.

(2) If any person not resident in the Colony who has paid, by deduction or otherwise, or is liable to pay, tax under this Ordinance for any year of assessment on any part of his income proves to the satisfaction of the Commissioner that he has paid, by deduction or otherwise, or is liable to pay, Empire income tax for that year of assessment in respect of the same part of his income, he shall be entitled to relief from tax paid or payable by him under this Ordinance on that part of his income at a rate thereon to be determined as follows:—

- (a) If the Empire rate of tax appropriate to his case does not exceed the rate of tax appropriate to his case under this Ordinance, the rate at which relief is to be given shall be one-half of the Empire rate of tax.
- (b) If the Empire rate of tax appropriate to his case exceeds the rate of tax appropriate to his case under this Ordinance, the rate at which relief is to be given shall be equal to the amount by which the rate of tax appropriate to his case under this Ordinance exceeds one-half of the Empire rate of tax.

(3) For the purposes of this section, Empire income tax means any income tax charged under any law in force in any part of His Majesty's Dominions (other than the United Kingdom or this Colony), or in any place under His Majesty's protection or in any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty and is being exercised by His Majesty's Government in the United Kingdom: Provided that the legislature of that part, place or territory has provided for relief in respect of tax charged on income both in that part, place or territory and this Colony in a manner similar to that provided in this section.

(4) For the purposes of this section, the rate of tax under this Ordinance shall be computed in the manner provided by sub-section (3) of the last preceding section of this Ordinance and the Empire rate of tax shall be computed in a similar manner.

(5) Where a person is for any year of assessment resident both in the Colony and in a part, place or territory in which Empire income tax is charged, he shall for the purposes of section be deemed to be resident where during that year he resides for the longer period.

46. The income of a person arising from a dividend paid by a company liable to Kenya tax, United Kingdom income tax, or Empire income tax within the meaning of section 45 of this Ordinance shall, where any such tax has been deducted therefrom, be the gross amount before making such deduction; where no such deduction has been made, the income arising shall be the amount of the dividend increased by an amount on account of such taxes corresponding to the extent to which the profits out of which the said dividend has been paid have been charged with such taxes.

Income from certain dividends to include tax thereon.

#### H.—General

47. Any sum realized under any insurance against a loss of profits shall be taken into account in the ascertainment of any profits or income.

How certain receipts from insurance to be treated.

48. (1) Where a body of persons, whether corporate or unincorporate, carries on a club or similar institution and receives from its members not less than three-fourths of its gross receipts on revenue account (including entrance fees and subscriptions), it shall not be deemed to carry on a business; but where less than three-fourths of its gross receipts are received from members, the whole of the income from trans-

Ascertainment of income of clubs, trade associations, etc.

actions both with members and others (including entrance fees and subscriptions) shall be deemed to be receipts from a business, and the body of persons shall be chargeable either in respect of the profits therefrom, or in respect of the income which would be assessable if it were not deemed to carry on a business, whichever is the greater.

(2) In this section, "members" in relation to a body of persons means those persons who are entitled to vote at a general meeting of the body at which effective control is exercised over its affairs.

(3) Nothing in this section shall operate to annul or reduce any exemption granted in section 8 of this Ordinance.

Certain undistributed profits to be treated as distributed and certain transactions and dispositions to be disregarded.

49. Where it appears to the Commissioner that with a view to the avoidance or reduction of tax a company controlled by not more than five persons has not distributed to its shareholders as dividend profits made in any period ending after the first day of January, 1936, which could be distributed without detriment to the company's existing business, he may treat any such undistributed profits as distributed, and the persons concerned shall be assessable accordingly.

Commissioner may disregard certain transactions and dispositions.

50. (1) Where the Commissioner is of opinion that any transaction which reduces or would reduce the amount of tax payable by any person is artificial or fictitious or that any disposition is not in fact given effect to, he may disregard any such transaction or disposition and the persons concerned shall be assessable accordingly.

In this section "disposition" includes any trust, grant, covenant, agreement or arrangement.

(2) Nothing in this section or in section 49 contained shall prevent the decision of the Commissioner in the exercise of any discretion given to him by this section from being questioned in an appeal against an assessment in accordance with Part VIII.

#### PART VI

##### GENERAL POWERS OF COMMISSIONER

Notice of chargeability and returns.

51. (1) It shall be the duty of every person chargeable with tax to give notice to the Commissioner within three months after the commencement of any year of assessment that he is so chargeable:

Provided that for the year of assesment commencing on the first day of January, 1937, such notice shall be given on or before the thirtieth day of June, 1937.

(2) The Commissioner may by notice in writing require any person to furnish him within a reasonable time, not being less than one month, with a return of income and such particulars as may be required for the purpose of this Ordinance with respect to the income for which such person is chargeable:

Provided that any person who leaves the Colony before the date by which the Commissioner has required such return and such particulars to be furnished, shall submit such return and such particulars within twelve months from the date of his leaving the Colony or within one month after his return to the Colony, whichever is the earlier.

(3) Any person who fails or neglects to comply with any of the provisions of this section shall be guilty of an offence against this Ordinance.

(4) Where any person leaves the Colony before the thirty-first day of March in any year of assessment, or, in the case of the year of assessment commencing on the first day of January, 1937, before the thirtieth day of June, 1937, and has not given to the Commissioner the notice required by this section, such person shall give such notice within thirty days after the date of the return of such person to the Colony.

52. The Commissioner may give notice in writing to any person when and as often as he thinks necessary requiring him to furnish within the time limited by such notice fuller or further returns respecting any matter of which a return is required or prescribed by this Ordinance.

Commissioner may call for further returns.

53. For the purpose of obtaining full information in respect of any person's income the Commissioner may give notice to such person requiring him within the time limited by such notice, which time shall not be less than thirty days from the date of such notice, to complete and deliver to the Commissioner a prescribed return and/or to attend personally before him and to produce for examination any books, documents, accounts, and returns which the Commissioner may deem necessary.

Power to call for returns, books, etc.

54. A return, statement or form purporting to be furnished under this Ordinance by or on behalf of any person shall for all purposes be deemed to have been furnished by that person or by his authority, as the case may be, unless the contrary is proved, and any person signing any such return, statement or form shall be deemed to be cognizant of all matters therein.

Returns to be deemed to be furnished by due authority.

Books of  
account.

55. (1) If a person chargeable with tax fails or refuses to keep books or accounts which, in the opinion of the Commissioner, are adequate for the purposes of income tax, the Commissioner may by notice in writing require him to keep such records, books and accounts in such language as he may in the said notice prescribe.

(2) Any person who after receipt of a notice under subsection (1) of this section fails to comply with its provisions shall be guilty of an offence against this Ordinance.

Official  
information  
and official  
secrecy.

56. The Commissioner may require any officer in the employment of the Government of the Colony, or the Kenya and Uganda Railways and Harbours Services, or any local authority or other public body to supply such particulars as may be required for the purposes of this Ordinance and which may be in the possession of such officer:

Provided that no such officer shall by virtue of this section be obliged to disclose any particulars as to which he is under any statutory obligation to observe secrecy.

Obligations of  
employers.

57. (1) Every employer when required to do so by notice from the Commissioner shall, within the time limited by the notice, prepare and deliver for any year a return containing—

- (a) the names and places of residence of all persons employed by him; and
- (b) the payments and allowances made to those persons in respect of that employment,

and the provisions of this Ordinance with respect to the failure to deliver returns or particulars in accordance with a notice from the Commissioner shall apply to any such return.

(2) Where the employer is a body of persons the manager or other principal officer shall be deemed to be the employer for the purposes of this section, and any director of a company or person engaged in the management of a company shall be deemed to be a person employed.

Returns to be  
furnished of  
income  
received on  
account of, or  
paid to, other  
persons.

58. Where any person in any capacity whatever—

- (a) receives any profits or income to which this Ordinance applies which belongs to some other person,  
or



(b) pays to some other person, or to his order, any such profits or income,

the Commissioner may give notice to such first-named person requiring him to furnish within the time limited by such notice a return containing—

(i) a true and correct statement of all such profits and income; and

(ii) the name and address of every person to whom the same belongs.

59. The Commissioner may give notice in writing to any person who is the occupier of any land and improvements thereon requiring him to furnish within the time limited by such notice a return containing—

Occupiers to furnish returns of rent payable.

(a) the name and address of the owner of such land and improvements; and

(b) a true and correct statement of the rent payable and any other consideration passing therefor.

60. The Commissioner may give notice in writing to any person requiring him within the time limited by such notice to furnish a return containing the name of every lodger or inmate who is at the date of the notice resident in his house, hotel, or institution, and has been so resident, except for temporary absences, throughout the preceding three months.

Return of lodgers and inmates.

61. (1) Every notice to be given by the Commissioner under this Ordinance shall be signed by the Commissioner or by some person or persons from time to time appointed by him for that purpose, and every such notice shall be valid if the signature of the Commissioner or of such person or persons is duly printed, stamped or written thereon, provided that any notice in writing under this Ordinance to any person requiring him to furnish particulars to the Commissioner, or any notice under this Ordinance requiring the attendance of any person or witness before the Commissioner, shall be personally signed by the Commissioner or by any person duly authorized by him.

Signature of notices.

(2) A signature attached to any notice and purporting to be the signature of any person so appointed shall be taken to be the signature of that person until the contrary be shown.

Service  
of notices.

**62.** Notice may be served on a person either personally or by being sent through registered post to his last known business or private address, and shall in the latter case be deemed to have been served not later than the seventh day succeeding the day on which the notice would have been received in the ordinary course by post, and in proving such notice it shall be sufficient to prove that the letter containing the notice was properly addressed and posted.

#### PART VII.

##### ASSESSMENTS.

Commissioner  
to make  
assessment.

**63.** (1) The Commissioner shall proceed to assess every person chargeable with tax as soon as may be after the expiration of the time allowed to such person for the delivery of his return.

(2) Where a person has delivered a return, the Commissioner may—

- (a) accept the return and make an assessment accordingly; or
- (b) if he has reasonable grounds for thinking that the return is not a true and correct return, refuse to accept the return and, to the best of his judgment, determine the amount of the chargeable income of the person and assess him accordingly.

(3) Where a person has not delivered a return and the Commissioner is of the opinion that such person is liable to tax, he may, according to the best of his judgment, determine the amount of the chargeable income of such person, and assess him accordingly, but such assessment shall not affect any liability otherwise incurred by such person by reason of his failure or neglect to deliver a return.

Additional  
assessments.

**64.** Where it appears to the Commissioner that any person liable to tax has not been assessed or has been assessed at a less amount than that which ought to have been charged, the Commissioner may, within the year of assessment or within six years after the expiration thereof assess such person at such amount or additional amount as, according to his judgment, ought to have been charged, and the provisions of this Ordinance as to notice of assessment, appeal and other proceedings under this Ordinance shall apply to such assessment or additional assessment and to the tax charged thereunder.

65. (1) The Commissioner shall as soon as possible prepare lists of persons assessed to tax.

Lists of persons assessed.

(2) Such lists (herein called the assessment lists) shall contain the names and addresses of the persons assessed to tax, the amount of the chargeable income of each person, the amount of tax payable by him, and such other particulars as may be prescribed.

66. (1) The Commissioner shall cause to be served personally on or sent by registered post to each person whose name appears on the assessment lists a notice addressed to him at his usual place of abode or business stating the amount of his chargeable income and the amount of tax payable by him, and informing him of his rights under the next sub-section.

Power of Commissioner to revise assessment in case of objection.

(2) If any person disputes the assessment he may apply to the Commissioner, by notice of objection in writing, to review and to revise the assessment made upon him. Such application shall state precisely the grounds of his objection to the assessment and shall be made within thirty days from the date of the service of the notice of assessment: Provided that the Commissioner, upon being satisfied that owing to absence from the Colony, sickness or other reasonable cause, the person disputing the assessment was prevented from making the application within such period, shall extend the period as may be reasonable in the circumstances.

(3) On receipt of the notice of objection referred to in sub-section (2) of this section, the Commissioner may require the person giving the notice of objection to furnish such particulars as the Commissioner may deem necessary with respect to the income of the person assessed and to produce all books or other documents in his custody or under his control relating to such income, and may summon any person who, he thinks, is able to give evidence respecting the assessment to attend before him, and may examine such person (except the clerk, agent, servant or other person confidentially employed in the affairs of the person to be charged) on oath or otherwise.

(4) In the event of any person assessed, who has objected to an assessment made upon him, agreeing with the Commissioner as to the amount at which he is liable to be assessed, the assessment shall be amended accordingly, and notice of the tax payable shall be served upon such person:

Provided always that in the event of any person who, under sub-section (2) of this section, has applied to the Commissioner for a revision of the assessment made upon him failing to agree with the Commissioner as to the amount at which he is liable to be assessed his right of appeal under the provisions of this Ordinance, against the assessment made upon him, shall remain unimpaired.

Errors, etc.,  
in assessment  
and notices.

67. (1) No assessment, warrant or other proceedings purporting to be made in accordance with the provisions of this Ordinance shall be quashed, or deemed to be void or voidable for want of form, or be affected by reason of a mistake, defect or omission therein, if the same is in substance and effect in conformity with or according to the intent and meaning of this Ordinance or any Ordinance amending the same, and if the person assessed or intended to be assessed or affected thereby is designated therein according to common intent and understanding.

- (2) An assessment shall not be impeached or affected—
- (a) by reason of a mistake therein as to—
    - (i) the name or surname of a person liable; or
    - (ii) the description of any income; or
    - (iii) the amount of tax charged;
  - (b) by reason of any variance between the assessment and the notice thereof:

Provided that in case of assessment the notice thereof shall be duly served on the person intended to be charged and such notice shall contain, in substance and effect, the particulars on which the assessment is made.

#### PART VIII.

##### APPEALS.

Establish-  
ment of local  
committees.

68. (1) The Governor may, by notice in the Gazette, appoint for any area specified in such notice a local committee consisting of a president and not more than three other persons, selected by the Governor, for the purpose of hearing and determining appeals in accordance with the provisions of section 69 of this Ordinance.

(2) Every member of a local committee shall hold office during the Governor's pleasure.

(3) The Governor may, without assigning any reason, revoke the appointment of any member of a local committee, and he may appoint new members whenever necessary.

(4) Three members of a local committee shall form a quorum for the purpose of carrying out all or any of the powers conferred upon a local committee by this Ordinance or by any rules made thereunder.

(5) In the unavoidable absence of the president from any meeting the members present shall elect a president for the meeting.

(6) The members of a local committee shall be entitled to receive such subsistence and travelling allowances as the Governor may determine.

(7) The 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.

(8) The Governor in Council may make rules governing appeals to a local committee, and, without prejudice to the generality of the foregoing, may make rules—

- (a) prescribing the manner in which an appeal shall be made to a local committee and the fees to be paid in respect of any such appeal;
- (b) prescribing the procedure to be adopted by a local committee in hearing an appeal and the records to be kept by such committee;
- (c) prescribing the manner in which any such committee shall be convened and the places where and the times at which a local committee shall hold sittings;
- (d) prescribing a scale of costs; and
- (e) generally for the better carrying out of the provisions of this Part relating to local committees.

69. (1) Any person who, being aggrieved by an assessment made upon him, has failed to agree with the Commissioner in the manner provided in sub-section (4) of section 66 of this Ordinance may, upon giving notice in writing to the Commissioner within thirty days after the date of service upon him of notice of the refusal of the Commissioner to amend the assessment as desired, appeal against such assessment to a local committee appointed for the area in which he resides:

Appeals to  
local  
committees.

Provided that, notwithstanding the lapse of such period of thirty days, any person may appeal against the said assessment if he shows to the satisfaction of the local committee

that, owing to absence from the Colony, sickness or other reasonable cause he was prevented from giving notice of appeal within such period, and that there has been no unreasonable delay on his part.

(2) If the local committee is satisfied that the appellant is overcharged it may reduce the amount of assessment by the amount of the overcharge, and if it is satisfied that the appellant is undercharged it may increase the amount of the assessment by the amount of the undercharge.

(3) Every person appealing shall appear before the local committee either in person or by agent on the day and at the time fixed for the hearing of the appeal:

Provided always that if it be proved to the satisfaction of the local committee that owing to absence from the Colony, sickness or other reasonable cause, any person is prevented from attending at the hearing of his appeal on the day and at the time fixed for that purpose, the local committee may postpone the hearing of such appeal for such reasonable time as it thinks necessary for the attendance of the appellant.

(4) All appeals to the local committee shall be heard *in camera*.

(5) In the case of a person who has been assessed to pay a total tax of an amount not exceeding two hundred shillings no appeal shall lie from the decision of the local committee under the provisions of section 70 in respect of the whole or any part of such tax, provided that such person has certified in writing on the notice under sub-section (1) of this section that he desires the decision of the local committee to be final and conclusive.

Appeals to  
Supreme Court.

**70.** (1) Any person who, being aggrieved by an assessment made upon him, has failed to agree with the Commissioner in the manner provided in sub-section (4) of section 66 of this Ordinance, or, subject to the provisions of sub-section (5) of section 69, having appealed to a local committee, is aggrieved by the decision of such committee, may appeal against the assessment to a judge upon giving notice in writing to the Commissioner within thirty days after the date of service upon him of notice of the refusal of the Commissioner to amend the assessment as desired or within thirty days after the date of the decision of the local committee as the case may be:

Provided that, notwithstanding the lapse of such period of thirty days, any person may appeal against the said assessment if he shows to the satisfaction of the judge that, owing to absence from the Colony, sickness or other reasonable cause he was prevented from giving notice of appeal within such period, and that there has been no unreasonable delay on his part.

(2) Every person appealing shall appear before the judge either in person or by advocate on the day and at the time fixed for the hearing of the appeal:

Provided always that if it be proved to the satisfaction of the judge that owing to absence from the Colony, sickness or other reasonable cause, any person is prevented from attending at the hearing of his appeal on the day and at the time fixed for that purpose, the judge may postpone the hearing of such appeal for such reasonable time as he thinks necessary for the attendance of the appellant.

(3) Seven clear days' notice shall, unless rules made hereunder otherwise provide, be given to the Commissioner of the date fixed for the hearing of the appeal.

(4) The onus of proving that the assessment complained of is excessive shall be on the appellant.

(5) If the judge is satisfied that the appellant is overcharged he may reduce the amount of the assessment by the amount of the overcharge, and if he is satisfied that the appellant is undercharged he may increase the amount of the assessment by the amount of the undercharge.

(6) Notice of the amount of tax payable under the assessment as determined by the judge shall be served by the Commissioner upon the appellant.

(7) All appeals shall be heard *in camera*, unless the judge shall, on the application of the appellant, otherwise direct.

(8) The costs of the appeal shall be in the discretion of the judge hearing the appeal and shall be a sum fixed by the Registrar of the Supreme Court.

(9) No appeal shall lie from the decision of a judge except on a question of law or of mixed law and fact.

(10) Notwithstanding that an appeal from the decision of the judge has been lodged, tax shall be assessed in accordance

with the decision of the judge: Provided that if the amount of the assessment is altered by the order or judgment of the Court of Appeal or Privy Council, then—

- (a) if too much tax has been paid, the amount overpaid shall be refunded with such interest, if any, as the court of appeal may order; or
- (b) if too little tax has been paid, the amount unpaid shall be deemed to be arrears of tax, except that no penalty shall be due on such arrears under section 76 of this Ordinance.

(11) The Commissioner may, subject to the provisions of sub-section (5) of section 69, if he is dissatisfied with the decision of a local committee, appeal against the decision to a judge upon giving notice in writing to the other party to the first appeal within thirty days after the date of such decision and the provisions of this section so far as they are applicable shall apply to any such appeal by the Commissioner.

Assessments  
or amended  
assessments  
to be final.

**71.** Where no valid objection or appeal has been lodged within the time limited by this Part against an assessment as regards the amount of the chargeable income assessed thereby, or where the amount of the chargeable income has been agreed to under sub-section (4) of section 66 of this Ordinance, or where the amount of such chargeable income has been determined on objection or appeal, the assessment as made or agreed to or determined on appeal, as the case may be, shall be final and conclusive for all purposes of this Ordinance as regards the amount of such chargeable income:

Provided that nothing in this Part shall prevent the Commissioner from making any refund under the provisions of section 80 of this Ordinance or any assessment or additional assessment for any year of assessment which does not involve reopening any matter which has been determined on appeal for the year.

Power to  
make rules.  
No. 3 of 1924.

**72.** The Rules Committee established under section 83 of the Civil Procedure Ordinance, 1924, may make rules governing appeals under this Part (other than appeals to a local committee) and providing for the method of tendering evidence and appointing places for the hearing of such appeals and prescribing the fees to be paid on such appeals.



## PART IX

SPECIAL PROVISIONS RELATING TO PERSONS ABOUT TO  
LEAVE THE COLONY PERMANENTLY

73. (1) If in any particular case the Commissioner has reason to believe that a person who has been assessed to tax may leave the Colony permanently before such tax becomes payable under the provisions of section 75 or section 77 of this Ordinance without having paid such tax he may by notice in writing to such person demand payment of such tax within a time to be limited in such notice. Such tax shall thereupon be payable at the expiration of the time so limited and shall in default of payment unless security for payment thereof be given to the satisfaction of the Commissioner be recoverable forthwith in the manner prescribed by section 79 of this Ordinance.

Payment of tax  
by persons about  
to leave the  
Colony  
permanently.

(2) If in any particular case the Commissioner has reason to believe that tax upon any chargeable income may not eventually be recovered he may at any time and as the case may require—

- (a) forthwith by notice in writing require any person to make a return and to furnish particulars of any such income within a time to be specified in such notice;
- (b) make an assessment upon such person in the amount of the income returned or if default is made in making such return or the Commissioner is dissatisfied with such return in such amount as the Commissioner may think reasonable;
- (c) by notice in writing to the person assessed require that security for the payment of the tax assessed be forthwith given to his satisfaction.

(4) Notice of any assessment made in accordance with the provisions of sub-section (2) of this section shall be given to the person assessed, and any tax so assessed (in accordance with the provisions of sub-section (2) of this section) shall be payable on demand made in writing under the hand of the Commissioner and shall in default of payment unless security for the payment thereof be given to the satisfaction of the Commissioner be recoverable forthwith in the manner prescribed by section 79 of this Ordinance.

Any person who has paid the tax in accordance with a demand made by the Commissioner or who has given security for such payment under sub-section (2) of this section shall have the rights of objection and appeal conferred by sections 66, 69 and 79 of this Ordinance and the amount paid by him shall be adjusted in accordance with the result of any such objection or appeal.

(5) The provisions of sub-section (2) of this section shall not affect the power conferred upon the Commissioner by section 64 of this Ordinance.

#### PART X

##### PAYMENT OF TAX

Procedure in cases where objection or appeal is pending.

**74.** Collection of tax shall in cases where notice of an objection or an appeal has been given remain in abeyance until such objection or appeal is determined:

Provided that the Commissioner may in any such case enforce payment of that portion of the tax (if any) which is not in dispute.

Time within which payment is to be made.

**75.** (1) Subject to the provisions of sub-section (2) of this section tax shall be payable within ninety days after the service of a notice of assessment under section 66 of this Ordinance or by the thirtieth day of September in the year of assessment whichever date is the later.

(2) (a) Any person who leaves the Colony before the thirtieth day of September in any year of assessment and who at the time of his departure has not been assessed for that year of assessment shall pay the tax for that year of assessment within ninety days after the date of his return to the Colony or within ninety days after the date of the service of a notice of assessment under section 66 of this Ordinance whichever date is the later.

(b) Any person who leaves the Colony before the thirtieth day of September in any year of assessment and who at the time of his departure has been assessed for that year of assessment but has not paid the tax for that year of assessment shall pay the tax for that year of assessment within ninety days after the date of his return to the Colony.

(3) For the year of assessment commencing on the first day of January, 1937, sub-section (1) and sub-section (2) of this section shall be read as if the word "November" were substituted for the word "September".

1937

Income Tax

No. XII

**76.** (1) Subject to the provisions of sub-section (2) of this section if any tax is not paid within the period prescribed in section 75 of this Ordinance—

Penalty for non-payment of tax; and enforcement of payment.

- (a) a sum equal to twenty per centum of the amount of the tax payable shall be added thereto, and the provisions of this Ordinance relating to the collection and recovery of tax shall apply to the collection and recovery of such sum;
- (b) the Commissioner shall serve a demand note upon the person assessed, and if payment is not made within thirty days from the date of the service of such demand note, the Commissioner may proceed to enforce payment as hereafter provided;
- (c) a penalty imposed under this section shall not be deemed to be part of the tax paid for the purposes of claiming relief under any of the provisions of this Ordinance.

(2) The Commissioner may remit the whole or any part of the penalty under sub-section (1) of this section where he is satisfied that the imposition thereof would in the circumstances cause hardship or be inequitable, or for any other good cause shown.

**77.** Where payment of tax in whole or in part has been held over pending the result of a notice of objection or of an appeal, the tax outstanding under the assessment as determined on such objection or appeal, as the case may be, shall be payable within the time specified in section 75 of this Ordinance or within thirty days from the service on the person assessed of the notification of the tax payable, whichever date is the later, and if such tax is not paid within such period the provisions of the last preceding section shall apply.

Collection of tax after determination of objection or appeal.

**78.** (1) Where any individual chargeable with tax for any year of assessment has paid hut tax or poll tax under the Native Hut and Poll Tax Ordinance, 1934, Northern Frontier poll tax under the Northern Frontier Poll Tax Ordinance, 1930, or non-native poll tax under the Non-Native Poll Tax Ordinance, 1936, for the same year of assessment, a deduction shall be made from the tax payable by him under this Ordinance for the same year of assessment of the amount so paid as hut tax, poll tax, Northern Frontier poll tax or non-native poll tax, as the case may be: Provided that no such deduction shall be allowed unless the receipt

Set-off of poll tax against tax due.  
No. 40 of 1934.  
No. 53 of 1930.  
No. 50 of 1936.

for the hut tax, poll tax, Northern Frontier poll tax or non-native poll tax is surrendered at the time of payment of the tax due under this Ordinance.

(2) No deduction in respect of payment of non-native poll tax shall be allowed under this section to an amount in excess of the amount of non-native poll tax fixed in section 3 of the Non-Native Poll Tax Ordinance, 1936.

(3) The receipt of the Commissioner showing that non-native poll tax has been deducted from a payment of tax due under this Ordinance shall be deemed to be a receipt for payment of non-native poll tax for the purposes of section 12 of the Non-Native Poll Tax Ordinance, 1936.

Suit for tax by  
Commissioner.

**79.** (1) Tax may be sued for and recovered in a court of competent jurisdiction by the Commissioner in his official name with full costs of suit from the person charged therewith as a debt due to the Government of the Colony.

(2) The Commissioner may appear personally or by an advocate in any suit instituted under this section or on any appeal under this Ordinance.

Repayment  
of tax.

**80.** (1) If it be proved to the satisfaction of the Commissioner that any person for any year of assessment has paid tax, by deduction or otherwise, in excess of the amount with which he is properly chargeable, such person shall be entitled to have the amount so paid in excess refunded. Every claim for repayment under this section shall be made within six years from the end of the year of assessment to which the claim relates. The Commissioner shall give a certificate of the amount to be repaid, and upon the receipt of the certificate the Treasurer shall cause repayment to be made in conformity therewith.

(2) Except as regards sums repayable on an objection or appeal, no repayment shall be made to any person in respect of any year of assessment as regards which that person has failed or neglected to deliver a return or has been assessed in a sum in excess of the amount contained in his return, provided that he has received notice of the assessment made upon him for that year, unless it is proved to the satisfaction of the Commissioner that such failure or neglect to deliver a true and correct return did not proceed from any fraud or wilful act or omission on the part of that person.

(3) Any person who is aggrieved by the decision of the Commissioner as to the amount to be repaid under this section shall have the same right to appeal against such decision as if he were aggrieved by an assessment made upon him.

81. All returns, additional information and resulting correspondence and payment of tax under the provisions of this Ordinance may be sent free of postage to the Commissioner in envelopes marked "Income Tax". Free postage.

## PART XI

### OFFENCES AND PENALTIES

82. Any person guilty of an offence against this Ordinance or any person who contravenes or fails to comply with any of the provisions of this Ordinance or of any rules made thereunder, for which no other penalty is specifically provided, shall be liable on summary conviction before a magistrate of the first or second class to a fine not exceeding fifty pounds, and in default of payment to imprisonment for any term not exceeding three months. Penalties for offences.

83. Every person who—

(a) fails to comply with the requirements of a notice given to him under this Ordinance; or

(b) without sufficient cause fails to attend in answer to a notice or summons issued to him under this Ordinance or having attended fails to answer any question lawfully put to him,

Penalty for failure to attend on summons, etc.

shall be guilty of an offence and shall be liable on summary conviction before a magistrate of the first or second class to a fine not exceeding fifty pounds, and in default of payment to imprisonment for a term not exceeding three months.

84. (1) Every person who without reasonable excuse— Penalty for making incorrect returns, etc.

(a) makes an incorrect return by omitting or understating any income of which he is required by this Ordinance to make a return; or

(b) gives any incorrect information in relation to any matter or thing affecting his own liability to tax or the liability of any other person or of a partnership,

shall be guilty of an offence and shall on summary conviction by a magistrate of the first or second class be liable to a fine not exceeding one hundred pounds and double the amount of tax which has been undercharged in consequence of such

incorrect return, or information, or would have been so undercharged if the return or information had been accepted as correct.

(2) No person shall be liable to any penalty under this section unless the complaint concerning such offence was made in the year of assessment in respect of or during which the offence was committed or within three years after the expiration thereof.

(3) The Commissioner may compound any offence under this section, and may before judgment stay or compound any proceedings thereunder.

Penal provisions relating to fraud, etc.

85. (1) Any person who wilfully with intent to evade or to assist any other person to evade tax—

- (a) omits from a return made under this Ordinance any income which should be included; or
- (b) makes any false statement or entry in any return made under this Ordinance; or
- (c) gives any false answer whether verbally or in writing to any question or request for information asked or made in accordance with the provisions of this Ordinance; or
- (d) prepares or maintains or authorizes the preparation or maintenance of any false books of account or other records or falsifies or authorizes the falsification of any books of account or records; or
- (e) makes use of any fraud, art, or contrivance, whatsoever or authorizes the use of any such fraud, art or contrivance,

shall be guilty of an offence, and shall for each such offence be liable on summary conviction by a magistrate of the first or second class to a fine not exceeding two hundred pounds and treble the amount of tax for which he is liable under this Ordinance for the year of assessment in respect of or during which the offence was committed, or to imprisonment for any term not exceeding six months, or to both such fine and imprisonment.

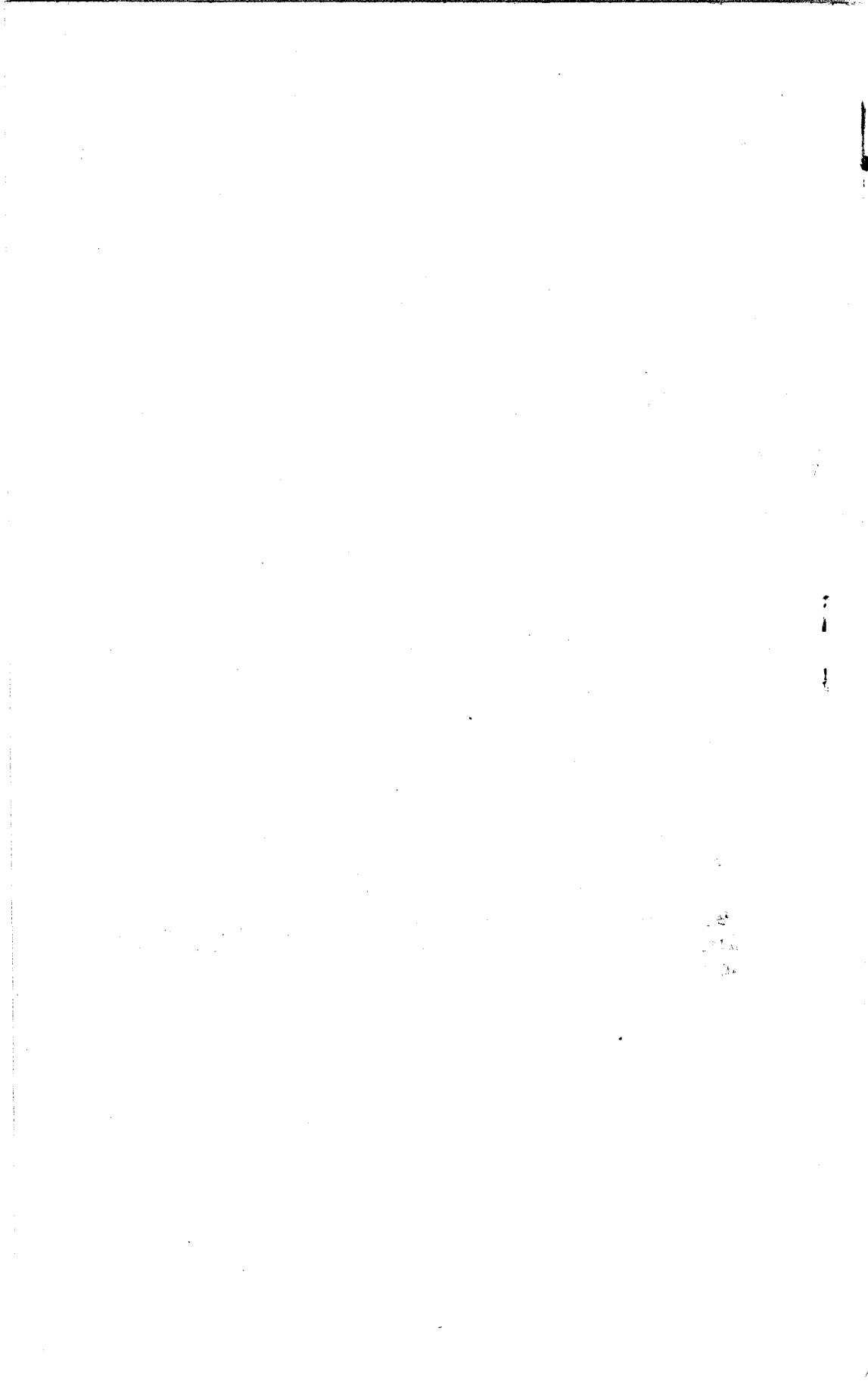
(2) The Commissioner may compound any offence under this section and may before judgment stay or compound any proceedings thereunder.

1937

Income Tax

No. XII

- 86.** The institution of proceedings for, or the imposition of a penalty, fine, or term of imprisonment under this Ordinance shall not relieve any person from liability to payment of any tax for which he is or may be liable. Tax to be payable notwithstanding any proceedings for penalties, etc.
- 87.** No prosecution in respect of an offence under section 82, section 83, section 84 or section 85 of this Ordinance may be commenced except at the instance of or with the sanction of the Commissioner. Prosecution to be with the sanction of the Commissioner.
- 88.** The provisions of this Ordinance shall not affect any criminal proceedings under any other Ordinance or law for the time being in force in the Colony. Savings for criminal proceedings.
- 89.** The Governor in Council may from time to time make rules generally for carrying out the provisions of this Ordinance and may, in particular, by those rules provide— Rules.
- (a) for the form of returns, claims, statements and notices under this Ordinance;
  - (b) for the deduction and payment of tax at the source in respect of emoluments and pensions payable out of the revenue of the Colony or from the funds of the Kenya and Uganda Railways and Harbours Services;
  - (c) for assessing the amount to be taken as the annual value of land and improvements thereon occupied rent free by persons in the public service of the Colony or of the Kenya and Uganda Railways and Harbours Services;
  - (d) for any such matters as are authorized by this Ordinance to be prescribed.
- 90.** The Governor in Council may exempt any person or class of persons from all or any of the provisions of this Ordinance on the ground of poverty, hardship, or on any ground which to him may seem sufficient. Power of Governor in Council to exempt persons.





**ORDINANCE No. XIII of 1937**

Assented to in His Majesty's name this twenty-eighth day of August, 1937.

R. BROOKE-POPHAM,  
Governor.

[28TH AUGUST, 1937.] Date of assent.

**An Ordinance to Amend the Trustee Ordinance,  
1929**

28th August, 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 Trustee (Amendment) Ordinance, 1937, and shall be read as one with the Trustee Ordinance, 1929, hereinafter referred to as the Principal Ordinance.

Short title.

No. 28 of 1929.

2. Sub-section (4) of section 26 of the Principal Ordinance is hereby repealed and the following sub-section substituted therefor:—

Amendment of section 26 (4) of the Principal Ordinance.

“(4) The power of attorney shall be attested by at least one witness and shall be registered under the Crown Lands Ordinance or the Registration of Titles Ordinance within thirty days of execution, if executed in the Colony, or within thirty days of first arrival in the Colony, if executed out of the Colony, with a statutory declaration by the donor that he intends to remain out of the Colony for a period exceeding one month from the date of such declaration, or from a date therein mentioned.”

Cap. 140.

Cap. 142.

## ORDINANCE No. XIV of 1937

Assented to in His Majesty's name this twenty-eighth day of August, 1937.

R. BROOKE-POPHAM,  
*Governor.*

Date of assent.

[28TH AUGUST, 1937.]

### An Ordinance to Amend the Public Trustee's Ordinance, 1925

Date of commencement.

*28th August, 1937*

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

Short title.

1. This Ordinance may be cited as the Public Trustee's (Amendment) Ordinance, 1937, and shall be read as one with the Public Trustee's Ordinance, 1925, hereinafter referred to as the Principal Ordinance.

No. 7 of 1925.

Amendment of section 2 of the Principal Ordinance.

2. Section 2 of the Principal Ordinance is hereby amended by the addition, immediately after the definition of "immovable property", of the following definition:—

" 'Letters of Administration' shall include any letters of administration, whether general or with a copy of the will annexed or limited in time or otherwise;".

Repeal and replacement of section 4 of the Principal Ordinance.

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

District Commissioner to report death to Public Trustee who may apply for grant in certain cases.

"4. (1) When a person (other than a native living in a communal state in a tribe within a native reserve or other area set apart for natives who has no property purporting to belong to him as an individual) dies in the Colony, the District Commissioner of the district in which the death occurs shall, upon receiving notice of such death or upon such death coming to his knowledge, forthwith institute inquiries to ascertain whether the deceased left any, and if so what estate in the Colony, and shall report the death with full particulars as to the estate, as far as ascertainable, to the Public Trustee.

(2) When a person dies elsewhere than in the Colony leaving estate within the Colony the District Commissioner of the district in which the estate is situate shall, upon receiving notice of such death or upon such death coming to his knowledge forthwith report the death, with full particulars of the estate to the Public Trustee.

(3) Upon receiving such report or on otherwise being notified of or becoming acquainted with such death, the Public Trustee shall cause further inquiry to be made as to the estate of the deceased person, and if it appears to the Public Trustee:—

- (a) that such person died intestate; or
- (b) that the deceased having made a will devising or bequeathing his estate or any part thereof, has omitted to appoint an executor; or
- (c) that the person or persons named as executor or executors in the will of the deceased are dead or have renounced probate thereof or otherwise are unable or unwilling to act; or
- (d) that probate of the will of the deceased or letters of administration with the will annexed to the deceased's estate has or have not been applied for within three months from the date of the death of deceased; or
- (e) that the deceased has appointed the Public Trustee as an executor of his will; or
- (f) that the executor of the will of the deceased or the administrator of the deceased's estate who is resident outside the Colony has appointed the Public Trustee by power of attorney to act for him in the Colony; or
- (g) that the whole or any part of the estate of the deceased has been left unadministered and that the executors of the will of deceased to whom probate has been granted, or the persons to whom a grant of letters of administration to the deceased's estate has been made, are dead or otherwise are unable or unwilling to complete the administration of the estate,

he may apply to the Court for probate of the will or letters of administration to the estate of such deceased person, whereupon the Court shall, except for good cause

shown, make a grant to the Public Trustee of probate or letters of administration, as the case may require.

(4) When the peculiar circumstances of the case appear to the Court so to require, for reasons recorded in its proceedings, the Court may, if it thinks fit, of its own motion or otherwise, after having heard the Public Trustee, grant letters of administration to the Public Trustee even although there are persons who, in the ordinary course, would be legally entitled to administer the estate of the deceased in preference to the Public Trustee:

Provided that notwithstanding anything in this Ordinance contained, it shall and may be lawful for the Public Trustee, when the estate of the deceased consists of property of an estimated gross value not exceeding one hundred pounds and the deceased has died intestate or left a will in such circumstances that the Public Trustee may apply for a grant of probate or letters of administration as hereinbefore provided to take possession of and administer the estate of such deceased person in accordance with the provisions of this Ordinance and of any Ordinance amending the same, so far as such provisions are applicable, without making any such application to the Court as is hereinbefore mentioned and no Court fees shall be chargeable or payable in respect of any such estate as aforesaid."

Repeal and replacement of section 6 of the Principal Ordinance.

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

Notice of application.

"6. The Public Trustee shall serve a notice of his intention to apply for a grant of administration upon all executors and next-of-kin of the deceased known to him to be resident in the Colony except in the circumstances set out in paragraphs (e) and (f) of sub-section (3) of section 4, and shall also cause a notice of any such application to be published in the Gazette or in one local newspaper, or both, at the discretion of the Public Trustee, and to be posted in a conspicuous place at the Law Courts, Nairobi, and after the expiration of fourteen days from the date of such service, publication and posting, he may apply to the Court for a grant of probate

of letters of administration as the case may require; and the Court shall, if satisfied by affidavit that the case is within the provisions of this Ordinance, make an order upon the application of the Public Trustee accordingly:

Provided always that the Court may order such further notice as it may think fit to be given before making such order, and provided also that it shall not be necessary for the Public Trustee to serve such notice as is in this section mentioned in any case where the Public Trustee shall have obtained the consent in writing of all executors and next-of-kin known to him to be resident in the Colony to make such application to the Court, subject however and without prejudice to the right of the Public Trustee to take possession of and administer any estate of an estimated gross value not exceeding one hundred pounds without making any such application, as is hereinbefore provided:

Provided further that in any case where the Court is satisfied by affidavit that the estate or any portion thereof might otherwise be purloined, lost, destroyed, or damaged or that great expense will be incurred by delay in the matter, the aforesaid notice of intention to apply may be dispensed with."

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

"7. (1) At any time after a grant of letters of administration to the Public Trustee under this Ordinance, any person to whom the Court might have committed administration if no such grant had been made may apply to the Court for revocation of such grant and for a grant to himself of probate of the will or letters of administration; but no such application shall be made until seven days after notice in writing of intention to make it shall have been given to the Public Trustee.

Upon such application the Court, after hearing the Public Trustee if he appears, may revoke the grant to the Public Trustee and grant probate or letters of administration to the applicant subject to such limitations and conditions as the Court may think fit:

Provided that letters of administration granted to the Public Trustee shall not be revoked as aforesaid

Repeal and replacement of section 7 of the Principal Ordinance.

Grant to Public Trustee may be revoked and grant made to other person.

unless such application be made within six months after the grant to the Public Trustee and the Court is satisfied that there has been no unreasonable delay in making the application, or in transmitting the authority under which the application is made.

(2) Upon such revocation and new grant, all the interest, powers, rights and duties of the Public Trustee in regard to the estate affected by such grant, and all liabilities of the Public Trustee under any contract or agreement entered into by him in relation to such estate or any part thereof, shall cease; and such portion of the estate as shall be left unadministered by the Public Trustee shall vest in the person obtaining such new grant, subject nevertheless to all lawful contracts theretofore made relating to such estate and to the allowance and payment of all outlays, disbursements, costs, fees, charges and expenses reasonably incurred in the administration thereof.

(3) The provisions of this section shall apply in the case of an estate of which the Public Trustee has taken possession under the second proviso to section 4 in like manner as if there had been a grant of letters of administration to the Public Trustee on the date upon which he took possession."

Amendment of section 9 of the Principal Ordinance.

6. Section 9 of the Principal Ordinance is hereby amended by the substitution of the words: "In all cases where probate of the will or letters of administration shall have been granted to the Public Trustee" for the words: "In all cases where an order to administer shall have been made" which occur in the first and second lines thereof.

Repeal and replacement of section 11 of the Principal Ordinance. No. 14 of 1928.

7. Section 11 of the Principal Ordinance, as amended by section 2 of the Public Trustee's (Amendment) Ordinance, 1928, is hereby repealed and the following section is substituted therefor:—

Movable property to be realized.

"11. (1) The Public Trustee may convert into money all movable property of an estate which he administers under this Ordinance, and may with the consent of the Court convert into money all or any part of the immovable property of such estate:

Provided that if all parties interested in the said immovable property consent in writing to its conversion into money by the Public Trustee, or if the value of the

said immovable property does not exceed seven hundred and fifty pounds and the Public Trustee is satisfied that the conversion of the said immovable property into money would be to the advantage of the estate, the consent of the Court as hereinbefore provided shall not be necessary.

(2) The Public Trustee shall cause advertisements to be published in the Gazette and in such other manner as he shall deem expedient calling upon the creditors of the person whose estates he is administering under the provisions of this Ordinance to come in and prove their debts before him within the space of two months from the date of publication. He shall, after the expiration of the said period, pay the debts proved and if the whole thereof cannot be paid he shall pay a dividend thereon; if he shall collect any further assets after making such payments, he shall, in case any part of the debts proved remain unpaid, pay the same and any debts subsequently proved before him, or a dividend thereon; but such debts as shall be subsequently proved, shall first be paid a dividend in proportion to their amount equal to the dividend paid to creditors having previously proved their debts. After payment of all debts, fees and expenses incident to the collection, management, and administration of such estate he shall pay over the residue to the persons beneficially entitled thereto. Where such persons are resident outside the Colony payment may be made to any agent or representative duly authorized to receive the same; or remittances made by registered letter shall be deemed equivalent to payment:

Provided always that in the event of the Public Trustee being unable to trace the parties beneficially entitled to the residue of such estate as aforesaid or any of them, he shall transfer such residue or proportionate part thereof as the case may be to the unclaimed property account:

Provided further that where the Public Trustee has been granted letters of administration to the estate in the Colony of a person who at the time of his death was not domiciled, or who appears to the Public Trustee to have then not been domiciled in the Colony, and a grant of probate of such deceased person's will or letters of administration to his estate has been made in the

country of such deceased person's domicile the Public Trustee may pay over or transfer to the person holding such grant the residue of the estate in the Colony without seeing to the application thereof and without incurring any liability in regard to such payment or transfer :

Provided also that where such deceased person was domiciled in a foreign state, such payment or transfer may be made to a Consular Officer of such state whose receipt shall be a full and complete discharge to the Public Trustee in respect of the same.

(3) Estates shall be distributable by the Public Trustee according to the ordinary rules of law within any period not exceeding twelve years computed from the date of the final completion of the account; on the expiry of that period all estates or portions thereof in respect of which no claim shall have been lodged with the Public Trustee shall lapse or be escheat to the Crown : provided that it shall be lawful for the Governor to dispose of and distribute the same or any part thereof to or among any kindred of the deceased or other person having a legal claim thereto or to or among any kindred of the deceased or other person who although not having any legal claim thereto, can show a reasonable claim in equity thereto, in such shares or manner as he may think fit."

Amendment of section 13 of the Principal Ordinance.

8. Section 13 of the Principal Ordinance is hereby amended by the substitution of the words "letters of administration to" for the words "an order to administer" which occur in the first and second lines thereof.

Amendment of section 16 of the Principal Ordinance.

9. Section 16 of the Principal Ordinance is hereby amended by the deletion of the full stop which occurs at the end of paragraph (b) thereof and by the substitution therefor of a colon, and by the addition thereafter of the following proviso :—

"Provided that where the share of the minor does not exceed one hundred pounds in value the Public Trustee may, at his discretion pay or transfer it to the father or mother of the minor or some other suitable person on behalf of the minor and the receipt of the father or mother or other person referred to herein shall be a full and complete discharge to the Public Trustee in respect of such share."



10. Sub-section (1) of section 17 of the Principal Ordinance is hereby amended by the substitution of a semi-colon for the full stop which occurs at the end of paragraph (b) thereof, and by the addition thereafter of the following paragraphs to be numbered (c) and (d) respectively:—

Amendment of section 17 (1) of the Principal Ordinance.

- “(c) act as a custodian trustee;
- (d) be appointed sole trustee in all cases where any local Ordinance or any Imperial Act in force in the Colony provides that there shall be two trustees.”

11. The Principal Ordinance is hereby amended by the insertion of the following section, immediately after section 19 thereof:—

Amendment of the Principal Ordinance.

“19A. (1) Subject to Rules under this Ordinance the Public Trustee may, if he consents to act as such, and whether or not the number of trustees has been reduced below the original number, be appointed to be custodian trustee of any trust:—

Custodian trustee.

- (a) by order of the Court made on the application of any person on whose application the Court may order the appointment of a new trustee; or
- (b) by the testator, settlor, or other creator of any trust; or
- (c) by the person having power to appoint new trustees.

(2) Where the Public Trustee is appointed to be custodian trustee of any trust—

(a) the trust property shall be transferred to the custodian trustee as if he were sole trustee, and for that purpose vesting orders may, where necessary, be made under the Trustee Ordinance, 1929;

No. 28 of 1929.

(b) the management of the trust property and the exercise of any power or discretion exercisable by the trustees under the trust shall remain vested in the trustees other than the custodian trustee (which trustees are hereinafter referred to as “the managing trustees”);

(c) as between the custodian trustee and the managing trustees, and subject and without prejudice to the rights of any other persons, the custodian trustee shall have the custody of all securities and

documents of title relating to the trust property, but the managing trustees shall have free access thereto, and be entitled to take copies thereof or extracts therefrom;

- (d) the custodian trustee shall concur in and perform all acts necessary to enable the managing trustees to exercise their powers of management or any other power or discretion vested in them (including the power to pay money or securities into Court), unless the matter in which he is requested to concur is a breach of trust, or involves a personal liability upon him in respect of calls or otherwise, but, unless he so concurs, the custodian trustee shall not be liable for any act or default on the part of the managing trustees or any of them;
- (e) all sums payable to or out of the income or capital of the trust property shall be paid to or by the custodian trustee: Provided that the custodian trustee may allow the dividends and other income derived from the trust property to be paid to the managing trustees or to such person as they direct, or into such bank to the credit of such person as they may direct, and in such case shall be exonerated from seeing to the application thereof and shall not be answerable for any loss or misapplication thereof;
- (f) the power of appointing new trustees, when exerciseable by the trustees, shall be exerciseable by the managing trustees alone, but the custodian trustee shall have the same power of applying to the Court for the appointment of a new trustee as any other trustee;
- (g) in determining the number of trustees for the purposes of the Trustee Ordinance, 1929, the custodian trustee shall not be reckoned as a trustee;
- (h) the custodian trustee, if he acts in good faith, shall not be liable for accepting as correct and acting upon the faith of any written statement by the managing trustees as to any birth, death, mar-

riage, or other matter of pedigree or relationship, or other matter of fact, upon which the title to the trust property or any part thereof may depend, nor for acting upon any legal advice obtained by the managing trustees independently of the custodian trustee;

(i) the Court may, on the application of either the custodian trustee, or any of the managing trustees, or of any beneficiary, and on proof to their satisfaction that it is the general wish of the beneficiaries, or that on other grounds it is expedient to terminate the custodian trusteeship, make an order for that purpose, and the Court may thereupon make such vesting orders and give such directions as under the circumstances may seem to the Court to be necessary or expedient."

12. The Public Trustee's (Amendment) Ordinance, 1928, is hereby repealed. Repeal.  
No. 14 of 1928.

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**ORDINANCE No. XV of 1937**

Assented to in His Majesty's name this twenty-eighth day of August, 1937.

R. BROOKE-POPHAM,  
*Governor.*

Date of assent.

[28TH AUGUST, 1937.]

**An Ordinance to Amend the Girl Guides Ordinance, 1935**

Date of commencement.

*28th August, 1937*

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 Girl Guides (Amendment) Ordinance, 1937, and shall be read as one with the Girl Guides Ordinance, 1935; hereinafter referred to as the Principal Ordinance.

No. 34 of 1935.

Amendment of section 2 of the Principal Ordinance.

2. Section 2 of the Principal Ordinance is hereby amended by substituting the word "Colony" for the word "Chief" which occurs in the seventh line thereof.

**ORDINANCE No. XVI of 1937**

Assented to in His Majesty's name this twenty-eighth day of August, 1937.

R. BROOKE-POPHAM,  
Governor.

[28TH AUGUST, 1937.] Date of assent.

**An Ordinance to Amend the Law of Evidence with  
Respect to Bankers' Books**

28th August, 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 Evidence (Bankers' Books) Ordinance, 1937. Short title.

2. In this Ordinance the expression— Interpretation.

“bank” or “banker” means any company, person or body of persons, whether incorporated or not, engaged in the business of banking within the Colony and includes the Savings Bank established under the provisions of the Savings Bank Ordinance, 1936, or any branch thereof;

No. 29 of 1936.

“banker's book” includes ledgers, day books, cash books, account books and all other books used in the ordinary business of the bank;

“court” means the court, judge, arbitrator or person or persons before whom a legal proceeding is held or taken;

“legal proceeding” means any civil or criminal proceeding or inquiry in which evidence is or may be given, and includes an arbitration.

3. Subject to the provisions of this Ordinance, a copy of any entry in a banker's book shall in all legal proceedings be received as prima facie evidence of such entry, and of the matters, transactions, and accounts therein recorded. Mode of proof of entries in banker's books.

4. A copy of an entry in a banker's book shall not be received in evidence under this Ordinance unless it be first proved that the book was at the time of the making of the entry one of the ordinary books of the bank, and that the entry was made in the usual and ordinary course of business, and that the book is in the custody or control of the bank. Proof that book is a banker's book.

Such proof may be given by a partner or officer of the bank, and may be given orally or by an affidavit sworn before any commissioner for oaths or persons authorized to take affidavits.

Verification  
of copy.

5. A copy of an entry in a banker's book shall not be received in evidence under this Ordinance unless it be further proved that the copy has been examined with the original entry and is correct.

Such proof shall be given by some person who has examined the copy with the original entry, and may be given either orally or by an affidavit sworn before any commissioner for oaths or person authorized to take affidavits.

Case in which  
banker, etc., not  
compellable to  
produce book,  
etc.

6. A banker or officer of a bank shall not, in any legal proceedings to which the bank is not a party, be compellable to produce any banker's book the contents of which can be proved under this Ordinance, or to appear as a witness to prove the matters, transactions, and accounts therein recorded, unless by order of a judge made for special cause.

Court may  
order  
inspection, etc.

7. On the application of any party to a legal proceeding a court may order that such party be at liberty to inspect and take copies of any entries in a banker's book for any of the purposes of such proceedings. An order under this section may be made either with or without summoning the bank or any other party, and shall be served on the bank three clear days before the same is to be obeyed, unless the court otherwise directs.

Costs.

8. The costs of any application to a court under or for the purposes of this Ordinance, and the costs of anything done or to be done under an order of a court made under or for the purposes of this Ordinance shall be in the discretion of the court which may order the same or any part thereof to be paid to any party by the bank where the same have been occasioned by any default or delay on the part of the bank. Any such order against a bank may be enforced as if the bank was a party to the proceeding.

**ORDINANCE No. XVII of 1937**

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Assented to in His Majesty's name this twenty-eighth day of August, 1937.

R. BROOKE-POPHAM,  
*Governor.*

[28TH AUGUST, 1937.] Date of assent.

**An Ordinance to Amend the Tribal Police Ordinance, 1929**

*28th August, 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 Tribal Police (Amendment) Ordinance, 1937, and shall be read as one with the Tribal Police Ordinance, 1929, hereinafter referred to as the Principal Ordinance.

Short title.  
No. 10 of 1929.

2. The Principal Ordinance is hereby amended by the addition of the following new section 21 immediately after section 20 thereof:—

Amendment of the Principal Ordinance.

“21. The Governor in Council may make regulations for the granting and payment of gratuities to tribal police officers.

Power to make regulations for the granting and payment of gratuities.

All such gratuities shall be charged upon and paid out of the Revenues of the Colony.”

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## ORDINANCE No. XVIII of 1937

Assented to in His Majesty's name this twenty-eighth day of August, 1937.

R. BROOKE-POPHAM,  
*Governor.*

Date of assent.

[28TH AUGUST, 1937.]

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

Date of commencement.

*28th August, 1937*

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

Short title.

1. This Ordinance may be cited as the Traffic (Amendment, No. 2) Ordinance, 1937, and shall be read as one with the Traffic Ordinance, 1928, hereinafter referred to as the Principal Ordinance.

No. 26 of 1928

Amendment of Section 30 of the Principal Ordinance.

2. Section 30 of the Principal Ordinance is hereby amended—

- (a) by deleting therefrom the comma which appears after the word "policy" in the third line of sub-section (2) thereof; and
- (b) by inserting therein a comma between the word "sub-section" and the word "providing" which appear in the second line of the said sub-section and between the word "cease" and the word "in" which appear in the fourth line of the said sub-section.

Amendment of the Principal Ordinance.

3. The Principal Ordinance is hereby amended by inserting therein, immediately after section 31 thereof, the following new section:—

Rear reflectors on bicycles.

"31A. No person shall ride any pedal bicycle on any road in the Colony unless such bicycle has affixed to the rear mudguard a red reflector disc of such a nature and so fitted as to be clearly visible to drivers or vehicles overtaking such bicycle.

This section shall come into operation on such date as the Governor may by notice in the Gazette appoint."



4. The Principal Ordinance is hereby amended by inserting therein, immediately after section 48 thereof, the following new section:—

Amendment of the Principal Ordinance.

“48A. (1) The owner of any vehicle shall, within seven days after receiving a request in that behalf, furnish to a licensing officer or to a police officer of or above the rank of assistant inspector, the name and address of the person who was driving such motor vehicle at any particular time when an offence, under this Ordinance or under any other law for the time being in force, is alleged to have been committed: Provided that nothing in this sub-section contained shall be construed to mean that any owner shall be required to furnish to such licensing officer or such police officer, as the case may be, the name and address of any person who was so driving such motor vehicle if such owner satisfies such licensing officer or police officer, as the case may be, that, at the time in question, the motor vehicle was being driven by such other person without such owner's knowledge.

Owner to furnish name and address of person driving vehicle at any particular time.

Any owner who fails to comply with a request made under the provisions of this sub-section shall be guilty of an offence against this Ordinance.

(2) Where the name and address of the person so furnished is that of the owner of the vehicle then, notwithstanding the provisions of sections 25 and 26 of the Indian Evidence Act, as applied to the Colony, such information, although furnished by the owner of the vehicle to a police officer, shall be admissible in evidence in any proceedings instituted against such owner in respect of the alleged offence.”

**ORDINANCE No. XIX of 1937**

Assented to in His Majesty's name this twenty-eighth day of August, 1937.

R. BROOKE-POPHAM,  
*Governor.*

Date of assent.

[28TH AUGUST, 1937.]

**An Ordinance to Amend the Stamp Ordinance**

Date of commencement.

*28th August, 1937*

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 Stamp (Amendment, No. 2) Ordinance, 1937, and shall be read as one with the Stamp Ordinance (Chapter 57 of the Revised Edition), hereinafter referred to as the Principal Ordinance.

Cap. 57.

Amendment of section 4 of the Principal Ordinance.

2. The proviso to section 4 of the Principal Ordinance is hereby amended by substituting a colon for the full stop which occurs at the end thereof and by adding immediately thereafter the following further proviso:—

“And provided further that, with effect from such date as the Governor may by notice in the Gazette appoint, every bill of exchange, cheque or promissory note drawn or made in the Uganda Protectorate or the Tanganyika Territory and accepted and paid or presented for acceptance or payment, or endorsed, transferred or otherwise negotiated in the Colony, and which has previously been duly stamped in the Uganda Protectorate or the Tanganyika Territory shall be deemed to be duly stamped in the Colony.”

Amendment of section 55 of the Principal Ordinance.

3. Paragraph (c) of section 55 of the Principal Ordinance is hereby repealed and the following paragraph is substituted therefor:—

“(c) At his discretion, the value in money of the spoiled or misused stamps less five cents for each shilling or portion of a shilling, or paper bearing impressed stamps to the value of the spoiled or misused stamps less five cents for each shilling or portion of a shilling:

Provided that the maximum amount which the Revenue Authority may deduct under the provisions of this paragraph in respect of any one instrument shall not exceed ten shillings.”

## ORDINANCE No. XX of 1937

Assented to in His Majesty's name this twenty-eighth day  
of August, 1937.

R. BROOKE-POPHAM,  
*Governor.*

[28TH AUGUST, 1937.] Date of assent.

### An Ordinance to Amend the Traders Licensing Ordinance, 1936

*28th August, 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 Traders Licensing (Amendment) Ordinance, 1937, and shall be read as one with the Traders Licensing Ordinance, 1936, hereinafter referred to as the Principal Ordinance.

Short title.

No. 51 of 1936.

2. Section 13 of the Principal Ordinance is hereby amended by deleting therefrom the words "holding a trading licence under this Ordinance" which occur in the first and second lines thereof, and substituting therefor the words "who is liable under the provisions of this Ordinance to take out a trading licence".

Amendment of  
Section 13 of  
the Principal  
Ordinance.

3. Section 17 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

Repeal and  
replacement of  
Section 17 of  
the Principal  
Ordinance.

"17. Every person who is liable under the provisions of this Ordinance to take out a licence, and who has a store, office or other place of business shall exhibit at such store, office or other place of business a signboard or name-plate bearing in legible English characters the name under which he carries on business."

Signboards to  
be exhibited.

**ORDINANCE No. XXI of 1937**

Assented to in His Majesty's name this twenty-eighth day of August, 1937.

R. BROOKE-POPHAM,  
*Governor.*

Date of assent.

[28TH AUGUST, 1937.]

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

Date of commencement.

*28th August, 1937*

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

Short title.

1. This Ordinance may be cited as the Prisons (Amendment) Ordinance, 1937, and shall be read as one with the Prisons Ordinance, 1930, hereinafter referred to as the Principal Ordinance.

No. 37 of 1930.

Repeal and replacement of section 40 (1) of the Principal Ordinance.

2. Sub-section (1) of section 40 of the Principal Ordinance is hereby repealed and the following sub-section is substituted therefor:—

Remission.

“(1) Every criminal prisoner under sentence of imprisonment for more than six months and less than three years may after the completion of six months' imprisonment earn a remission of one-seventh of the remaining period of his sentence by industry, accompanied by good conduct.”

Repeal and replacement of section 42 of the Principal Ordinance.

3. Section 42 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

Licences to prisoners to be at large.

“42. The Commissioner may grant to any prisoner under sentence of imprisonment for a term of three years or upwards who has completed three-quarters of any such sentence and has been of good behaviour while undergoing his sentence a licence to be at large in the Colony or in any other territory specified in a notice issued by the Governor under section 48A of this Ordinance or in such part of the Colony or of such other territory as in such licence may be specified and it shall be lawful for the Commissioner to revoke or alter such licence at his pleasure:

Provided that no such licence shall be granted to any prisoner sentenced to imprisonment for life."

4. The Principal Ordinance is hereby amended by inserting immediately after section 48 thereof, the following new section 48A. :—

Amendment of the Principal Ordinance.

"48A. (1) The Governor may from time to time by notice in the Gazette declare any neighbouring territory to be a territory with the Government of which reciprocal arrangements have been made by the Government of the Colony for the surrender of persons whose licences have been revoked.

Surrender of person in neighbouring territory whose licence has been revoked.

(2) Whenever a warrant has been issued under the last preceding section for the apprehension of a person whose licence has been revoked, it shall be lawful for the magistrate issuing such warrant to forward it for execution to any court having jurisdiction in such other territory.

(3) Any warrant issued by a court having jurisdiction in such other territory for the apprehension of a person who has been released on licence in such territory and whose licence has been subsequently revoked may be executed in the Colony in the same manner and subject to the same conditions as if the provisions of Part II of the Fugitive Offenders Act, 1881, applied to such warrant."

44 and 45 Vict. c. 69.

5. Section 58 of the Principal Ordinance is hereby amended by inserting immediately before the word "by" in line seven thereof the words "by delaying for a period not exceeding seven days the granting of a licence under section 42 of this Ordinance,".

Amendment of section 58 of the Principal Ordinance.

6. Section 59 of the Principal Ordinance is hereby amended—

Amendment of section 59 of the Principal Ordinance.

(a) by inserting immediately after paragraph (4) thereof a new paragraph as follows—

"(5) delay for a period not exceeding twenty-eight days the granting of a licence under section 42 of this Ordinance.:";

and

(b) by substituting a semi-colon for the colon immediately after the word "punishment" in paragraph (4) thereof.

**ORDINANCE No. XXII of 1937**

Assented to in His Majesty's name this twenty-eighth day of August, 1937.

R. BROOKE-POPHAM,  
*Governor.*

Date of assent.

[28TH AUGUST, 1937.]

**An Ordinance to Impose a Cess on Tea  
Manufactured in the Colony**

*28th August, 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:—

Short title.

1. This Ordinance may be cited as the Tea Cess Ordinance, 1937.

Interpretation.

2. In this Ordinance—  
“Association” means the Kenya Tea Growers’ Association;  
“Board” means the Board constituted by section 4 of this Ordinance;  
“District Commissioner” means the District Commissioner, Kericho;  
“licensed tea manufacturer” means a tea manufacturer licensed under the Excise Duties Ordinance, 1935.

No. 40 of 1935.

Imposition of cess on tea.

3. (1) There shall be raised, levied, collected and paid in respect of all tea manufactured in the Colony a cess (hereinafter called “the cess”) at such rate as the Governor, on the recommendation of the Board, may impose by notice in the Gazette:

Provided that the amount of such cess shall in no event exceed one shilling per one hundred pounds or part of one hundred pounds (net weight) of tea.

(2) No cess or variation thereof shall become operative until two months after the date of publication of the notice imposing or varying it.

(3) The proceeds of the cess shall be in the custody of the Treasurer, who, as soon as possible after the last day of each month, shall pay the amount of such fund into an account opened in the name of the Board with a bank approved by the Governor, and the receipt of such bank for sums so paid shall be a full and effectual discharge to the Treasurer.

4. (1) There shall be constituted a Board to be known as "the Tea Cess Board", which shall consist of— Constitution of Board.

- (a) the District Commissioner;
- (b) six members, who shall be nominated by the Association.

(2) The members of the Board shall hold office for one year, and each such member shall be eligible for renomination to the Board at the expiration of each year.

(3) If any member of the Board resigns or dies the Association may nominate another person to take the place of such member, and such person shall hold office until the expiry of the term of office of the member in whose place he is nominated and shall thereafter be eligible for renomination to the Board.

(4) If any member of the Board is absent from the Colony or incapacitated by illness during his term of office the Association may appoint another person to serve on the Board during the absence or incapacitation of such member.

(5) The Board shall elect a chairman annually.

(6) In the absence of the chairman from any meeting of the Board a chairman for such meeting shall be chosen by the members present.

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

(8) At its first meeting the Board shall fix the number required for a quorum and make standing orders regulating the conduct of its business.

(9) The Board shall meet not less than once in six months.

(10) The chairman shall at any time summon a meeting of the Board upon receipt of a requisition signed by two members of the Board calling upon him to do so.

5. The Board shall be a body corporate having perpetual succession and a common seal, and may sue and be sued, and may purchase, hold and dispose of land and other property for the purposes of this Ordinance. Board to be a body corporate.

6. Such cess as is required to be paid under this Ordinance shall be paid by every licensed tea manufacturer in the manner and at the time prescribed by rules under section 11 of this Ordinance. Payment of cess.

Purposes of  
cess.

7. The proceeds of the cess shall be used for—
- (a) the benefit of the tea industry in such manner as the Board, with the approval of the Governor, may determine;
  - (b) the employment of such staff as the Board may deem necessary;
  - (c) the payment of travelling expenses and out-of-pocket expenses to individual members of the Board at rates to be approved by the Governor;
  - (d) the payment of the expenses and other charges incurred by the Board or for which the Board may become liable in the course of its business.

Audit and  
publication of  
accounts.

8. The accounts of the proceeds and expenditure of the cess shall be audited in such manner as the Governor may direct, and shall, as soon as may be after the close of each year and after audit as aforesaid, be published in such manner as the Governor may direct.

Liability of  
members of the  
Board.

9. No member of the Board shall be personally liable for any act or default of the Board done or omitted to be done in good faith in the course of the operations of the Board.

## Penalty.

10. Any person who commits an offence against or contravenes or fails to comply with any of the provisions of this Ordinance or of any rules made thereunder shall be liable on conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

## Rules.

11. The Board, with the approval of the Governor in Council, may make rules—

- (a) governing the collection and payment of the cess; and
- (b) generally for the better carrying out of the purposes of this Ordinance.



**ORDINANCE No. XXIII of 1937**

Assented to in His Majesty's name this twenty-eighth day of August, 1937.

R. BROOKE-POPHAM,  
Governor.

[28TH AUGUST, 1937.] Date of assent.

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

28th August, 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 Local Government (District Councils) (Amendment) Ordinance, 1937, and shall be read as one with the Local Government (District Councils) Ordinance, 1928, as amended by the Local Government (District Councils) (Amendment) (No. 2) Ordinance, 1932, hereinafter together referred to as the Principal Ordinance.

Short title.

No. 21 of 1928.

No. 30 of 1932.

2. Section 60 of the Principal Ordinance is hereby repealed and the following is substituted therefor:—

Repeal and replacement of section 60 of the Principal Ordinance.

Council to control district roads.

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

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

(2) The Council may order that any district road or part thereof shall be closed, absolutely or subject to

conditions imposed by the Council, to all traffic or to traffic of a particular kind and may order the suspension of any or all traffic on any district road for any specified period or may declare the times during which, and the conditions under which, any particular kind of traffic may use such road.

(3) As soon as possible after an order under sub-section (2) of this section has been made, the Council shall display such road signs or warning notices or barriers as should suffice to convey to the public adequate intimation of the effect of any such order and shall publish in a newspaper circulating in the district notice of any order closing a road to all traffic.

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

(5) The Council may delegate all or any of the powers conferred upon it by sub-section (2) of this section to any of its members or employees in respect of all the district roads or some or any of them, within its jurisdiction. Any member or employee to whom such powers are delegated shall, in exercising such powers, exercise them in the name and on behalf of the Council, and shall carry out, in the name and on behalf of the Council, the duties imposed upon the Council by sub-section (3) of this section."

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**ORDINANCE No. XXIV of 1937**

Assented to in His Majesty's name this twenty-eighth day of August, 1937.

R. BROOKE-POPHAM,  
*Governor.*

[28TH AUGUST, 1937.] Date of assent.

**An Ordinance to make better provision for the Prevention of the Introduction and Spread of Disease Destructive to Plants**

*28th August, 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 Plant Protection Ordinance, 1937. Short title.

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

“aircraft” includes airships, flying machines, aeroplanes, and other aircraft heavier than air and having means of propulsion;

“animal organism” means any animal organism, in whatever stage of existence such organism may be;

“disease” means any abnormal condition of plants communicable or believed to be communicable by the transfer of a causative agent or by the propagation of the affected plant which the Governor may, by order, declare to be a disease for the purposes of this Ordinance;

“infected area” means any area or place in which a pest or disease exists and which has been declared by the Governor, by order, to be an infected area for the purposes of this Ordinance;

“inspector” means the Director of Agriculture, and every officer of the Department of Agriculture authorized by the Director of Agriculture to act as an inspector and any other person authorized by the Director of Agriculture, with the approval of the Governor, by notice in the Gazette;

"pest" means any of the following descriptions of pests which the Governor may, by order, declare to be a pest for the purposes of this Ordinance, that is to say—

- (a) any animal or vegetable organism inimical to the growth or existence of living plants or injurious to plant products; and
- (b) any other agent capable of producing a communicable disease of plants;

"plant" means any member of the vegetable kingdom and includes any part of a plant, whether severed therefrom or not;

"vegetable organism" means any vegetable organism, in whatever stage of existence such organism may be;

"vehicle" includes any motor vehicle and carriage;

"vessel" includes any ship, a boat and every other kind of vessel used in navigation either on the sea or in inland waters.

Power to make rules for prevention or spread of pests, etc.

3. The Governor in Council may make rules for the purpose of preventing and controlling attacks by or the spread of pests or diseases in the Colony, and, in particular and without prejudice to the generality of the foregoing power, as to all or any of the following matters—

- (a) the disinfection, treatment, destruction and disposal of any unhealthy plant, or of any plant appearing to be infected with any pest or disease, or of anything whatever, whether of a nature similar to a plant or not, likely to infect any plant with any pest or disease;
- (b) the payment and recovery of fees for any disinfection or treatment carried out by any inspector, or for any services rendered by any inspector in connexion with any such disinfection or treatment;
- (c) the prohibition, restriction and regulation of the removal or transport of any such plant or thing as aforesaid;
- (d) the control and destruction of any plant which has been declared to be a pest under the power conferred by this Ordinance;
- (e) the prohibition, restriction or regulation of the cultivation and harvesting, either in the whole Colony or in any specified area, of any plant, where, in the

opinion of the Governor, any pest or disease cannot otherwise be readily or adequately controlled or eradicated;

- (f) the reporting of the occurrence of any pest or disease specified in the rules, and the collection and transmission of specimens of any pest or diseased plant;
- (g) the methods of planting, cleaning, cultivating and harvesting to be adopted, and the precautions and measures to be taken by any person for the purpose of preventing or controlling attacks by, or the spread of, any pest or disease, or for the purpose of giving effect to any rule made under this Ordinance;
- (h) the issue and revocation of licences for, and the inspection of, nurseries in which plants are reared for the purposes of sale, and the imposition of fees for such licences; and the regulation of the sale or removal of plants, whether reared in nurseries or not;
- (i) the disinfection, fumigation and treatment of any building, vehicle, aircraft or vessel suspected of being or having been used for the storage or conveyance of anything likely to infect any plant with any pest or disease;
- (j) the measures to be taken, including provision for the requisitioning on payment of chemicals, appliances, labour and other means, to secure the eradication of diseases and pests;
- (k) the quarantine of infected areas;
- (l) the prohibition, restriction and regulation of the tapping of plants of any description;
- (m) the imposition and provision of fines for any inspection, disinfection or treatment carried out in compliance with, or under any power conferred by, any order made under section 8.

4. (1) Every occupier or, in the absence of the occupier, every owner of land shall take all such measures as he may be required to take by virtue of any rules made under section 3 of this Ordinance, and in addition such other measures as are reasonably necessary for the eradication, reduction or prevention of the spread of any pest or disease which an

Duty of  
occupiers  
of land.

inspector may by notice in writing order him to take, including the destruction of plants, whether the same are infected with disease or not:

Provided that no order for the destruction of any living plants shall be made by an inspector under this sub-section—

- (a) in the case of native reserves, without the approval in writing of the agricultural officer of the district;
- (b) in the case of any other area, without the approval in writing of the Director of Agriculture or Deputy Director of Agriculture.

(2) In the case of two or more joint occupiers or joint owners, each of them shall be deemed an occupier or owner for the purposes of this section.

(3) Where any such occupier or owner fails to take any of the measures which he is required to take under sub-section (1) of this section, the inspector may, on giving not less than seven days' notice in writing of his intention so to do, cause such measures to be taken; and thereupon such occupier or owner shall, without prejudice to any penalty which he has incurred through such failure, be liable to pay the costs of such undertaking, which shall be recoverable summarily as a civil debt.

Right of entry and destruction of infectious articles.

5. Subject to any rules made under section 3 of this Ordinance, any inspector and his assistants may enter any land or building other than a dwelling house at all reasonable hours for the purpose of discovering pests or diseases in any plant, and of ascertaining whether any order of an inspector or any rule under section 3 of this Ordinance has been complied with, and of causing measures to be taken under the provisions of sub-section (3) of section 4 of this Ordinance:

Provided that before entering upon any land or building under the provisions of this section such inspector shall inform the owner or occupier if present.

Power to order compensation.

6. The Governor may, if he thinks fit, order compensation to be paid out of the public funds to any person whose plants or other articles are destroyed pursuant to this Ordinance:

Provided that the approval of the Legislative Council by resolution shall be necessary if any single sum ordered to be paid by way of compensation under this section to any one person in any period of twelve months exceeds one hundred pounds.

7. (1) Any person who knowingly introduces any pest or disease into any cultivated land shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding six months.

Penalty for wilful introduction of pest or disease.

(2) Any person who wilfully obstructs or interferes with any inspector, or an assistant of an inspector, in the execution of any duty or power imposed or given by this Ordinance or by any rule made thereunder shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding six months, or to both such fine and imprisonment.

8. (1) The Governor may, by order, prohibit, restrict or regulate the importation into and the exportation from the Colony of any plants and the soil, packages, coverings or wrappings thereof and of any article or class of articles, whether of a nature similar to plants or not, and of any animals or insects likely to infect any plant with any pest or disease.

Power to control the importation or exportation of articles likely to spread pests or diseases.

(2) Without prejudice to the generality of the foregoing power, an order under this section may—

- (a) authorize or require the inspection before import or export of any plant or any article likely to infect any plant with any pest or disease, and the grant of a certificate as to the result of any such inspection;
- (b) direct or authorize the disinfection or treatment of any plant, and of any article likely to infect any plant with a pest or disease;
- (c) authorize the immediate destruction without compensation of any imported plant or article or any plant or article intended to be exported which on inspection appears to be infested or infected with any pest or disease where, in the opinion of an inspector, disinfection is impracticable or will not be a complete safeguard, or the delay caused by disinfection would give rise to the risk of the introduction or spread of any pest or disease;
- (d) direct or authorize the disinfection or fumigation of any vehicle, vessel or aircraft suspected of harbouring any pest or article likely to infect any plant with disease;

(e) prohibit the importation of plants or classes of plants except at specified ports or places of entry;

(f) direct or authorize the detention of classes of imported plants in any specified place, and prescribe the precautions to be observed during such detention.

(3) In this section, notwithstanding the provisions of section 2 of this Ordinance—

“disease” means any unhealthy condition of any plant; and

“pest” means any animal or vegetable organism inimical to any plant.

Penalty for breach of rules and orders of an inspector.

9. Any person who, without reasonable excuse, fails to comply with any lawfully given order of an inspector, or contravenes or fails to comply with any rule made under this Ordinance shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding six months.

Protection to inspectors acting under the Ordinance.

10. No suit, prosecution or other legal proceeding shall lie against any inspector or his assistant for anything in good faith and without negligence done under this Ordinance.

Repeal.

11. The Diseases of Plants Prevention Ordinance (Chapter 155 of the Revised Edition) is hereby repealed.



**ORDINANCE No. XXV of 1937**

Assented to in His Majesty's name this twenty-eighth day of August, 1937.

R. BROOKE-POPHAM,  
Governor.

[28TH AUGUST, 1937.] Date of assent.

**An Ordinance to Make Provision for Regulating the  
Employment of Shop Assistants in the Municipality of Mombasa**

*By Notice*

Date of commencement.

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

1. This Ordinance may be cited as the Mombasa Shop Assistants' Employment Ordinance, 1937. Short title.

2. This Ordinance shall apply only to the Municipality of Mombasa from such date as the Governor may by notice in the Gazette appoint. Application of Ordinance.

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

“employer” means the person, company, association or partnership having charge of any shop or owning the business thereof or employing any person in or in connexion with any shop and includes the manager, agent or other person acting or apparently acting in the general management or control of any shop;

“shop” means any premises in which any retail, wholesale or both retail and wholesale trade or business is carried on, and includes any office, whether situated on the same premises or not, which is used in connexion with such trade or business;

“shop assistant” means any person employed for hire in a shop as a clerk or salesman, but does not include the staff of a licensed shipping agent connected with the agency work of ships;

“week” means the period between midnight on Saturday and midnight on the succeeding Saturday.

**No. XXV***Mombasa Shop Assistants' Employment* **1937**

Conditions of  
employment and  
meals.

4. (1) On at least one day in each week a shop assistant shall not be employed in or about a shop after twelve o'clock noon.

(2) An employer shall fix and shall specify in a notice in the prescribed form, which shall be affixed in the shop in such manner and at such time as may be prescribed, the day of the week on which his shop assistants are not employed after twelve o'clock noon, and may fix different days for different shop assistants.

(3) Every shop assistant shall be allowed on each full working day a daily interval from work which shall be a continuous period of not less than two hours.

(4) No shop assistant shall on any full working day be employed in or about a shop for more than one period before the interval referred to in sub-section (3) of this section or for more than one period after such interval and no such period shall in any case exceed five hours whether before or after such daily interval.

Hours of  
employment.

5. No shop assistant shall be employed in or about a shop for more than forty-nine hours, exclusive of intervals for meals, in any one week or for more than nine hours, exclusive of intervals for meals, in any one day.

Documents to be  
exhibited by an  
employer.

6. Every employer shall exhibit in a conspicuous place in his shop—

- (a) a copy of this Ordinance translated into the language understood by the majority of the shop assistants employed therein and signed by the Superintendent of Police, Mombasa;
- (b) a list in the form prescribed of the shop assistants employed therein; and
- (c) a table in the form prescribed of the working hours of the shop assistants employed therein.

Power of police.

7. (1) It shall be the duty of the police to investigate and prosecute all offences under this Ordinance.

(2) Any police officer, not below the rank of Assistant Sub-Inspector, may enter any shop to which this Ordinance applies and demand information for the purpose of ascertaining whether or not the provisions of this Ordinance are being observed.

(3) Any person wilfully—

- (a) delaying or obstructing a police officer in the exercise of his powers under this Ordinance; or

- (b) failing to supply the information demanded by a police officer; or
- (c) preventing, or concealing in order to prevent, any shop assistant from appearing before or from being examined by a police officer,

shall be guilty of an offence against this Ordinance and shall be liable on conviction to a fine not exceeding ten pounds or in default of payment to imprisonment without hard labour for a period not exceeding one month.

8. Any employer contravening or failing to comply with the provisions of this Ordinance or of any Rules made thereunder for which no penalty is expressly provided shall be liable on conviction to a fine not exceeding—

Penalties where no other penalties provided.

- (a) in the case of a first conviction five pounds or in default of payment to imprisonment without hard labour for a period not exceeding fourteen days;
- (b) in the case of a second conviction ten pounds or in default of payment to imprisonment without hard labour for a period not exceeding one month;
- (c) in the case of a third or subsequent conviction thirty pounds or in default of payment to imprisonment without hard labour for a period not exceeding one month.

9. The Governor in Council may make rules—

Power to make Rules.

- (a) for prescribing anything which under this Ordinance may be prescribed; and
- (b) generally for carrying into effect the provisions of this Ordinance.

10. The Governor in Council may exempt any person or class of persons from all or any of the provisions of this Ordinance.

Power of exemption.

**ORDINANCE No. XXVI of 1937**

Assented to in His Majesty's name this twenty-eighth day of August, 1937.

R. BROOKE-POPHAM,  
*Governor.*

Date of assent.

[28TH AUGUST, 1937.]

**An Ordinance to Provide for the Supply of a Further Sum of Money for the Service of the Year ended 31st December, 1936**

Date of commencement.

*28th August, 1937*

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 1936 Supplementary Appropriation Ordinance, 1937.

Public revenue charged.

2. The public revenue for the period 1st January to 31st December, 1936, of the Colony and Protectorate of Kenya is hereby charged towards the service of the period 1st January to 31st December, 1936, with a further sum of one hundred and seven thousand four hundred and thirty-eight pounds, fifteen shillings and eight cents, in addition to the sums provided by the 1936 Appropriation Ordinance, 1935.

No. 47 of 1935.

Application of money granted.

3. The money granted by this Ordinance shall be applied to 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 public revenue of the Colony and Protectorate of Kenya, for the several services specified in the Schedule annexed hereto, the said sum of one hundred and seven thousand four hundred and thirty-eight pounds, fifteen shillings and eight cents which have come in course of payment during the period 1st January to 31st December, 1936.

1937

## Supplementary Appropriation

No. XXVI

## SCHEDULE

No. of Head	Title	Amount		
		£	sh.	cts.
IIa.	Administration: Extraordinary ...	1,669	2	96
III.	Agricultural Department ...	1,896	19	48
IIIa.	Agricultural Department: Extraordinary ...	40	6	21
VIII.	Education: Extraordinary ...	50	0	00
XI.	Government Analyst's Laboratory ...	103	11	51
XII.	Interest and Unfunded Debt ...	598	17	20
XIVa.	Legal Department: Extraordinary ...	16	4	50
XVI.	Local Government: Contribution to Local Authorities ...	741	0	66
XVIa.	Local Government: Contribution to Local Authorities: Extraordinary ...	300	0	00
XVII.	Medical Department ...	805	18	19
XVIIIa.	Military: Extraordinary ...	15,964	6	01
XXa.	Miscellaneous Services: Extraordinary ...	44,494	17	26
XXII.	Police ...	137	15	34
XXIIa.	Police: Extraordinary ...	1,826	4	08
XXIIIa.	Post Office and Telegraphs: Extraordinary ...	2,646	0	08
XXIV.	Printing and Stationery ...	93	12	89
XXIVa.	Printing and Stationery: Extraordinary ...	221	2	02
XXV.	Prisons ...	2,860	0	15
XXVa.	Prisons: Extraordinary ...	229	18	66
XXXIV.	Public Works: Extraordinary ...	8,615	15	10
XXXV.	Colonial Development Fund ...	24,127	2	78
<b>Total</b>		<b>£107,438</b>	<b>15</b>	<b>08</b>

References 72  
XX/42

## ORDINANCE No. XXVII of 1937

Assented to in His Majesty's name this twenty-eighth day of August, 1937.

R. BROOKE-POPHAM,  
*Governor.*

Date of assent.

[28TH AUGUST, 1937.]

### An Ordinance to Amend the Native Hut and Poll Tax Ordinance, 1934

Date of commencement.

*28th August, 1937*

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

Short title.

1. The Ordinance may be cited as the Native Hut and Poll Tax (Amendment) Ordinance, 1937, and shall be read as one with the Native Hut and Poll Tax Ordinance, 1934, hereinafter referred to as the Principal Ordinance.

No. 40 of 1934.

Amendment of section 2 of the Principal Ordinance.

2. Section 2 of the Principal Ordinance is hereby amended by inserting therein the following new definitions—  
“kodi stamp” means a revenue stamp of the value of one shilling issued by the Government of the Colony for the purpose of this Ordinance;

Cap. 139.

“thirty days’ contract” has the meaning assigned to it in the Employment of Natives Ordinance or any Ordinance amending or replacing the same.”

Amendment of the Principal Ordinance.

3. The Principal Ordinance is hereby amended by inserting therein, between sections 6 and 7 thereof, the following new sections:—

Payment of tax by means of kodi stamps.

“6A. (1) Any native, whether in the employment of a non-native or not, may purchase kodi stamps from time to time and when the value of such stamps is equivalent to the amount of tax due from such native, he shall, on surrendering such stamps to a collector, be issued with a receipt for his tax under section 7 of this Ordinance.

(2) Nothing in this section contained shall be deemed to prevent any native from paying his tax wholly in cash or partly in kodi stamps and partly in cash.

6B. Where a native is in the employment of a non-native, whether under a verbal or written contract of service for a period of one month or longer, or under a thirty days' contract, and the employer agrees to pay and the native agrees to receive part of the wages due to such native in kodi stamps, the employer may pay to such native the agreed rate of wages partly in cash and partly in kodi stamps in the proportion agreed upon between such employer and such native.

Employers may pay wages partly in kodi stamps.

6C. Any kodi stamps shall, on surrender to the court or to a collector, as the case may be, be taken into account as part payment of the tax due from such native in any proceedings instituted for the recovery of tax under section 6 of this Ordinance, or for the purpose of assessing the amount due from any native when he pays, or is called upon to pay, his tax."

Kodi stamps to be taken into account as part payment of tax.

60:  
No 11/10

Repealed §  
No: 1/43

**ORDINANCE No. XXVIII of 1937**

Assented to in His Majesty's name this twenty-eighth day of August, 1937.

**R. BROOKE-POPHAM,**  
*Governor.*

Date of assent.

[28TH AUGUST, 1937.]

**An Ordinance to Provide for the Registration of Trade Unions**

Date of commencement.

*28th August, 1937*

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 Trade Unions Ordinance, 1937.

Interpretation.

2. In this Ordinance the expression "trade union" means any combination, whether temporary or permanent, the principal purposes of which are under its constitution the regulation of the relations between workmen and masters, or between workmen and workmen, or between masters and masters, or the imposing of restrictive conditions on the conduct of any trade or business, and also the provision of benefits to members; whether such combination as aforesaid would or would not, if this Ordinance had not been passed, have been deemed to have been an unlawful combination by reason of some one or more of its purposes being in restraint of trade:

Provided that this Ordinance shall not affect—

- (a) any agreement between partners as to their own business;
- (b) any agreement between an employer and those employed by him as to such employment;
- (c) any agreement in consideration of the sale of the goodwill of a business or of instruction in any profession, trade or handicraft.

Trade union not criminal.

3. (1) Subject to the provisions of this section the purposes of any trade union shall not, by reason merely that they are in restraint of trade, be deemed to be unlawful so as to render any member of such trade union liable to criminal prosecution for conspiracy under Chapter XLII of the Penal Code or otherwise.

No. 10 of 1930.



(2) Subject to the provisions of this section the purposes of any trade union shall not, by reason merely that they are in restraint of trade, be unlawful so as to render void or voidable any agreement or trust.

Trade union not unlawful for civil purposes.

(3) The provisions of this section shall not extend to any trade union in respect of which the provisions of this Ordinance relating to registration have not been complied with by the trade union.

313. 30. *vide ind 1/40*  
 4. The Governor may appoint a fit and proper person to be Registrar of Trade Unions (hereinafter referred to as "the Registrar") for the purposes of this Ordinance.

Appointment of Registrar.

5. Upon the establishment of a trade union it shall be the duty of the committee of management or trustees appointed in that behalf, or in default of any such appointment, the directing authority, by whatever name it may be called, of such union, to make application for registration within thirty days after the date of the establishment of such union. Any person who fails to comply with the requirements of this section shall be guilty of an offence against this Ordinance.

Registration to be effected by committee or trustees, etc.

6. With respect to registration the following provisions shall have effect—

Regulations governing registration.

(a) every application shall be in Form A set out in the Schedule hereto, signed by seven or more persons duly authorized by the trade union, and shall be accompanied by two typed or printed copies of the rules, together with a list of the titles and names of the officers and a statement as to the sources from which the funds of the trade union are to be derived;

(b) the rules of every trade union shall contain provisions in respect of the following matters—

(i) the name of the trade union and the office to which all communications and notices may be addressed;

(ii) the object for which the trade union is to be established, the purposes for which the funds thereof shall be applicable, the monthly or annual rate of subscription to be paid by members, and the fines and forfeitures to be imposed on any member of such trade union;

- (iii) the manner of making, altering, amending and rescinding rules;
- (iv) the appointment and removal of a general committee of management, of a trustee or trustees, treasurer and other officers;
- (v) the duties of the treasurer and the keeping of proper accounts;
- (vi) an annual or periodical audit of accounts;
- (vii) the inspection by every person having an interest in the funds of the trade union, of the books and names of members of the union;
- (c) no trade union shall be registered under a name identical with that by which any other existing trade union has been registered, or so nearly resembling such name as to be likely to deceive the members or the public.

Registrar may require further evidence.

7. Upon an application for registration the Registrar may, if he thinks fit, require of the applicants such further evidence or information concerning the trade union and the purposes for which it has been established and as to any other matter relating thereto, as may seem to him necessary.

Application for registration.

8. If the applicants have complied with all the requirements of the Registrar under section 7 of this Ordinance and if the Registrar is satisfied that—

- (a) the applicants have been duly authorized to apply for registration; and
- (b) the purposes of the trade union are not unlawful; and
- (c) the provisions of section 6 of this Ordinance have been complied with,

the Registrar shall register the trade union under this Ordinance:

Provided that, if in any case it is in his opinion expedient to do so, the Registrar may refuse or defer registration for the purpose of referring any question arising thereon for the order of the Governor in Council, whose decision in the matter shall be final:

Provided further, that the Registrar shall inform the applicants in writing of any question which he proposes to refer for the decision of the Governor in Council and, before making a decision on any such question referred, the Governor

in Council shall consider any written memorandum relevant to such question which may have been submitted by the applicants.

9. The Registrar upon registering such trade union shall issue a certificate in Form B set out in the Schedule hereto, which certificate, unless proved to have been cancelled shall be conclusive evidence that the provisions as to registration have been complied with.

Issue of certificate of registration.

10. (1) If an application for registration of a trade union has not been made as required by this Ordinance or if registration of a trade union has been refused or cancelled, every member of such trade union who continues as a member thereof, and every person who takes part in any meeting or proceedings of a trade union, knowing that such union is not registered under this Ordinance, shall be guilty of an offence against this Ordinance.

Penalty for taking part in proceedings of unregistered trade unions.

(2) If in any proceedings under this Ordinance any question arises as to whether the person charged is a member of a trade union, evidence of his presence at any meeting or the doing by him of any act or thing in furtherance of the objects of such trade union, shall be deemed to constitute him a member of such union unless the contrary is proved.

Presumption of membership.

11. (1) Every trade union on first registration under this Ordinance, shall have a registered office to which all communications and notices may be addressed. Any change of such address shall be notified to the Registrar within thirty days thereof.

Registered office and change of address.

(2) If any trade union registered under this Ordinance is in operation for thirty days without having such an office, or if having such office the address thereof is changed without notification to the Registrar within the time provided in subsection (1) of this section, the officer of such union responsible for such omission shall be guilty of an offence against this Ordinance.

12. Every treasurer of a trade union registered under this Ordinance shall, at least once in every quarter, and more often if so required by the rules, render to the trustees and members at a meeting of such trade union, a just and true account of all moneys received and paid by him since he last rendered the like account, and of the balance then remaining in his hands, which account the trustees shall cause to be

Treasurers to account.

audited by some fit and proper person, and such treasurer, if so required upon the said account being audited, shall forthwith hand over to the trustees the balance which on such audit appears to be due from him, and shall also, if required, hand over to such trustees all books, papers and property of the trade union in his custody, and if he fails to do so he shall be guilty of an offence against this Ordinance:

Provided that nothing herein contained shall prevent a prosecution under any other law, but so that a person shall not be punished twice for the same offence.

Annual statement of accounts to be prepared as Registrar may direct.

13. (1) An annual statement of the accounts of every trade union registered under this Ordinance shall be transmitted to the Registrar before the thirty-first day of January in every year, and shall be prepared and made out up to such date, in such form, and shall comprise such particulars, as the Registrar may from time to time require.

(2) Together with such annual statement there shall be sent to the Registrar a copy of all alterations of rules and new rules and changes of officers made by the trade union during the year preceding the date up to which the statement is made out.

(3) If any trade union fails to comply with any such requirement of the Registrar or in other respects acts in contravention of this section the officer of such trade union who is responsible for such failure or act shall be guilty of an offence against this Ordinance.

Translation of rules and annual statement of accounts.

14. (1) In any case where the Registrar is satisfied that the majority of the members of a registered trade union are unacquainted with the English language the Registrar may by order addressed to the officers of such trade union direct that the rules and annual statement of accounts of such trade union shall be translated into a language, to be specified by him, which is understood by the majority of such members and copies of such rules and accounts so translated shall be published and made available upon payment of the fee prescribed under section 15 of this Ordinance.

(2) If any trade union fails to comply with the order of the Registrar issued under this section the officer of such trade union responsible for such failure shall be guilty of an offence against this Ordinance.

15. A copy of the rules and annual statement of accounts of a registered trade union shall be delivered by such union to every person on demand on payment of any sum not exceeding one shilling as may be prescribed by such trade union.

Copies of rules and accounts to be available.

16. (1) Every offence against this Ordinance or against any rules made thereunder shall be punishable on conviction with a fine not exceeding twenty-five pounds or imprisonment for a term not exceeding three months.

Penalties.

(2) When a fine is jointly and severally incurred under this Ordinance or any rules made thereunder by any number of persons such persons shall each and every one, be liable to pay the whole fine unless the court otherwise directs.

17. (1) It shall be lawful for the Registrar to cancel the registration of any trade union—

Cancellation of certificate.

(a) at the request of the trade union, to be evidenced in such manner as the Registrar may direct;

(b) on proof to his satisfaction that a certificate of registration has been obtained by fraud or mistake, or that such trade union has wilfully, and after notice from the Registrar, violated any of the provisions of this Ordinance, or of any rules made thereunder, or has ceased to exist.

(2) Not less than one month's previous notice specifying briefly the ground of the proposed cancellation, except where the trade union has ceased to exist, shall be given by the Registrar to the trade union before such cancellation is effected.

(3) An appeal from the decision of the Registrar under this section shall lie to the Governor in Council, whose decision shall be final.

(4) A trade union whose certificate has been cancelled shall from the date of such cancellation cease absolutely to enjoy as such the privileges conferred by this Ordinance.

18. The Governor in Council may make rules prescribing the fees for registration and generally for carrying any of the purposes of this Ordinance into effect.

Rules.

SCHEDULE

THE TRADE UNIONS ORDINANCE, 1937

(Section 6)

FORM A

APPLICATION FOR REGISTRATION OF TRADE UNION

1. This application is made by the..... persons whose names are subscribed below.

2. Name under which the Trade Union is to be registered .....

3. The address of the office to which all communications and notices may be addressed is at.....

4. We have been authorized by a resolution of a general meeting of the.....Union to make this application on its behalf:—

- (1) .....
- (2) .....
- (3) .....
- (4) .....
- (5) .....
- (6) .....
- (7) .....

THE TRADE UNIONS ORDINANCE, 1937

(Section 9)

FORM B

CERTIFICATE OF REGISTRATION

It is hereby certified that the..... has been registered under the Trade Unions Ordinance, 1937.

This.....day of.....19.....

.....  
*Registrar of Trade Unions*

**ORDINANCE No. XXIX of 1937**

Assented to in His Majesty's name this twenty-eighth day of August, 1937.

R. BROOKE-POPHAM,  
*Governor.*

[28TH AUGUST, 1937.] Date of assent.

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

*28th August, 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 Marketing of Native Produce (Amendment) Ordinance, 1937, and shall be read as one with the Marketing of Native Produce Ordinance, 1935, hereinafter referred to as the Principal Ordinance.

Short title.  
No. 28 of 1935.

2. The Principal Ordinance is hereby amended by adding, immediately after section 18 thereof, the following new section:—

Amendment of the Principal Ordinance.

“19. Nothing in this Ordinance contained shall be deemed to apply to the purchase of native produce where such purchase is made for a purpose other than re-sale or manufacture.”

Ordinance to apply only to native produce purchased for re-sale or for manufacture.

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 .. XXXVIII / 41

## ORDINANCE No. XXX of 1937

Assented to in His Majesty's name this third day of  
September, 1937.

R. BROOKE-POPHAM,  
*Governor.*

Date of assent.

[3RD SEPTEMBER, 1937.]

### An Ordinance to Regulate the Residence of Labourers on Farms

Date of commencement.

*By Notice*

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

Short title and commencement.

1. This Ordinance may be cited as the Resident Labourers Ordinance, 1937, and shall come into operation on such date as the Governor may, by notice in the Gazette, appoint.

Application of Ordinance.

2. This Ordinance or any part thereof shall apply to such districts or areas, and from such date or dates, as the Governor in Council may, from time to time, by proclamation in the Gazette, appoint.

Interpretation.

3. In this Ordinance—

“attesting officer” means a person appointed as such by the Governor in Council under the provisions of section 32 of this Ordinance;

“cattle” means any bull, cow, steer, heifer or calf or any other animal which the Governor may, by order, declare to be cattle for the purposes of this Ordinance;

“family” means the wife or wives and the unmarried children, if any, of a native or Somali;

“farm” means any area of land held under a grant, lease, or licence from the Crown (other than an area of land situated in a municipality, township or trading centre which is held under a title, or a licence, the terms of which preclude either expressly or impliedly such area of land from being used for agricultural purposes) and shall include any area of land set apart by the Government of the Colony for the purposes of



1937

Resident Labourers

No. XXX

experimental farming, and, except for the purposes of subsection (10) of section 5 and of sections 18 and 19 of this Ordinance shall include a forest area:

Provided that if, under section 2 of this Ordinance, the Governor in Council by proclamation applies the provisions of this Ordinance to the Protectorate of Kenya or to any district thereof, or to any area therein, this definition shall, so far as such Protectorate, district or area, as the case may be, is concerned, be deemed to include such land as may be held under a Certificate of Title granted under the Land Titles Ordinance and is specified in such proclamation; Cap. 143.

“forest area” means any area declared, under section 3 of the Forest Ordinance, to be a forest area; Cap. 149.

“local authority” means a municipality established under the Local Government (Municipalities) Ordinance, 1928, a district council established under the Local Government (District Councils) Ordinance, 1928, in respect of the respective areas of jurisdiction so conferred upon them, and, where there is no municipality or district council, means the district commissioner; No. 19 of 1928.  
No. 21 of 1928.

“mission” means any mission recognized as such by the Governor;

“occupier” means the owner or lessee or any other person having a legal right to occupy a farm or Railway land, and includes any manager or agent (other than a native or a Somali, except with the approval of a district officer), of such occupier, and in respect of forest areas and Railway land, includes the Conservator of Forests and the General Manager of the Kenya and Uganda Railways and Harbours respectively;

“Railway land” means any land the control of which vests in the High Commissioner for Transport;

“resident labourer” means a native or a Somali who has entered into a contract under section 5 of this Ordinance or under the Resident Native Labourers Ordinance, 1925; No. 5 of 1925.

“stock” includes cattle, sheep, goats, and such other animals or birds as the Governor may, by order, declare to be stock for the purposes of this Ordinance.

4. (1) No native or Somali shall reside on or remain on any farm or on any Railway land, unless he—

(a) is the occupier thereof or a member of the family of the occupier thereof; or When natives or Somalis may reside on a farm.

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“native land” means the native lands, native leasehold reserves, temporary native reserves as defined in section 3 of the Native Lands Trust Ordinance, 1922.

No. 5 of 1925.

(b) has duly entered into a contract, still unexpired, with the occupier or his predecessor in title under section 5 of this Ordinance or under the Resident Native Labourers Ordinance, 1925; or

(c) is in actual employment on such farm or Railway land, in pursuance of a contract made under the provisions of any law for the time being in force in the Colony relating to the employment of servants, or is a member of the family of a native or Somali so employed; or

(d) is a native or a Somali who, from age or infirmity, is incapable of continuous employment and who has received the written permission of the occupier; or

(e) is the holder of a permit in writing in that behalf given to him by the occupier and, in the case of a permit authorizing residence for a period of more than fourteen days, is also the holder of a permit from the district commissioner; or

(f) in the case of a forest area, is the holder of a grazing permit issued to him by the Conservator of Forests under the provisions of any law for the time being in force relating to the granting of such permits.

(2) Nothing in sub-section (1) of this section contained shall apply to a native residing by right in the Lembus or Mt. Elgon forest areas.

(3) Any person who contravenes the provisions of this section shall be liable, on conviction, to a fine not exceeding ten pounds, and in default of payment to imprisonment for a period not exceeding two months.

Contract of  
service to  
work on a  
farm.

5. (1) When a native or Somali has entered into a contract, as in this section provided, the members of his family may during the period of such contract reside on the farm or Railway land, as the case may be.

(2) A contract under this section shall be in writing, shall be executed by the occupier and by the native or Somali and by all the male members of such native's or Somali's family who are of the apparent age of sixteen years or over, shall be attested by a magistrate or by an attesting officer, shall be in the form of the agreement set out in the First Schedule to this

1937

## Resident Labourers

No. XXIX

Ordinance, subject to such variations, not inconsistent with the provisions of this Ordinance, as the magistrate or attesting officer may approve, and shall provide—

- (a) for a term of not less than one year and not exceeding five years, notwithstanding anything to the contrary contained in any law for the time being in force in the Colony relating to the employment of servants;
- (b) for the renewal or variation of the contract, by endorsement by the parties thereto, with the approval of a magistrate or attesting officer;
- (c) for the native or Somali and any male member of his family resident on the farm or Railway land who is of the apparent age of sixteen years or over, and who is not working under any law for the time being in force in the Colony relating to the employment of servants, to work for the occupier for not less than 180 days at the election of the occupier in any one year during the term of such contract, and for the occupier to provide employment and to pay wages to each such person for the number of days specified in the contract;
- (d) for the occupier to give notice in writing to every male member of such family who, during the continuance of the contract, may attain the age of sixteen years, to the effect that, on the expiration of three months from the date of receiving such notice such male member will be required either (i) to enter into a contract under this Ordinance with the occupier; or (ii) to enter, under any law for the time being in force in the Colony relating to the employment of servants, into a contract with the occupier or some other employer in the vicinity: but that if such male member enters into any such contract with some other employer he shall cease to reside on the occupier's land except with the permission of the occupier; or (iii) to cease to reside on the occupier's land;
- (e) for the female members of the family who are willing and able to work to serve the occupier if he offers suitable work at a reasonable rate of wages;
- (f) for the supply by the occupier of building material for the family's huts;

of the death of a resident  
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- (g) for the use by the family of land for cultivation and, when agreed upon, for grazing on such part of the occupier's farm as the occupier may direct;
- (h) for the kinds of crops which may be grown by the native, or Somali, or his family;
- (i) for the number of stock which may be grazed by the native, or Somali, or his family;
- (j) for the rates of pay and other consideration to be paid or given to the native or Somali and any member of his family for the period of actual employment;
- (k) for the termination of the contract ~~by~~ not less than three months' notice ~~on either side~~: Provided that the term of residence on a farm shall in no case be less than one year except with the approval of a magistrate;
- (l) in the event of termination of the contract in accordance with the last preceding paragraph, for the removal by the family of crops cultivated by such family or for payment by the occupier of compensation in lieu thereof: Provided that no crop shall be planted after notice of termination has been given by either party;
- (m) in the case of missions, for the regular attendance of the children of the family at school for the purpose of education within the meaning of section 20 of this Ordinance.

(3) Any contract under this section may, with the consent of the parties thereto, relate to any number of farms provided that such farms are in the same ownership or occupation and a magistrate certifies that he is satisfied that proper control can be exercised over the resident labourers resident on such farms as are not in the personal occupation of a European.

(4) The original of every contract made under this section shall be filed in the office of the district commissioner of the district in which the parties reside and one copy of the contract shall be handed to the occupier, ~~and~~ one copy to the head of the contracting resident labourer's family ~~and~~ <sup>to each male</sup> member of such resident labourer's family who is a party to the contract:

(5) A magistrate or attesting officer may refuse to attest any contract which does not provide for a fair remuneration in money, having regard to the local rates of wages, or any contract which, in his opinion, is likely to lead to a breach of the provisions of this Ordinance.

Ord. XVIII | 31

By either the occupier or all male members of the native's or Somali's family, who is a party to the contract, to the other party

Ord. XVIII | 32

Handwritten notes and stamps in the left margin, including a rectangular stamp with illegible text.

Ord. XVIII | 34

member of such resident labourer's family who is a party to the contract

(6) A magistrate or attesting officer may for good and sufficient reason refuse to attest any contract entered into by a native or Somali whom he considers to be an undesirable.

(7) A magistrate may, subject to the provisions of the proviso to section 18 of this Ordinance, for good and sufficient reason (which he shall furnish to the occupier on request) order the removal of a native, or a Somali, or a resident labourer, and/or his stock, from any farm or Railway land.

*vide*  
*Ord. XVIII | 39*

(8) (a) A magistrate or attesting officer may, when he deems it necessary before attesting any contract under this section, require the occupier to give security for the payment of the wages of the native or Somali with whom the contract is to be made.

(b) Such security may be given by a bond in the form set out in the Second Schedule to this Ordinance, or to the like effect, with one or more sureties approved by the magistrate or attesting officer.

(9) When notice of termination of a contract has been given by either party thereto the occupier shall forthwith notify the district commissioner accordingly.

(10) On a change of occupancy of a farm the contract shall be deemed to have been assigned to the new occupier and to be a contract between the new occupier and the resident labourer.

*vide*  
*Ord. XVIII | 39*

6. An occupier, before entering into a contract under this Ordinance with a native who is residing in a native <sup>aka</sup> reserve, shall give notice in writing to the district commissioner of the district in which such native is residing that he proposes to enter into a contract with such native.

Notice to District Commissioner is necessary in certain cases before contract is entered into.

<sup>or remain</sup> 7. No occupier shall allow any native or Somali to reside on a farm or Railway land in contravention of the provisions of this Ordinance. *vide Ord. XVIII | 39*

When natives or Somalis may not reside on farms. *or remain*

8. (1) When a native has entered into a contract of service under the provisions of section 5 of this Ordinance, or where a native resident labourer ~~who~~ has been given a certificate under section 11 of this Ordinance and recommences work under his contract, it shall be the duty of the occupier forthwith to endorse in blue or blue-black ink upon such native's registration certificate, in the column respectively provided therefor, the following particulars—

Resident labourers' contracts to be endorsed on registration certificate.

(a) the name of the employer and district in which the native is employed;

(b) the nature of the native's employment, preceded by a capital letter R, to denote that he is a resident labourer;

(c) the date of commencement of the contract;

(d) the rate of wages in cash; and

(e) whether or not rations are provided,

and to comply with the provisions of section 9 of the Native Registration Ordinance.

Cap. 127.

(2) Every male native who is a party to a contract made under the provisions of the Resident Native Labourers Ordinance, 1925, shall, within one month after the date of the application of this Ordinance to the area in which he is residing under such contract, produce his registration certificate to the occupier.

No. 5 of 1925.

(3) Such occupier shall thereupon make an endorsement upon the registration certificate as is required by sub-section (1) of this section and shall forthwith render a return to the Chief Registrar of Natives, as required under section 9 of the Native Registration Ordinance, showing the registration numbers and the names of every registered native resident upon his land.

Cap. 127.

(4) Any person who fails to comply with the provisions of this section shall be deemed to have committed a breach of the provisions of this Ordinance.

Termination of contract to be endorsed on registration certificate.

9. (1) On the termination of a contract entered into under the provisions of section 5 of this Ordinance or of a contract to which the provisions of sub-section (2) of section 8 of this Ordinance applies, or where the occupier has given a certificate under the provisions of section 11 of this Ordinance, the occupier shall endorse in blue or blue-black ink the date of such termination, or the date on which such certificate is given, as the case may require, in the column provided in the native resident labourer's registration certificate for the date of discharge.

(2) It shall be the duty of the native resident labourer, on the termination of any such contract, or upon receipt of the certificate given under the provisions of section 11 of this Ordinance, to request the occupier to make such endorsement, but failure on the part of the native resident labourer to make the request shall not relieve the occupier of the responsibility for making such endorsement.

(3) In the event of the occupier refusing or omitting to make such endorsement, the native resident labourer shall forthwith report to the district commissioner in whose office the contract is filed; and such district commissioner may, if he is satisfied from the information at his disposal that the endorsement has been omitted through ignorance or mistake or wilfully by the occupier and through no fault of the native resident labourer, after inquiry complete in blue or blue-black ink such endorsement on the registration certificate affixing such date for the date of discharge as may appear to him to be consistent with the circumstances.

(4) Any person who fails to comply with the provisions of this section shall be deemed to have committed a breach of the provisions of this Ordinance.

10. Any occupier entering into a contract with a native under section 5 of this Ordinance shall be deemed to have engaged such native within the meaning of the Native Registration Ordinance, and sections 9, 10, 17, 18 and 20 of the Native Registration Ordinance, and such Rules made under the said Ordinance as the Governor in Council may by notice prescribe, shall apply to such occupier and native as if the contract were an agreement within the meaning of the said Ordinance.

Application of certain provisions of Native Registration Ordinance. Cap. 127.

11. When a resident labourer has, within any period of twelve months, completed the number of days' work specified in such contract, the occupier shall, if so required by such resident labourer deliver to him a certificate to that effect in the form set out in the Third Schedule to this Ordinance, specifying the date on which the resident labourer's obligation to work under such contract recommences.

Resident labourers' certificates.

12. Any occupier shall be liable to a fine not exceeding fifty pounds and in default of payment to imprisonment for a term not exceeding two months, if he fails in any one year to provide employment for not less than the number of days specified in the contract for each person for whom, under the terms of any contract made under this Ordinance or under the Resident Native Labourers Ordinance, 1925, he is under an obligation to provide such employment: Provided that notwithstanding the terms of any such contract, a Provincial Commissioner shall have power, for any good and sufficient reason, to reduce the minimum number of days work required from resident labourers in any area within his province.

Occupier to provide employment contracted for.

No. 5 of 1925.

Contract to be produced.

No. 5 of 1925.

Record of resident labourers.

Labour tickets.

Register of resident labourers' stock.

Resident labourers' stock on farms

13. Any magistrate, or any person duly authorized in writing in that behalf by a magistrate, or any labour officer, or any police officer of or above the rank of assistant inspector, or a justice of the peace may demand from any occupier the production of any contract entered into by such occupier under the provisions of section 5 of this Ordinance or under the Resident Native Labourers Ordinance, 1925, and such occupier shall forthwith produce such contract.

14. (1) Every occupier shall keep records sufficient to show the date of the contract of each resident labourer, the number of days on which such resident labourer has worked and the wages paid.

(2) An occupier shall provide a resident labourer, at the request of such resident labourer, with a labour ticket, in such form as may be prescribed, showing the number of days worked by such resident labourer. Such labour ticket may be retained by the resident labourer, if he so desires, but shall be surrendered by him to the occupier on payment to him of his wages by the occupier.

15. (1) Every occupier shall keep an up-to-date register of all cattle eligible for branding, and of such other stock in respect of which a register may be required to be kept by an order made under the provisions of section 21 of this Ordinance, kept on his land and owned by natives or Somalis lawfully residing thereon.

(2) Such register shall be in the form set out in the Fifth Schedule to this Ordinance.

16. (1) No native or Somali, other than an occupier or a member of the family of such occupier, shall graze any stock on any farm or Railway land unless—

- (a) he is lawfully residing on such farm or Railway land under the provisions of paragraphs (b), (d) or (e) of sub-section (1) of section 4 of this Ordinance; and
- (b) if residing under the provisions of paragraph (d) or paragraph (e) of sub-section (1) of section 4 of this Ordinance, he has received the written consent of the occupier and the written approval of the magistrate or the attesting officer for keeping such stock on the farm or Railway land; and



(c) every head of cattle over the age of twelve months kept by such native or Somali on the farm or Railway land is legibly branded, within thirty days after the date of its arrival on the farm or Railway land, by the occupier at his own expense with his brand together with the letter "S".

(2) (a) The written consent of the occupier and the written approval of a magistrate or attesting officer required by paragraph (b) of sub-section (1) of this section shall specify the number of stock which such native or Somali may keep on the farm or Railway land.

(b) In arriving at such number the occupier and the magistrate or attesting officer shall, subject to any order made under the provisions of section 21 of this Ordinance in force in the area in which the farm or Railway land is situated, have regard to the reasonable needs of the native or Somali and the members of his family residing with him.

(3) Any native or Somali—

(a) who, if residing under the provisions of paragraph (d) or paragraph (e) of sub-section (1) of section 4 of this Ordinance, keeps upon a farm or Railway land any stock in respect of which he has not received the written consent of the occupier and the written approval of a magistrate or attesting officer; or

(b) who keeps on a farm or Railway land any stock in excess of the number which he is authorized to keep in pursuance of such written consent of the occupier and such approval of the magistrate or an attesting officer; or

(c) who keeps on a farm or Railway land any head of cattle which is not branded in accordance with the provisions of this section,

shall be guilty of an offence against this Ordinance.

(4) The provisions of sub-sections (2) and (3) of this section relating to the number of stock which a native or a Somali may lawfully keep upon a farm or Railway land shall not apply to the stock of a native or Somali who before the commencement of this Ordinance has entered into a contract, which is still unexpired, under section 5 of the Resident Native Labourers Ordinance, 1925, and who, under the provisions of

No. 5 of 1925.

farm or Railway land: Provided that every such native or Somali shall, within three months after the date of the application of this Ordinance to the area in which he is residing, furnish a record to the occupier who shall forward a return to a magistrate or attesting officer specifying the number of each kind of stock which such native or Somali is keeping on such farm or Railway land.

(5) In assessing the number of cattle, sheep and goats kept on a farm or Railway land no account shall be taken of cattle under the age of twelve months.

(6) No occupier shall, after the expiration of a period of six months from the date of the application of this Ordinance to the area in which such occupier's land is situate, brand any head of cattle kept on his land by a native or Somali lawfully residing thereon if such head of cattle is already branded with any recent registered brand denoting ownership unless and until such cattle have been re-branded as provided for in sub-section (10) of this section.

(7) It shall be the duty of an occupier to maintain his brand on every head of cattle in a legible condition.

(8) Any occupier who commits a breach of sub-sections (6) or (7) of this section or who suffers any stock to be kept on his land in contravention of the provisions of this Ordinance shall be guilty of an offence.

(9) (a) Nothing in this section contained shall be construed as entitling any person to move or to compel the movement of stock in contravention of any restrictions in force under any law for the time being in force in the Colony relating to the diseases of animals.

(b) If, at the time of the termination of any contract made under section 5 of this Ordinance or under the Resident Native Labourers Ordinance, 1925, or of any agreement or engagement between an occupier and a native or a Somali under the law for the time being in force in the Colony relating to the employment of servants, any such restrictions are in force prohibiting the movement of stock from any farm or Railway land, such stock shall remain on the farm or Railway land without charge, and the owner of such stock may also remain on such farm or Railway land until such restrictions are removed or unless other arrangements are made for the care or disposal of such stock to the satisfaction of the parties and of a magistrate; and in any such case any such

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contract shall be deemed to remain in force until such restrictions are removed or until such other arrangements are made, as the case may be.

10. (a) No cattle over the age of twelve months owned by a native or a Somali and kept on a farm or Railway land in accordance with the provisions of this Ordinance shall be removed from a farm or Railway land unless the owner has first produced them to the occupier who shall, at his own expense, cause such cattle to be re-branded with his own brand reversed.

(b) Any owner of cattle who moves or permits to be moved from a farm or Railway land any such cattle which have not been so re-branded, and any occupier who on request refuses or fails so to re-brand any cattle, shall be guilty of an offence.

(11) Where the owner of any stock has committed a breach of the provisions of this section, or where a person in possession of any stock has, with the connivance and consent of the owner of the stock, committed a breach of the provisions of this section, a magistrate may, in addition to imposing any other penalty provided in this Ordinance, order that the stock in respect of which the offence has been committed be confiscated.

(12) All stock kept on a farm or Railway land by a native or a Somali shall be deemed for the purposes of this Ordinance to be the personal property of such native or Somali.

(13) Nothing in this section contained shall apply to any stock depastured by a native or a Somali in any forest area under the authority of a grazing permit issued to him by the Conservator of Forests under any law for the time being in force relating to the granting of such permits.

17. (1) A magistrate, or a veterinary officer authorized in writing by the Director of Veterinary Services, or a labour officer, or a police officer of or above the rank of assistant inspector, or any person duly authorized by a magistrate in that behalf may—

Registers to be produced.

(a) enter upon a farm or Railway land and demand from the occupier the production of any register or records which are required to be kept under the provisions of this Ordinance;

(b) take all reasonable and proper steps to satisfy himself as to the correctness of any particulars entered therein; and

(c) demand from such occupier an explanation of any apparent discrepancies therein.

(2) Any occupier who knowingly makes a false entry in any register or records or refuses to produce any register or records or to furnish any explanation when lawfully called upon to do so, or who shall knowingly furnish a false explanation, shall be guilty of an offence.

Removal of natives or Somalis from undeveloped farms.

18. A magistrate may by notice served upon the occupier or, if the occupier has no address in the Colony or if such address is unknown, by notice published in the Gazette, require the occupier of a farm which is not, in his opinion, under such occupation as to ensure the observance of the provisions of this Ordinance, to remove any native or Somali, found residing on such farm, together with his stock, if any, within twenty-eight days from the date of the service of such notice or from the date of the publication of the notice in the Gazette, as the case may be; and if such native or Somali, together with his stock, if any, is not so removed then a magistrate, or such other person as he may authorize in that behalf, shall remove such native or Somali, together with his stock, if any, and send him to a native reserve or to such other place as the magistrate may determine: Provided that, when the magistrate is satisfied that such native or Somali is employed by the occupier of such farm on another farm in the same occupation or ownership under a contract of service or under a resident labourer's contract, he shall allow such native or Somali, together with his stock, if any, to remain on such farm.

Prohibition against payment by natives or Somalis.

19. (1) (a) No payment in money or in kind shall be demanded or taken from any native or Somali for the right to reside on any farms or to cultivate any land or to graze any stock on any farm, or for the use of salt-licks, fuel or water, on any farm.

(b) No occupier shall enter into a contract with a native or Somali lawfully residing on his farm whereby the occupier shares any profit derived by such native or Somali from his cultivation or from the increase or produce of his stock on the farm of such occupier.

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*18/11/37* *Provision in removal of natives.*

(2) Manure produced on a farm by the stock of a resident labourer or fertilizers produced by the activities of a resident labourer on a farm, shall be the property of the resident labourer during the period of his contract: Provided that, if such manure or fertilizer is not reasonably required for the purposes of the resident labourer's cultivation on such farm, the occupier may use such manure or fertilizers for the purpose of his own cultivation free of cost other than the cost of transporting the manure or fertilizers from one place on the farm to another.

(3) Nothing in this section contained shall be deemed to render illegal the purchase by an occupier at a reasonable price of the stock of a resident labourer or the produce of a resident labourer's stock or cultivation.

(4) No native or Somali may sell or dispose of any crops or produce of cultivation produced on a farm without having first notified the owner or occupier of his intention to do so.

20. Natives or Somalis employed on farms in the occupation of missions and engaged in receiving or imparting industrial or technical instruction with or without literary or theological instruction or training for not less than one hundred and eighty days in each year shall be exempt from the provisions of section 4 of this Ordinance if such instruction or training is under proper and responsible control to the satisfaction of a magistrate.

Natives or Somalis employed on mission lands.

21. (1) Subject to the provisions of section 2 and of section 22 of this Ordinance a local authority may, in respect of any farm or group of farms within the area of its jurisdiction, by order published in the Gazette and in a newspaper circulating within such area—

Local option. Power to make orders.

- (a) limit the number of resident labourers to be engaged on any farm or group of farms;
- (b) prohibit the keeping of stock by natives or Somalis on any farm, either generally or in respect of any specified kind of stock or limit the numbers of any specified kind of stock which may be kept on a farm by resident labourers, or prescribe the conditions under which native or Somali stock shall be kept;
- (c) prescribe the minimum number of days in a year on which a resident labourer shall work and for which he shall receive wages: Provided that such number of days shall in no case be less than one hundred

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and eighty, and provided further that no resident labourer shall be required to work for more than two hundred and seventy days in any year unless he so desires.

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(2) In making any order as aforesaid the local authority shall have regard—

- (a) to the wishes of the occupiers of farms, or any group of farms within the area to be affected by such order, so far as such wishes can be reasonably and conveniently ascertained;
- (b) to the reasonable labour requirements of farms;
- (c) to the reasonable needs of resident labourers on such farms; and
- (d) to the value of the interests, and the extent, of each farm within the area to be affected by such order together with the nature of farming operations conducted on each such farm.

(3) When such an order has been made it shall be the duty of the occupier of a farm to which such order applies, within one month after the date of the publication of the order in the Gazette in accordance with the provisions of sub-section (7) of section 22 of this Ordinance, <sup>to take such steps as may be necessary</sup> to give three months' notice of termination of such contracts as may be necessary to make the said order effective, and failure to <sup>do so</sup> give such notice shall be an offence against the provisions of this Ordinance.

(4) Any occupier who fails to comply with any order made under the provisions of sub-section (1) of this section shall be guilty of an offence against this Ordinance and may, in addition to any penalty to which he may be liable, be ordered to pay the costs of removing from his farm any resident labourer, such resident labourer's family and/or such resident labourer's stock, and, in default of payment, such costs may be recovered by distress levied in accordance with the provisions of section 318 of the Criminal Procedure Code.

No. 11 of 1930.

(5) For the purposes of this section "farm" shall include Railway land.

(6) Notwithstanding anything contained in this section it shall only be competent for a local authority to make an order in respect of such portion of a forest area or Railway land as abuts on, and is in the immediate vicinity of, a farm (other than a forest area or Railway land) in respect of which such local authority has made or is making an order of a similar nature.

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22. (1) No order shall be made or amended by a local authority unless and until a copy of such proposed order or amending order has been deposited at the office of the local authority for inspection by any person at all reasonable times, and unless and until a notice, setting forth the general purport of the proposed order and stating that a copy thereof is open to inspection, shall have been published in the Gazette and in some newspaper circulating in the district and exhibited in a conspicuous place at or near the public entrance to the local authority's offices thirty days prior to the meeting of the local authority to be held for the purpose of making such order or such amending order.

Orders by local authorities, how to be made.

(2) Any objection to any such order shall be lodged with the clerk to the local authority within twenty-eight days after the date of the publication of the notice as aforesaid.

(3) After any order has been made or amended by a local authority such order or amending order shall be submitted to the Commissioner for Local Government through the Provincial Commissioner for the approval of the Standing Committee, together with—

Submission of orders for approval of Standing Committee.

- (a) a copy of the minutes of the meeting of the local authority at which the order or amending order was adopted;
- (b) a certificate by the clerk to the authority that the provisions of sub-section (1) of this section have been complied with; and
- (c) copies of any objections against the adoption of the order which may have been lodged in writing with the clerk, or, if no objections have been lodged, a statement to that effect.

(4) When the Standing Committee has approved of any order, with or without amendment, such order shall be published in the Gazette.

(5) Any person aggrieved by such order may within one month from the date of publication under sub-section (4) of this section submit to the Governor in Council a written objection to the order.

(6) As soon as possible after the expiration of a period of one month from the date of publication of the order under sub-section (4) of this section, the Governor in Council shall, after considering such written objections, if any, as may have been made under the last preceding sub-section, confirm, refer back to the local authority or reject such order.

Governor in Council to confirm or vary order.

(7) If the Governor in Council confirms any such order he shall cause the order to be so certified by the clerk to the Executive Council who shall then cause the order to be published in the Gazette, and as and from the date of such publication such order shall have the full force of law in the area to which it relates.

(8) For the purposes of this section the expression "Standing Committee" means—

(a) in the case of an order made by a local authority which is a municipality, the Standing ~~Departmental~~ Committee for Local Government established under the Local Government (Municipalities) Ordinance, 1928;

(b) in the case of an order made by any other local authority, the Standing ~~Departmental~~ Committee for Rural Areas established under the Local Government (District Councils) Ordinance, 1928.

No. 19 of 1928.

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No. 21 of 1928.

Power of labour officer to institute and appear in civil proceedings.

**23.** A labour officer may institute or appear or both institute and appear on behalf of any resident labourer in any civil proceedings by such resident labourer against an occupier in respect of any matter or thing or cause of action arising out of the contract between such resident labourer and such occupier.

Institution of proceedings for offences.

**24.** (1) Proceedings in respect of any offences against the provisions of sections 4, 7, 13, 14, 15, 16, 17 and 19 of this Ordinance may be instituted by the Police or by any person authorized in writing by a magistrate.

(2) A magistrate may, in his discretion—

(a) rescind any contract made under this Ordinance where it has been proved to his satisfaction that there has been a breach of the terms thereof, or, on the application of one party to the contract, when the other party has been convicted of a criminal offence against the first mentioned party to such contract or of a criminal offence involving serious moral turpitude; and

(b) cancel any permit given by an occupier in contravention of the provisions of this Ordinance:

Provided that in any such case the native or Somali shall retain his rights over growing crops unless the occupier elects to give him reasonable compensation therefor. In the event



of any dispute as to the amount of compensation payable the magistrate shall determine the amount thereof.

(3) Compensation payable under this section may be paid to the magistrate by an occupier, but if proceedings have been instituted by the occupier for damages against the native or Somali, the magistrate shall not pay out the compensation to the native or Somali until the liability of the native or Somali to pay damages has been determined; and if the native or Somali is found to be liable to damages, such damages may be set off against the amount paid to the magistrate by the occupier.

(4) 25. A resident labourer shall on conviction be liable to a fine of one hundred shillings or in default of payment to imprisonment for any term not exceeding one month—

- (1) if he, after having entered into an agreement under this Ordinance, fails or refuses without lawful cause to enter upon his duties at the stipulated time;
- (2) if he, without lawful cause, absents himself from the place proper and appointed for the performance of his work on any day when the occupier may lawfully require him to work;
- (3) if he, during any time when he is lawfully required to work, is intoxicated and thus unfit to perform his work;
- (4) if he neglects or refuses to perform any work which it was his duty to have performed, or if he carelessly or improperly performs any work which from its nature it was his duty under his agreement to have performed carefully and properly;
- (5) if he, without leave and for his own purposes, makes use of any horse, vehicle or other property belonging to the occupier;
- (6) if he uses any abusive or insulting language or is guilty of insulting behaviour to the occupier or to any person lawfully placed by the occupier in authority over him, calculated to provoke a breach of the peace;
- (7) if he refuses to obey any command of the occupier, or of any person lawfully placed by the occupier in authority over him, which command it was his duty to obey;

Penalties for offences committed by resident labourers.

*Repealed*  
Sec 14 sub 63/48

(8) if he grows upon the farm or Railway land any crop which by his contract he is prohibited from growing;

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to any permit given or granted under the provisions of sub-section (1) of section 4*

(9) if he, after the termination of his contract and subject ~~to the provisions of~~ paragraph (k) of sub-section (2) of section 5 and, sub-section (9) of section 16 of this Ordinance, fails within a reasonable ~~and specified~~ time to leave the farm or Railway land and to remove his family and stock therefrom.

Penalties for more serious offences committed by resident labourers.

26. A resident labourer shall be liable to a fine not exceeding one hundred and fifty shillings and in default of payment to imprisonment for any term not exceeding two months—

- (1) if he wilfully or by wilful breach of duty or through drunkenness does any act tending to the immediate loss, damage or serious risk of any property placed by any other person in his charge for delivery to or on account of his occupier;
- (2) if, by wilful breach of duty or by neglect of duty or through drunkenness, he refuses or omits to do any lawful act proper and requisite to be done by him for preserving in safety any property placed by the occupier in his charge, or placed by any other person in his charge for delivery to or on account of his occupier;
- (3) if, being employed as a herdsman—
  - (a) he fails to report to the occupier the death or loss of any animal placed in his charge at the earliest opportunity after he has discovered, or at the earliest opportunity after he should in the ordinary course of duty have discovered, such death or loss;
  - (b) he fails to preserve for the use or inspection of the occupier any part or parts of an animal which such resident labourer alleges to have died, to preserve such part or parts and is unable to prove to the satisfaction of the court the death of the animal which he alleges to have died;
  - (c) he alleges the loss of any animal placed in his charge and it is proved by the occupier to the satisfaction of the court that such animal could

not, in the circumstances of the case, have become irretrievably lost without the act or default of the resident labourer;

- (4) if, being employed in any capacity other than that of a herdsman, he alleges the loss of any property placed in his charge by or for the occupier and it is proved by the occupier to the satisfaction of the court that the property in question could not have been lost without the act or default of the resident labourer.

27. (1) An occupier shall be liable to a fine not exceeding one hundred and fifty shillings and in default of payment to imprisonment for a term not exceeding two months if he is convicted of any of the following acts or omissions, that is to say—

Penalties for offences committed by occupier.

- (a) if he fails to pay the wages due to a resident labourer;
- (b) if, before or after the expiration of the contract, upon demand made and without lawful cause, he refuses to deliver or to permit to be taken away any property belonging to a resident labourer lawfully remaining or being upon such occupier's land;
- (c) if he fails knowingly or on demand—
- (i) to provide any resident labourer of his with proper medicines during illness; and
- (ii) to provide any resident labourer of his, who is seriously ill, either with medical attendance or, ~~if the resident labourer consents~~, to send such resident labourer to the nearest hospital:

Old:  
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Provided that an occupier's liability in respect of the costs of medical attendance or of hospital treatment shall not extend beyond a period of thirty days.

(2) Upon any complaint brought before a court under the provisions of this Ordinance the magistrate may, in addition to any jurisdiction he might have exercised if this Ordinance had not been enacted, exercise all or any of the following powers:—

Discretionary powers of magistrates.

- (a) He may adjust and set off one against the other all such claims on the part either of the occupier or of the resident labourer arising out of, or incidental to, the relation between them as the magistrate may find to be subsisting, whether such claims are liquidated or unliquidated, and whether such claims are

To adjust and set off claims.

for wages, damages or otherwise; and he may direct the payment of such sum as he finds due by one party to the other party.

To direct fulfilment of the contract.

(b) He may direct fulfilment of the contract, and, in case where he might award damages for any breach of contract, he may, in lieu either of the whole of the damages which would otherwise have been awarded or some part of the damages, direct the party committing such breach to find security to the satisfaction of the magistrate for the due performance of so much of the contract as remains unperformed; and if the party neglects or refuses to find security, he may commit him to prison until he finds it, but the term of imprisonment shall not exceed three months.

To rescind the contract and apportion wages, etc.

(c) He may rescind the contract upon such terms as to the apportionment of wages or other sums due thereunder, and as to the payment of wages or damages or other sums due, as he thinks fit.

General penalty.

28. Any person who is guilty of an offence against this Ordinance or who commits or knowingly permits a breach of the provisions of this Ordinance or any Rules made thereunder for which no specific penalty is provided shall be liable, on conviction, to a fine not exceeding thirty pounds and in default of payment to imprisonment for a term not exceeding three months.

Joinder in cases of non-payment of wages.

29. (1) Notwithstanding anything to the contrary contained in any other law for the time being in force in the Colony, on a complaint or suit against an occupier in respect of wages due to more than one of his resident labourers the magistrate may permit one complaint or one plaint to be made or filed by a labour officer or by one of such resident labourers on behalf of all such resident labourers and their claims to be proved by such labour officer or by such resident labourer accordingly:

Provided that the complaint or plaint shall have annexed thereto a schedule setting forth the names of such resident labourers, their addresses and descriptions and the details of wages due to each such resident labourer.

(2) All such claims shall rank equally between themselves, and shall be paid in full, unless the amount recovered from the occupier be less than the total amount of the claims with costs, in which case, after payment of the costs, all such claims shall

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*Resident Labourers*

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abate in equal proportions among themselves and be paid accordingly. Costs given against the resident labourers shall be paid by such resident labourers or by any of them in such proportions as the Court shall direct.

(3) The provisions of section 203 of the Criminal Procedure Code shall not apply to any proceedings instituted under this Ordinance in respect of the non-payment of wages to any resident labourer. No. 11 of 1930.

30. In any complaint under this Ordinance the process of the court for compelling the attendance of the party accused and of all necessary witnesses shall be instituted at the public charge and without any fees of court: Provided always, that, if at the trial the complaint shall appear to the magistrate to be frivolous or vexatious, the party complaining shall be liable to pay a fine not exceeding ten pounds and to defray the cost of the process and of the witnesses in the case, and in default of payment of such fine and costs, shall be liable to imprisonment for any period not exceeding one month. Such fine and costs may be imposed upon the occasion of such trial and without any fresh action or proceeding for the recovery thereof. Costs.

31. (1) The Governor in Council may make rules for the better carrying out of the provisions of this Ordinance. Rules.

(2) All rules made under this section shall have the same force and effect as if they had been enacted in this Ordinance and shall be laid as soon as conveniently may be before the Legislative Council; and if a resolution is passed within forty days of their being so laid before the Legislative Council praying that any such rule shall be revoked or amended, such rule shall thenceforth be deemed to be revoked or amended, but without prejudice to anything done thereunder.

32. The Governor in Council may appoint any fit and proper person to be an attesting officer for the purposes of this Ordinance. Appointment of attesting officers.

33. Notwithstanding anything to the contrary contained in any law for the time being in force in the Colony, the attestation of any contract entered into under the provisions of this Ordinance shall be exempt from all stamp duty and any attestation fee prescribed by any Rules of Court. No stamp duty shall be chargeable for the attestation of any contract.

Subsisting contracts to be terminated.

34. It shall be the duty of every occupier in any district or district to which this Ordinance is applied, and who at the date of the application of the Ordinance to such district or area is a party to any contract made under the provisions of the Resident Labourers Ordinance, 1925, within one month after such date to give six months notice of the termination of such contract:

Provided that such notice shall not be necessary if any such contract will expire by effluxion of time or by notice before the expiration of the said period of six months.

Repeal. No. 5 of 1925.

35. The Resident Native Labourers Ordinance, 1925, is hereby repealed.

FIRST SCHEDULE

Memorandum of Agreement made this ..... day of ..... 19..... by and between <sup>(1)</sup>..... of <sup>(2)</sup>..... (hereinafter referred to as "the occupier") and <sup>(3)</sup>..... registered number..... of <sup>(4)</sup>..... (hereinafter referred to as "the resident labourer"), whereby it is agreed:—

1. That this agreement shall have effect from the..... day of..... 19..... and shall be for a term of ..... years ending on the..... day of ..... 19..... unless lawfully determined earlier.

2. That the resident labourer, together with his wife or wives and children shall reside and may graze stock on such part only of the occupier's land at <sup>(5)</sup>..... as the occupier may direct during the period of this agreement.

3. That during the period of this agreement the resident labourer and every male member of his family who is of the apparent age of sixteen years or over and is resident on the occupier's land, and who is not working under any law for the time being in force in the Colony relating to the employment of servants, shall each work for the occupier at such times as the occupier may direct, for not less than <sup>(6)</sup>..... days at the election of the occupier in each period of twelve months, and that the occupier shall provide employment for the resident labourer and for such male members of his family for such number of days. The occupier shall give notice to every male member of such family who during the continuance of the contract may attain the age of sixteen years that

on the expiration of three months from the date of receiving such notice he will be required either to enter into a contract under the Resident Labourers Ordinance, 1937, with the occupier, or under any law for the time being in force in the Colony relating to the employment of servants with the occupier or some other employer in the vicinity, or to cease to reside on the occupier's land.

4. That the time during which the resident labourer is required to work for the occupier shall be so arranged as to allow the resident labourer reasonable time to sow, cultivate and reap his own food crops.

5. That the occupier agrees to pay to the resident labourer, and to the male members of the resident labourer's family of and above the age of sixteen years employed by the occupier, wages at the rate of not less than..... for every <sup>(7)</sup>..... and <sup>(8)</sup>.....

6. That the occupier shall provide good and sufficient building material for the erection of huts for the accommodation of the resident labourer and his family.

7. That the occupier shall provide the resident labourer with sufficient and suitable land for the cultivation of food crops for himself and his family, and for grazing the following numbers of stock, namely <sup>(9)</sup>..... provided that the resident labourer shall not plant or cultivate any of the following crops, namely..... or allow them to be planted or cultivated under his control, and that he shall not cultivate land other than that allocated to him by the occupier.

8. That with the consent of a magistrate or an attesting officer this agreement may be terminated by either the occupier or the resident labourer giving to the other three calendar months' notice, provided that the resident labourer shall suffer no prejudice in regard to the care and reaping of his crops or in regard to the removal of his family or stock and provided that the occupier may demand the fulfilment by the resident labourer of any conditions of this agreement to which the resident labourer may be liable in respect of his obligation to work.

9. On the expiration or termination of this agreement from whatever cause, the resident labourer shall be entitled to remove all his movable property from the land, but shall not remove any buildings. In respect of buildings or other im-

movable property the resident labourer shall be entitled to any reasonable compensation for materials contributed by him.

\*10. That the resident labourer shall cause his children to attend regularly at the school provided by the occupier on the said land.

†(Any other conditions).

As witness the hand of the parties hereto:—

Witness to the signature of the occupier.

.....

Witness to the signature or mark of the resident labourer.

.....

SCHEDULE

I/We being member(s) of the family of.....  
 (the resident labourer) do hereby agree to abide by the terms of  
 the agreement dated.....between him and.....  
 .....(the occupier)

Signature(s) or Mark(s).	Registered No.	Nature of Service.	Remuneration.

I hereby certify that the contents of this agreement have been read and explained by me to the resident labourers the signatories to this agreement, and that they appear to have executed this agreement with a full knowledge of its contents.

The..... day of..... 19.....

.....  
*Magistrate or Attesting Officer*

- (1) Full name of occupier.
  - (2) Address.
  - (3) Full name of native, as given on Registration Certificate, or of Somali.
  - (4) Insert name of native's or Somali's district, location and chief.
  - (5) Insert name and/or Land Office number of farm.
  - (6) Not to be less than 180 days, but may be more if agreed.
  - (7) Day, month or thirty-day card worked.
  - (8) Insert conditions as to rations or other considerations if agreed upon or strike out if inapplicable.
  - (9) Number of each kind of stock to be specified.
- \* This clause to be inserted only in the case of missions or farms on which schools to the satisfaction of the magistrate are provided; otherwise to be struck out.
- † Any other conditions agreed to by the parties which do not contravene the provisions of this or any other Ordinance. Such conditions, if any, shall be numbered consecutively.



## SECOND SCHEDULE

## THE RESIDENT LABOURERS ORDINANCE, 1937

*Form of Bond under section 5 (8)*

Be it known unto all men by these presents that we  
 (1).....are jointly and severally bound  
 unto (2).....and to any one or more  
 of them in the sum of (3).....to be paid to  
 the said (4).....their and each of their  
 heirs, executors, administrators, and assigns. For which pay-  
 ment well and truly to be made as liquidated damages and not  
 as a penalty, we bind ourselves jointly and severally; and our  
 heirs, executors and administrators, and every one of them  
 firmly by these presents.

Sealed with our seals, dated this.....day of  
 .....19.....

The condition of the above written obligation is such that  
 if (5)..... (hereinafter called  
 "the occupier") the employer of the said (6).....  
 (hereinafter called "the resident labourer") do pay to each of  
 the resident labourers performing their part of the agreement  
 after-mentioned the several sums of money set opposite to their  
 respective names in the schedule to an agreement made and  
 entered into between the occupier and the resident labourer at  
 .....on the..... day of..... 19..... and  
 attested by (7)..... in regular  
 (8).....payments to be calculated from the  
 .....day of.....19..... and to execute,  
 carry out and perform his part of the said agreement in all  
 respects, then this obligation to be void, otherwise to be in  
 full force and virtue.

Signed, sealed and delivered in the presence of:—

(To be signed and sealed by each of the obligants  
 and attested, if practicable, by the officer attesting the  
 relative agreement).

- 
- (1) Insert names and description of occupier and one or more sureties resident within the jurisdiction.  
 (2) Name and description of the resident labourer.  
 (3) Insert sum, not less than half the total amounts (less any advances), due by the contract.  
 (4) Repeat names of resident labourers.  
 (5) Name of occupier.  
 (6) Name or names of resident labourers.  
 (7) Official name of officer before whom agreement is signed.  
 (8) Weekly or monthly, etc., as the case may be.

THIRD SCHEDULE

THE RESIDENT LABOURERS ORDINANCE, 1937

Resident Labourer's Certificate

(Under section 11)

I hereby certify that.....
has during the period of twelve months commencing on the
.....day of.....19..... completed
the..... days' work stipulated in this
contract. His obligation to work under the terms of this
contract commences again on the.....day of
.....19.....

Signature of Occupier and date

FOURTH SCHEDULE

THE RESIDENT LABOURERS ORDINANCE, 1937

Permit granted under the Provisions of section 4 (1) (e) to

Reside on Alienated Lands

Bearer ..... s/o.....

Native Registration Certificate

No. ....

Somali

is hereby permitted to reside on .....
for ..... (days), i.e. from .....
(to).....
Date.....

Signature of Occupier

All permits to reside on any land for a period exceed-
ing fourteen days must be countersigned by the District
Commissioner in charge of the area in which such land
is situated.

Approved.

District Commissioner

Date.....District



## ORDINANCE No. XXXI of 1937

Assented to in His Majesty's name this twenty-eighth day  
of August, 1937.

R. BROOKE-POPHAM,  
*Governor.*

Date of assent.

[28TH AUGUST, 1937.]

### An Ordinance to Amend the Shop Hours Ordinance, 1925

Date of commencement.

*28th August, 1937*

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

Short title.

No. 24 of 1925.

1. This Ordinance may be cited as the Shop Hours (Amendment) Ordinance, 1937, and shall be read as one with the Shop Hours Ordinance, 1925, hereinafter referred to as the Principal Ordinance.

Repeal and replacement of Section 5 (1) of the Principal Ordinance.  
Hours of employment of shop assistants.

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

“5. (1) An occupier shall not permit a shop assistant to work in a shop—

- (a) for more than eight hours in any one day, exclusive of intervals for meals, but so that such eight hours work together with such intervals for meals shall be completed within nine hours from the commencement of a day's work of such assistant;
- (b) for more than fifty hours, inclusive of intervals for meals, in any one week;
- (c) subject to the provisions of sub-sections (2) and (4) of this section, after one o'clock on any weekly half holiday;
- (d) subject to the provisions of sub-sections (2) and (4) of this section, on any Sunday;
- (e) subject to the provisions of sub-section (4) of this section, on any public holiday.

- (2) Where a shop is permitted to remain open—
- (a) under the provisions of section 7 of this Ordinance, after one o'clock in the afternoon on any weekly half holiday; or
  - (b) under the provisions of section 8 of this Ordinance, on any Sunday; or
  - (c) under the provisions of section 9 of this Ordinance, after the time fixed for closing by a closing order,

any shop assistant may, subject to the provisions of paragraphs (a) and (b) of sub-section (1) of this section, be permitted to work in such shop during the hours that such shop is permitted to remain open.

(3) Notwithstanding the provisions of paragraphs (a) and (b) of sub-section (1) of this section, the working hours of any shop assistant may, solely for the purpose of stocktaking, be extended for not more than two hours on any one day (other than on a Sunday or a public holiday) on not more than four days in any one week and on not more than thirty days in any one year.

(4) Notwithstanding the provisions of paragraph (b) of sub-section (1) of this section an occupier, upon giving reasonable notice to the officer in charge of the police station of the district in which the shop is situate of the names of the assistants concerned and the dates upon which he intends to extend their working hours, may (on not more than two occasions in any year and solely for the purpose of stocktaking) permit such shop assistants, in any case where a Monday is a public holiday, to work on the Saturday afternoon, on the Sunday immediately preceding such Monday, and on such Monday. An occupier who avails himself of the provisions of this sub-section shall not be permitted to extend the hours of his shop assistants under the provisions of sub-section (3) of this section.

(5) Save as is provided in this section, and that a shop assistant may remain in a shop for a period of fifteen minutes after the prescribed closing hour or after the hours permitted for his employment for the purpose of serving a customer who has entered the shop before the prescribed closing hour, or for the purpose of closing

the shop, an occupier shall not permit a shop assistant to remain in his shop for a greater number of hours than those permitted under, or after the closing hour prescribed by, this Ordinance.

(6) Any shop assistant found in a shop after the closing hour prescribed by this Ordinance or after the hours permitted for his employment under this Ordinance shall be deemed to be in the employment of such occupier until the contrary is proved by such occupier."

Amendment of Section 5 (2) and (3) of the Principal Ordinance.

3. Section 5 of the Principal Ordinance is hereby amended by renumbering sub-sections (2) and (3) thereof as section "5A (1)" and sub-section "(2)" respectively; and by adding a marginal note thereto as follows—

"Annual leave of absence."

Amendment of Section 8 of the Principal Ordinance.

4. Section 8 of the Principal Ordinance is hereby amended by the deletion of the words "for the serving of customers" which occur in the second line thereof.

Amendment of section 9 of the Principal Ordinance.

5. Section 9 of the Principal Ordinance is hereby amended by adding thereto the following new sub-section:—

"(8) Notwithstanding anything contained in this section the Governor may permit a shop to remain open after the hour fixed for closing on not more than four days in any year on the occasion of a religious or ceremonial celebration:

Provided that no business shall be transacted, and no shop assistant shall be required to work, in such shop while the shop remains open under the provisions of this sub-section after the hour fixed for closing."

Amendment of section 11 of the Principal Ordinance.

6. Section 11 of the Principal Ordinance is hereby amended—

(a) by inserting the word "closing" between the word "any" and the word "order" which appear in the first line of sub-section (1) thereof; and

(b) by substituting the words "any closing" for the word "an" which appears in the third line of sub-section (2) thereof.

Amendment of Section 15 of the Principal Ordinance.

7. Section 15 of the Principal Ordinance is hereby amended by deleting therefrom the proviso thereto.

**ORDINANCE No. XXXII of 1937**

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Assented to in His Majesty's name this ninth day of November, 1937.

R. BROOKE-POPHAM,  
*Governor.*

[9TH NOVEMBER, 1937.] Date of assent.

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

*9th November, 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:—

- |  |   |
|--|---|
| <p>1. This Ordinance may be cited as the Native Tribunals (Amendment) Ordinance, 1937, and shall be read as one with the Native Tribunals Ordinance, 1930, hereinafter referred to as the Principal Ordinance.</p> | <p>Short title.<br/>No. 39 of 1930.</p>                 |
| <p>2. Section 44 of the Principal Ordinance is hereby repealed.</p>  | <p>Repeal of section 44 of the Principal Ordinance.</p> |

**ORDINANCE No. XXXIII of 1937**

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Assented to in His Majesty's name this ninth day of  
November, 1937.

R. BROOKE-POPHAM,  
*Governor.*

Date of assent.

[9TH NOVEMBER, 1937.]

**An Ordinance to Amend the Native Passes  
Ordinance**

Date of com-  
mencement.

*By Notice.*

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

Short title  
and com-  
mencement.  
Cap. 138.

1. This Ordinance may be cited as the Native Passes (Amendment) Ordinance, 1937, and shall be read as one with the Native Passes Ordinance (Chapter 138 of the Revised Edition), hereinafter referred to as the Principal Ordinance, and shall come into operation on such date as the Governor may, by notice in the Gazette, appoint.

Amendment of  
the Principal  
Ordinance.

2. The Principal Ordinance is hereby amended by the addition thereto of the following new section:—

Offences to be  
cognizable to  
the police.

“4. All offences against any rules made under this Ordinance shall be cognizable to the police.”

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**ORDINANCE No. XXXIV of 1937**

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Assented to in His Majesty's name this ninth day of November, 1937.

R. BROOKE-POPHAM,  
*Governor.*

[9TH NOVEMBER, 1937.] Date of assent.

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

*9th November, 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 Special Districts (Administration) (Amendment) Ordinance, 1937, and shall be read as one with the Special Districts (Administration) Ordinance, 1934, hereinafter referred to as the Principal Ordinance.

Short title.

No. 13 of 1934.

2. Section 30 of the Principal Ordinance is hereby repealed.

Repeal of section 30 of the Principal Ordinance.

**ORDINANCE No. XXXV of 1937**

Assented to in His Majesty's name this twenty-second day of November, 1937.

R. BROOKE-POPHAM,  
*Governor.*

Date of assent.

[22ND NOVEMBER, 1937.]

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

Date of commencement.

*1st July, 1937.*

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, 1937, 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.** Section 2 of the Principal Ordinance is hereby amended—

(a) by deleting therefrom the definition of "coffee dealer" and substituting therefor the following new definition—

" 'coffee dealer' includes any person who buys or sells, hulls, husks or grades commercially in a factory other than on a plantation, or otherwise deals in, unroasted coffee;";

(b) by inserting immediately after the definition of "coffee dealer" the following new definition—

" 'coffee miller' includes any person who hulls, husks or grades coffee;";

(c) by deleting therefrom the words "and by organizations representing trade interests" which appear in the definition of "Conference" contained therein; and

(d) by inserting immediately after the definition of "inspector" the following new definitions—

" 'milling' means hulling, husking or grading coffee;

" 'Secretary' means the Secretary of the Board established under this Ordinance;".

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Coffee Industry

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

Amendment of section 3 of the Principal Ordinance.

- (a) by deleting therefrom paragraph (c) of sub-section (1) thereof;
- (b) by substituting the word "four" for the word "three" where it appears in the first line of paragraph (d), and of paragraph (e), of sub-section (1) thereof, and in the first line of paragraph (b), and of paragraph (c), of sub-section (5) thereof;
- (c) by deleting therefrom the brackets, letter and comma "(c)," which appear in the second line of sub-section (4) thereof;
- (d) by deleting therefrom paragraph (a) of sub-section (5) thereof; and
- (e) by deleting therefrom the brackets, letter and comma "(a)," which appear in the second line of paragraph (d) of sub-section (5) thereof.

4. Section 7 of the Principal Ordinance is hereby amended by deleting the words "licensed dealer" from line one thereof and substituting therefor the words "licensed coffee dealer or registered coffee miller, as the case may be,".

Amendment of section 7 of the Principal Ordinance.

5. Section 9 of the Principal Ordinance is hereby amended by adding thereto the following new sub-section:—

Amendment of section 9 of the Principal Ordinance.

"(6) When the possession of any plantation, in respect of which a licence has been issued under the provisions of this section, is transferred, during the validity of the licence, from the person to whom the licence was issued to any other person, the District Commissioner of the district in which such coffee plantation is situated may, by a written endorsement on such licence, transfer such licence from the person to whom it was issued to such other person. In any such case such District Commissioner shall give notice to the Treasurer of the name of the transferor, the name of the transferee, the number of the licence and the date of the endorsement."

6. The Principal Ordinance is hereby amended by inserting therein, immediately after section 9 thereof, the following new section:—

Amendment of the Principal Ordinance.

"9A. (1) From the first day of January, 1938, no person shall conduct the business of a coffee miller unless he is registered in that behalf by the Secretary.

Registration of coffee millers.

(2) The Secretary shall not register any coffee miller under the provisions of this section without the prior approval of the Board.

(3) The Secretary shall issue a certificate of registration to every coffee miller registered under the provisions of this section, and such certificate shall contain a description of the premises on which milling may be carried on.

(4) No fee shall be payable in respect of any registration effected, or any certificate of registration issued, under the provisions of this section."

Amendment of  
section 18 of the  
Principal  
Ordinance.

7. Paragraph (a) of section 18 of the Principal Ordinance is hereby amended by inserting immediately after the word "dealers" in line two thereof the words "or registered coffee millers, as the case may be;"

Commence-  
ment.

8. Section 2 and section 3 of this Ordinance shall be deemed to have come into force on the first day of July, 1937.

## ORDINANCE No. XXXVI of 1937

Assented to in His Majesty's name this twenty-second day of November, 1937.

R. BROOKE-POPHAM,  
*Governor.*

[22ND NOVEMBER, 1937.] Date of assent.

### An Ordinance to Amend the Post Office Ordinance, 1934

*22nd November, 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 Post Office (Amendment) Ordinance, 1937, and shall be read as one with the Post Office Ordinance, 1934, hereinafter referred to as the Principal Ordinance.

Short title.

No. 18 of 1934

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

Repeal and replacement of section 23 of the Principal Ordinance.

“23. A person shall not, without lawful excuse the burden of proving which shall be on him, transmit by post or attempt to transmit by post or procure to be transmitted by post a postal article which either has thereon or encloses therein any words, marks, or designs of a seditious, scurrilous, threatening, obscene, or grossly offensive character, and the Postmaster General is hereby empowered to withdraw from transmission any postal article having thereon any such words, marks or designs or which he has reason to suspect encloses therein any such words, marks or designs and the Postmaster General shall deal with such postal article as he may deem fit.”

Prohibition of transmitting by post postal articles of a seditious, scurrilous, etc., character.

## ORDINANCE No. XXXVII of 1937

Assented to in His Majesty's name this twenty-second day of November, 1937.

R. BROOKE-POPHAM,  
*Governor.*

Date of assent. [22ND NOVEMBER, 1937.]

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

Date of commencement. *22nd November, 1937.*

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 Reserve of Officers (Amendment) Ordinance, 1937, and shall be read as one with the King's African Rifles Reserve of Officers Ordinance, 1927, hereinafter referred to as the Principal Ordinance.

No. 12 of 1927. 2. The Principal Ordinance is hereby amended by inserting therein, immediately after section 1 thereof, the following new section:—

Amendment of the Principal Ordinance. "1A. In this Ordinance unless the context otherwise requires the term "active service" shall have the following meaning:—

Interpretation. "An officer shall be deemed to be on active service when he is attached to or forms part of a force engaged in operations against the enemy or in aiding the civil authority in the protection of life and property or in the prevention or suppression of internal disorder or in any emergency."

Amendment of section 9 of the Principal Ordinance. 3. Section 9 of the Principal Ordinance is hereby amended—

(a) by deleting the words "in case of emergency or of" which occur in the first and second lines of sub-section (1) thereof and by substituting therefor the word "for"; and

(b) by deleting the words "the emergency or" which occur in the second and third lines of sub-section (2) thereof.

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

Repeal and replacement of section 11 of the Principal Ordinance.  
Rate of pay.

“11. (1) Officers when called up for active service by the Governor under section 9 of this Ordinance shall during the period of such service be entitled to the following rates of pay:—

- (a) Officers who are Government officials .. .. . Their civil rate of pay or their military rate of pay plus allowance whichever is the greater.
- (b) All other officers .. .. . The rates of pay for officers of their rank in The King's African Rifles.

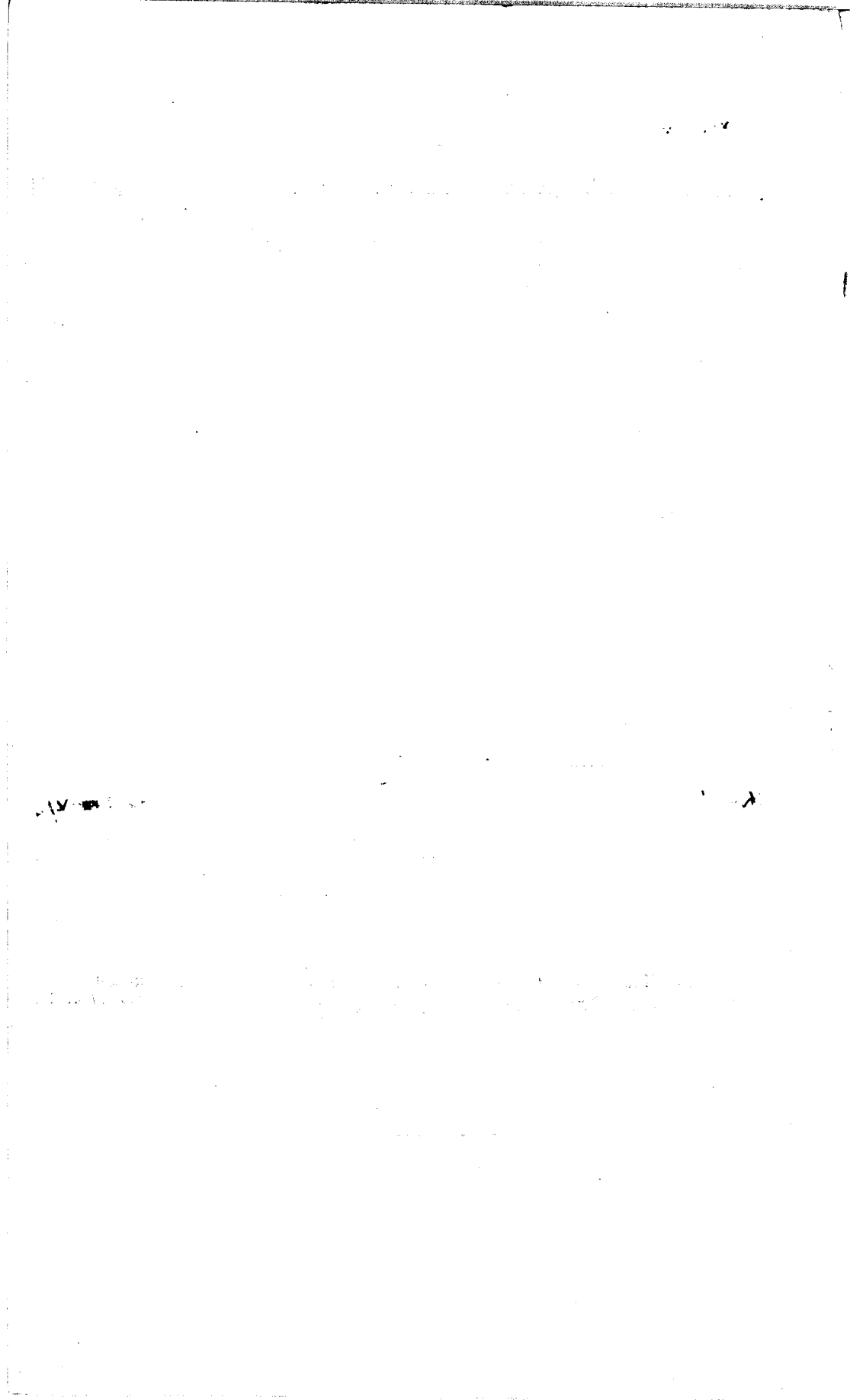
(2) Officers when called up for training by the Governor under section 10 of this Ordinance shall during the period of such training be entitled to the following rates of pay:—

- (a) Officers who are Government officials (irrespective of their military rank in the Reserve) .. .. . Sh. 10 per day.
- (b) Officers who have served with the Regular Army or the Indian Army .. .. . The rates of pay for officers of their rank in The King's African Rifles.
- (c) All other officers not falling within the provisions of (a) or (b) .. .. . Subalterns £25 per month, Captains £40 per month.

(3) An officer who applies to be attached to a unit for training but has not been called up by the Governor shall receive no pay.”

5. The King's African Rifles Reserve of Officers (Amendment) Ordinance, 1934, is hereby repealed.

Repeal. No. 57 of 1934.





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**ORDINANCE No. XXXVIII of 1937.**

Assented to in His Majesty's name this twenty-second day of December, 1937.

R. BROOKE-POPHAM,  
Governor.

[22ND DECEMBER, 1937.] Date of assent.

**An Ordinance to Consolidate and Amend the Law relating to the Protection of Game Animals and Game Birds**

22nd December, 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 Game Ordinance, 1937. Short title.

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

“aeroplane” includes an airship, a seaplane, and any other description of aircraft;

“animal” means any vertebrate animal, other than a domesticated animal;

“meat of an animal mentioned in a Schedule” means an animal or bird the name of which is mentioned in any Schedule to this Ordinance together with any descriptive or restrictive words or numbers appearing with the name of such animal in such Schedule;

“Government” means the Government of the Colony;

“hunt” “kill” “capture” means hunting, killing or capturing by any method and includes every attempt to kill or capture and the taking or disturbing of nests or eggs;

“hunting” includes molesting or disturbing for any purpose whatsoever;

“licensing officer” means any administrative officer or any other person whom the Governor may, by notice in the Gazette, appoint either by name or by office;

“meat” includes fat and blood;

“private land” means any land privately owned without a title from the Crown, and any land held or occupied under a

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grant, lease or licence from the Crown: Provided that the said term shall not include any land in a native reserve or any land sold or leased or otherwise alienated by the Crown with a reservation of the game thereon or any land held by virtue of a temporary occupation licence issued under the Crown Lands Ordinance;

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"resident" means any person other than a native or Somali who satisfies a licensing officer that he is a resident for the purposes of this Ordinance;

"trophy" means the head or any horn, tooth, tusk, bone, claw, hoof, skin, hair, feather, egg or other durable portion of any game animal, or, if so expressed, of any animal.

Employment of officers.

3. The Governor may appoint a Game Warden, an Assistant Game Warden and such other officers as may be necessary for the carrying into effect of the provisions of this Ordinance.

Powers of Game Warden may be exercised by other officers.

4. The Game Warden may, with the approval of the Governor, delegate or assign to any other officer appointed under section 3, or to any honorary game warden appointed under section 5, of this Ordinance all or any of the powers and duties conferred or imposed upon him by this Ordinance.

Honorary game wardens.

5. (1) The Governor may, by notice in the Gazette, appoint any person to be an honorary game warden for a period of five years, and may, in like manner, renew such appointment for further periods of five years on the expiration of each such period:

Provided that the Governor may, in his absolute discretion and without assigning any reason therefor, at any time revoke any such appointment.

(2) Every person on first appointment as an honorary game warden shall take an oath of office in the form set out in the Seventh Schedule to this Ordinance.

Declaration of game animals.

6. (1) The animals and birds mentioned in the First, Second, Third, Fourth and Fifth Schedules to this Ordinance are hereby declared to be game animals.

Power to alter or revoke Schedules.

(2) The Governor may, by notice in the Gazette, revoke, replace, or amend the First, Second, Third, Fourth and Fifth Schedules to this Ordinance in such manner as he may see fit.

(3) Any revocation or replacement of, or any amendment to, any of the Schedules to this Ordinance made under the provisions of this section shall, on publication in the Gazette, apply to any licence or permit appertaining to such Schedule which may be in force at the date of such amendment.

7. No person shall possess any game animal or any trophy or the meat of any game animal except in accordance with the provisions of this Ordinance.

Prohibition of possessing of game animals and trophies.

8. Save as in this Ordinance otherwise expressly provided, no person shall hunt, kill, photograph or capture, or attempt to hunt, kill, photograph or capture any game animal unless he is authorized to do so by virtue of a licence or permit issued to him under the provisions of this Ordinance.

Prohibition of hunting, etc., of game animals without licence or permit.

9. Save as in this Ordinance otherwise expressly provided, no person other than a native or Somali shall assist any other person to hunt, kill or capture any game animal unless he is authorized in that behalf by virtue of an assistant's licence as provided by section 13 of this Ordinance :

Limitation of assistants.

Provided that nothing in this section contained shall be deemed to render it necessary for any person who is authorized under this Ordinance to hunt, kill or capture any animal to obtain an assistant's licence in order to assist any other person similarly authorized to hunt, kill or capture such animal.

10. (1) The Governor may, in his discretion, grant to any person a permit (in this Ordinance called "a Governor's permit") to hunt and kill any game animal, or to hunt and kill any animal or bird in a game reserve, or to hunt and kill any animal or bird during a close season declared under the provisions of section 24 of this Ordinance.

Governor's permit.

(2) A Governor's permit shall be subject to such conditions as the Governor may impose.

(3) The holder of a Governor's permit shall be subject to the provisions of this Ordinance.

11. (1) The Governor may, in his discretion, grant to any person a permit (in this Ordinance called "a photographic permit") to hunt, for photographic purposes, any game animal.

Photographic permit.

(2) A photographic permit shall be subject to such conditions as the Governor may impose.

(3) The holder of a photographic permit shall be subject to all the provisions of this Ordinance.

(4) Nothing in this section contained shall be deemed to apply to the photographing of an animal—

- (a) which the photographer is otherwise authorized under this Ordinance to hunt, kill or capture; or
- (b) when no molestation whatever is involved.

Permit to capture.

12. (1) The Governor may, in his discretion, grant to any person a permit to hunt for the purpose of capturing any game animal, or for the purpose of capturing any animal or bird in a game reserve, or during a close season declared under the provisions of section 24 of this Ordinance. Such permit is in this Ordinance referred to as a "permit to capture".

(2) Such permit shall be valid for such period as the Governor may in his discretion determine, and shall be subject to such conditions as the Governor may impose in respect of the number and kind of animals that may be captured, the areas in which such animals may be captured and the methods that may be employed in capturing such animals.

(3) The holder of a permit to capture any animal shall be subject to all the provisions of this Ordinance.

(4) There shall be paid for a permit to capture any animal such fees as may from time to time be prescribed.

Licences.

13. (1) The following licences may be granted by a licensing officer in his discretion, and the following fees shall be charged therefor—

	£	s.
(a) a full licence for a—		
(i) visitor	75	0
(ii) serving officer	20	0
(iii) resident	7	10
(b) a fourteen-day licence for a—		
(i) visitor	15	0
(ii) serving officer	4	0
(iii) resident	2	0

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(c) a private land licence for a—		
(i) visitor ... ..	10	0
(ii) serving officer ... ..	4	0
(iii) resident ... ..	2	0
(d) an assistant's licence (granted in accordance with the provisions of sub-section (9) of this section) ... ..		10
(e) a native or Somali employee's licence (granted in accordance with the provisions of sub-section (10) of this section) ... ..	2	0
(f) a bird licence ... ..		10

(2) (a) A full licence shall entitle the licensee, subject to the provisions of this Ordinance, to hunt and kill game animals mentioned in the Third and Fifth Schedules to this Ordinance to the numbers therein stated, on Crown land and, with the consent of the owner, his agent or the lawful occupier, of private land, in unlimited numbers on such land.

(b) A fourteen-day licence shall entitle the licensee, subject to the provisions of this Ordinance, to hunt and kill game animals mentioned in the Fourth and Fifth Schedules to this Ordinance to the numbers therein stated on Crown land, and, with the consent of the owner, his agent or the lawful occupier, of private land, in unlimited numbers on such land.

(c) A private land licence shall entitle the licensee, subject to the provisions of this Ordinance, to hunt and kill game animals mentioned in the Third and Fifth Schedules to this Ordinance in unlimited numbers on private land only, with the consent of the owner, his agent or the lawful occupier, of such land.

(d) A bird licence shall entitle the licensee, subject to the provisions of this Ordinance, to hunt and kill game animals mentioned in the Fifth Schedule to this Ordinance to the numbers therein stated on Crown land, and, with the consent of the owner, his agent or the lawful occupier, of private land, in unlimited numbers on such land.

(3) (a) A full licence, a private land licence, a native or Somali employee's licence and a bird licence shall be valid for one year from the date of issue.

(b) A fourteen-day licence shall be valid for fourteen consecutive days from and including the day on which it is dated to commence.

(c) An assistant's licence shall expire on the same day as the full licence or permit to capture held, at the time of the granting of such assistant's licence, by the person to whom the assistant's licence is granted.

(4) Any person holding a visitor's full licence and becoming a resident while the licence is in force shall be entitled to a refund of sixty-seven pounds and ten shillings, and any person holding a serving officer's full licence and becoming a resident while the licence is in force shall be entitled to a refund of twelve pounds and ten shillings.

(5) No person shall be granted a fourteen-day licence unless a period of at least six months has elapsed since the expiration of any previous fourteen-day licence held by him, and no person shall obtain a full licence unless a period of at least six months has elapsed since the expiration of any previous fourteen-day licence held by him:

Provided that any person who has obtained a fourteen-day licence may, within six months after the expiration of such licence, convert such licence into a full licence by payment of the difference between the fees payable for a fourteen-day licence and a full licence respectively. Such full licence shall expire one year from the date of commencement of the fourteen-day licence from which it was converted, and any animal killed on the fourteen-day licence shall be deemed to have been killed on the full licence and shall count on that licence.

(6) A private land licence may be converted at any time during its validity into a full licence by payment of the difference between the fees payable for a private land licence and a full licence respectively. Such full licence shall expire one year from the date of commencement of the private land licence from which it was converted.

(7) A serving officer's licence may be issued to any regular officer on the active list of His Majesty's Navy, Army, or Air Force or to any officer in the public service of His Majesty in Africa or in India.

(8) A resident's licence shall not be granted except to a resident in the Colony or to an officer in the public service of the Uganda Protectorate or the Tanganyika Territory or to an officer of one of His Majesty's ships on the East Indies Station, or to such other officers of His Majesty's Forces visiting the Colony on duty, but not usually resident in the Colony, as the Governor may in each case approve:

Provided that the Governor may, in his discretion, by order addressed to all licensing officers state for their guidance what qualifications are to be considered necessary in order to entitle an applicant to be deemed a resident.

(9) (a) An assistant's licence shall be issued only to the holder of a full licence or of a permit to capture, and shall entitle the licensee to assist any person who is duly authorized under this Ordinance to hunt, kill or capture any animal which such person is so authorized to hunt, kill or capture:

Provided that the Governor may, in his discretion, grant an assistant's licence to any person who is not in possession of a full licence or of a permit to capture, and may impose such conditions and restrictions on a licence so granted as he may deem fit.

(b) An assistant's licence shall not authorize the licensee to shoot at any game animal except in the case of absolute necessity; and if the holder of an assistant's licence shoots at any game animal which he is not authorized by any other licence or permit to hunt, kill or capture, he shall report the fact to the Game Warden without delay.

(c) An assistant's licence shall not be valid for any game reserve unless it has been so endorsed by the Game Warden.

(d) If the holder of an assistant's licence kills any game animal, which he is not otherwise authorized under this Ordinance to kill, such animal shall be deemed to have been killed by the person whom he is assisting, and if such person's licence entitles him to hunt and kill an animal of that species, shall be counted upon such person's licence.

(10) A landholder may be granted a native or Somali employee's licence which shall authorize one native or Somali employee of the licensee to hunt and kill game animals mentioned in the Third Schedule to this Ordinance on any private land belonging to or in the lawful occupation of the licensee.

The licensee may at any time during the validity of such licence substitute the name of another native or Somali employee upon such licence, provided such licensee makes and signs the necessary alterations on the licence and forthwith notifies the licensing officer who issued the licence of the change.

Special  
licences.

14. (1) The following special licences may be granted by a licensing officer, in his discretion, to the holder of a full licence, and the following fees shall be chargeable therefor:—

	£	s.
(a) For the first Elephant ... ..	50.	25 0
(b) For the second Elephant ... ..	<del>100</del>	50 0
(c) For the first or second Rhinoceros, each ...	10	0
(d) For the first or second Giraffe, each ...	15	0
(e) For the first or second Ostrich, each ...	1	0
(f) For the first, second or third Colobus Monkey, each ... ..		10

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(2) Every special licence granted under this section shall expire on the same date as the full licence held by the licensee at the time of the granting of such special licence.

(3) Every person who obtains a special licence under the provisions of this section shall produce to the licensing officer his full licence and such licensing officer shall endorse thereon the fact of such special licence having been granted.

(4) A special licence issued under this section shall entitle the licensee to hunt and kill the game animals specified on such special licence on Crown land or, with the consent of the owner, his agent or the lawful occupier, of private land on such land.

(5) No special licence shall be granted to the holder of a full licence, during the period of validity of such full licence, in respect of more than two elephants, more than two rhinoceros, more than two giraffes, more than two ostriches, and more than three colobus monkeys.

(6) A special licence under this section shall not authorize the licensee to hunt and kill an elephant unless such elephant carries tusks of which one at least weighs twelve pounds.

Special  
licences on  
private land.

15. (1) The following special licences may be granted by a licensing officer, in his discretion, to the holder of a visitor's private land licence or of a serving officer's private land licence, and the following fees shall be chargeable therefor:—

	£	s.
(a) For the first or second Rhinoceros, each	10	0
(b) For the first or second Ostrich, each ...	1	0
(c) For the first, second, or third Colobus Monkey, each ... ..		10



(2) Every special licence granted under this section shall expire on the same date as the visitor's private land licence or serving officer's private land licence, as the case may be, held by the licensee at the time of the granting of such special licence.

(3) Every person who obtains a special licence under this section shall produce to the licensing officer his private land licence and such licensing officer shall endorse thereon the fact of such special licence having been granted.

(4) Special licences issued under this section shall entitle the licensee to hunt and kill the game animals specified on such special licence on private land only, with the consent of the owner, his agent or the lawful occupier of such land.

(5) No special licence shall be granted under this section to the holder of a visitor's or serving officer's private land licence, during the period of validity of such private land licence, in respect of more than two rhinoceros, more than two ostriches and more than three colobus monkeys.

16. If any game animal is killed or captured in any circumstances whatsoever by any licensee or permit holder whose licence or permit allows him to hunt, kill or capture an animal of that species, such animal shall count on the licence or permit of such licensee or permit holder; and if any game animal is killed or captured in any circumstances whatsoever by any person accompanying or assisting such licensee or permit holder, such animal shall be deemed to have been killed or captured by the licensee or permit holder and shall count on the licence or permit of such licensee or permit holder unless the person accompanying or assisting such holder is himself in possession of a licence entitling him to hunt, kill or capture an animal of such species, in which case the animal shall count on the licence of the person so accompanying or assisting:

Killing of animal in any circumstances to count on licence.

Provided that nothing in this section contained shall be deemed to apply to any animal killed or captured in accordance with the provisions of section 34 of this Ordinance:

Provided further that for the purposes of this section the expression "killed or captured" shall not include "attempt to kill or attempt to capture."

17. Save as provided by sub-section (10) of section 13 of this Ordinance, no licence or permit issued under this Ordinance is transferable.

Licence not transferable.

Licence to bear name of person, etc.

18. Every licence in addition to stating its nature and the fee paid shall bear the name in full of the person to whom it is granted, and also his signature, the date and station of issue, the period of its duration, and the signature of the person granting the same. A native or Somali employee's licence shall bear the signature of the employer.

Duplicate of lost licences.

19. Any licensee or permit holder whose licence or permit has been lost or destroyed may obtain, on payment of a fee of two shillings, a copy of the licence or permit from the licensing officer who issued the original licence or permit.

Licence to be produced on demand.

20. The holder of any licence or permit issued under this Ordinance shall on demand being made by any magistrate, justice of the peace, police officer, forest officer, game warden or honorary game warden, produce his licence or permit. Any such holder who fails without reasonable cause to produce his licence or permit or, on demand being made by any of the persons mentioned in this section or by a duly accredited servant of the Game Department, to sign his name, shall be guilty of an offence against this Ordinance.

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Attempt to obtain licence by unqualified person an offence.

21. Any person who for any reason is unqualified to hold any licence or class of licence or permit under this Ordinance, or who has been refused any licence or class of licence or permit under this Ordinance and who obtains or attempts to obtain such licence or class of licence or permit without disclosing to the licensing officer such disqualification or refusal shall be guilty of an offence against this Ordinance.

Obligation to keep register.

22. (1) Every holder of a licence or permit issued under the provisions of sections 10, 12, 13, 14 or 15 of this Ordinance shall keep a register in the form specified in the Eighth Schedule to this Ordinance, of all game animals killed or captured by him:

Provided that—

- (a) any game animals mentioned in the Fifth Schedule, or
- (b) any animal, other than a game animal mentioned in the First and Second Schedules, killed on private land,

need not be entered on such register.

(2) Any holder of a licence or permit granted under this Ordinance shall produce his register for inspection at any reasonable time if called upon to do so by any magistrate, justice of the peace, police officer, forest officer, game warden or honorary game warden.

(3) The Game Warden may request the holder of any licence or permit granted under this Ordinance to furnish a true copy of his register and such holder shall comply with such request within a reasonable time.

(4) Any person required by sub-section (1) of this section to keep a register who fails to keep a register or who makes, or is privy to the making of, any false entry in such register, or who fails to produce his register in accordance with sub-section (2) of this section, or who fails within reasonable time to furnish a copy of his register in accordance with sub-section (3) of this section, shall be guilty of an offence against this Ordinance.

23. (1) The areas described in the Sixth Schedule to this Ordinance are hereby declared to be game reserves. Game Reserves.

(2) The Governor in Council may, with the approval of the Secretary of State, from time to time by proclamation declare any other portion of the Colony to be a game reserve and may in like manner and subject to the same approval extend or contract the limits of, or abolish, any game reserve established under this Ordinance and the provisions of this Ordinance relating to game reserves shall apply to any such game reserve.

(3) The Governor may, by notice in the Gazette, declare any game reserve or portion of a game reserve to be a closed district within the meaning of the Outlying Districts Ordinance and the provisions of that Ordinance shall apply to every game reserve or portion of a game reserve so declared. Cap. 26.

(4) Save as in this Ordinance otherwise expressly provided, no person shall—

- (a) unless he is authorized by a Governor's permit as provided by section 10, or by an assistant's licence as provided by section 13, of this Ordinance, hunt or kill any animal or bird within a game reserve;
- (b) unless he is authorized by a photographic permit as provided by section 11 of this Ordinance hunt, for the purpose of photographing, any animal or bird within a game reserve;
- (c) unless he is authorized by a permit to capture as provided by section 12 or by an assistant's licence as provided by section 13, of this Ordinance, hunt

any animal or bird within a game reserve for the purpose of, or with the intention of, capturing such animal or bird.

(5) No person unless he is normally and lawfully resident in a game reserve shall cut or otherwise destroy any tree, shrub, grass or other vegetation in a game reserve unless he has received permission to do so from the administrative officer in charge of such area, the Game Warden or an officer of the Forest Department:

Provided that nothing in this sub-section contained shall be deemed to apply to any person employed in the public service acting in pursuance of his duty.

(6) No person, other than a person employed in the public service in the pursuance of his duty and a person mentioned in sub-section (4) of this section, shall carry a firearm within a game reserve unless he has received permission from the administrative officer in charge of such area or from the Game Warden:

Provided that nothing in this sub-section contained shall be deemed to prohibit any person from carrying a firearm while such person is proceeding along a public road within a game reserve.

(7) Any dog found at large and not under control within a game reserve may be destroyed by order of the administrative officer in charge of such area or of the Game Warden.

(8) Any person being within a game reserve shall conform to and obey all lawful orders and directions issued by an administrative officer in charge of such area or by the Game Warden.

Power of  
Governor to  
proclaim close  
season.

24. (1) The Governor may, by proclamation referring to the whole or to any specified part of the Colony, declare that during any specified period (which shall be known as a close season) it shall be an offence to hunt, kill or capture any specified animal or any specified game animal.

(2) Any close season declared under the provisions of this section shall, subject to the provisions of sub-section (3) of this section, on publication of the proclamation in the Gazette become effective in respect of, and shall apply to, any licence or permit issued under this Ordinance.

(3) Nothing in this section contained shall apply to the holder of a Governor's permit as provided by section 10, or of a photographic permit as provided by section 11, or of a

permit to capture as provided by section 12, or of an assistant's licence as provided by section 13, of this Ordinance, if such permit or licence, as the case may be, authorizes the holder thereof to hunt, kill or capture any such specified animal during such close season.

25. Nothing in this Ordinance contained shall affect the provisions of the Outlying Districts Ordinance or, subject to the provisions of section 47 of this Ordinance, shall be deemed to permit any person to enter on private land without the consent of the owner or his agent or the lawful occupier of such land.

Ordinance does not authorize trespass or entering into closed district. Cap. 26.

26. No person shall hunt, kill or capture a game animal on private land without the consent of the owner or his agent or the lawful occupier of such land.

Prohibition of hunting on private land without consent of owner.

27. Notwithstanding anything contained in this Ordinance, no person shall hunt, kill or capture any game animal during the hours of darkness (which, for purposes of this section, shall mean the period commencing half an hour after sunset and ending half an hour before sunrise) without the written consent of the Game Warden:

Prohibition of hunting during hours of darkness.

Provided that nothing in this section shall be deemed to apply to the hunting, killing or capturing of game animals on private land with the consent of the owner, his agent or the lawful occupier thereof, nor to the hunting, killing or capturing of any game animal which may be damaging, or about to damage, property or attacking, or about to attack, any person.

28. (1) No person shall approach, in a motor vehicle or aeroplane, to within five hundred yards of any game animal for the purposes of hunting, killing, capturing, or unduly disturbing such game animal.

Restrictions on motor cars, aeroplanes, and motor boats.

(2) No person shall use an aeroplane for the purpose of locating game animals in the course of hunting, killing or capturing any game animal.

(3) No person shall use a motor vehicle or aeroplane in such manner as to drive away or stampede any game animal for any purpose whatsoever.

(4) No person shall shoot at any game animal from a motor vehicle or aeroplane or from within two hundred yards of a motor vehicle or aeroplane.

(5) No person shall shoot at any game animal from any mechanically propelled boat or vessel while such boat or vessel is in mechanically induced motion.

(6) Nothing in this section contained shall be deemed to prohibit the use of a motor vehicle or aeroplane for—

- (a) the hunting, killing or capturing of any game animal on private land by the owner of such land, or by any person authorized by him provided such owner or person, as the case may be, is in possession of the necessary licence;
- (b) the driving away of any game animal from any Government or licensed aerodrome.

Restrictions on use of dogs.

**29.** No person shall hunt, kill or capture with dogs any game animal on land other than private land without the consent in writing of the Game Warden :

Provided that nothing in this section contained shall be deemed to prohibit the use of dogs while hunting, killing or capturing any animal mentioned in the Fifth Schedule to this Ordinance.

Restrictions on use of traps, pits, poison, fire, etc.

**30.** (1) No person, other than a person employed in the public service and being charged with performance of duty by virtue of such employment, shall, without the permission in writing of the Game Warden, set any set-gun, trap, gin, or snare capable of killing or capturing any game animal, on land other than private land with the consent of the owner, his agent or the lawful occupier thereof.

(2) No person, other than a person employed in the public service and being charged with performance of a duty by virtue of such employment, shall, without the permission in writing of the Game Warden, use fire or poison for the purpose of hunting, killing or capturing any animal on land other than private land with the consent of the owner, his agent or the lawful occupier thereof.

(3) No person shall, without the permission in writing of the Game Warden, dig pits for the purpose of hunting, killing or capturing any game animal on land other than private land with the consent of the owner, his agent or the lawful occupier thereof.

(4) Any person, other than a person employed in the public service and being charged with performance of a duty by virtue of such employment, found in possession of any set-gun, trap, gin, snare or poison in such circumstances as make it appear that such set-gun, trap, gin, snare or poison has been or is about to be set or used on land other than private land with the consent of the owner, his agent or the lawful

occupier of such land, shall, unless such person can produce a permit in writing from the Game Warden permitting such person to set or use such set-gun, trap, gin, snare or poison, be guilty of an offence against this Ordinance and shall be liable to be arrested by any magistrate, justice of the peace, police officer, tribal police officer, forest officer, game warden, duly accredited servant of the Game Department, honorary game warden, or commissioned or non-commissioned officer of the King's African Rifles.

(5) (a) No person shall sell or barter or attempt to sell or barter any set-gun, trap, gin, or snare capable of killing or capturing any game animal without the permission in writing of the Game Warden.

(b) Any person found in possession of any set-gun, trap, gin, or snare in such circumstances as to make it appear that such person is selling or bartering or is about to sell or barter any such set-gun, trap, gin, or snare, shall be guilty of an offence against this Ordinance and shall be liable to be arrested by any magistrate, justice of the peace, police officer, tribal police officer, forest officer, game warden, duly accredited servant of the Game Department, honorary game warden, or commissioned or non-commissioned officer of the King's African Rifles.

31. (1) Any person who, while hunting, killing or capturing any animal, causes unnecessary or undue suffering to any animal or wastefully kills any game animal shall be guilty of an offence against this Ordinance.

Prohibition of unnecessary cruelty.

(2) Any person who, while hunting, killing or capturing any animal or game animal, wounds any animal or game animal and fails without reasonable cause to exercise all possible endeavour to kill such animal or game animal, shall be guilty of an offence against this Ordinance.

32. (1) The Governor may by notice in the Gazette prohibit any method of hunting, killing or capturing any game animal and may in such notice impose such conditions and limitations in respect of any method as he may see fit.

Power of Governor to prohibit methods of hunting.

(2) No person shall use any method of hunting, killing or capturing any game animal in contravention of the provisions of any notice made under the provisions of sub-section (1) of this section.

Self defence.

33. (1) Notwithstanding anything in this Ordinance otherwise contained, any person may without any licence or permit kill any game animal in self defence or in defence of any other person if immediately and absolutely necessary:

Provided that nothing in this sub-section contained shall be deemed to exonerate any person who, when such defence became necessary, was hunting any game animal or committing any act in contravention of the provisions of this Ordinance.

(2) The provisions of section 16 of this Ordinance shall apply to any game animal killed under the provisions of sub-section (1) of this section.

(3) When any game animal is killed under the provisions of sub-section (1) of this section, the trophies and the meat of such animal shall belong to the Government unless the person killing such animal is in possession of a licence or permit the conditions of which entitle him to kill that animal, and any person who is not so entitled and who kills a game animal under the provisions of sub-section (1) of this section shall report at once to the nearest administrative officer, Game Warden or police officer and the trophies and the meat of any such animal shall be dealt with as the Governor shall direct.

Game animals may be killed in defence of property.

34. (1) (a) Notwithstanding anything contained in this Ordinance, any occupier of land or his servant or any owner of crops or stock or his servant may hunt, kill or capture any game animal, other than a game animal mentioned in the Fifth Schedule to this Ordinance, which is spoiling his crops or is found adjacent thereto or which is a source of danger or which is causing material damage or loss to his holding or the crops or stock thereon if such act is necessary for the protection of his holding, crops or stock.

(b) Notwithstanding anything contained in this Ordinance, any occupier of land, or his servant, may hunt, kill or capture any game animal mentioned in the Fifth Schedule to this Ordinance if and while such animal is actually causing damage to cultivated crops on such land.

(2) When any game animal mentioned in the First, Second or Fifth Schedules to this Ordinance is killed under the provisions of sub-section (1) of this section, the killing of such animal shall be reported without delay to the nearest



administrative officer in charge of the area or to the Game Warden or to a police officer and the trophies and the meat of such animal shall belong to Government and shall be dealt with as the Governor may direct.

35. Notwithstanding anything contained in this Ordinance, when it appears to the Governor that any game animal in any area is a source of serious menace to persons or property, or that existing famine or the likelihood of famine makes such course necessary, the Governor may in his absolute discretion by order addressed to an administrative officer in charge of the area direct that permission be granted for any game animal in any area to be hunted, killed or captured without a licence or permit issued under this Ordinance, and the Governor may impose such conditions as to the persons to whom such permission may be granted, the duration of such permission, the game animals and number of game animals that may be hunted, killed or captured, the area in which such animals may be hunted, killed or captured, the methods of hunting, the disposal of trophies or any other conditions as he may see fit.

Power of Governor to permit killing of game animals to avert menace or during famine.

36. Notwithstanding anything contained in this Ordinance, no person shall buy, sell, barter, or exchange, or attempt to buy, sell, barter, or exchange any game animal or any trophy or the meat of any game animal, without the written permission of the Game Warden.

Restriction on sale of game animals, trophies or meat.

37. (1) No person shall import into the Colony any game animal, or any trophy in an unmanufactured state, or the meat of any game animal, except through a customs port of entry, when a customs entry in the proper form shall be made.

Restrictions on import and export of game animals, trophies or meat.

(2) No person shall import any game animal, or any trophy in an unmanufactured state, or the meat of any game animal unless such animal, trophy or meat shall have been legally exported from the country of origin of such animal, trophy or meat, and any customs officer shall detain any game animal or any trophy in an unmanufactured state or the meat of any game animal which it is sought to import until the person seeking to import the same produces satisfactory evidence that such animal, trophy or meat has been legally exported from the country of origin of such animal, trophy or meat, and if such satisfactory evidence is not produced within a reasonable time, the animal, trophy or meat detained under the provisions of this sub-section may

be confiscated and disposed of as the Governor may direct: Provided that for the purposes of this sub-section when the country from which export is effected is not the country of origin of any animal, trophy or meat, customs documents in the proper form from such exporting country may be held to constitute satisfactory evidence that such animal, trophy or meat has been legally exported from the country of origin of such animal, trophy or meat.

(3) No person shall export from the Colony any game animal or any trophy or the meat of any game animal except through a customs port of entry.

(4) No person shall export from the Colony any game animal or any trophy or the meat of any game animal unless the written permission of the Game Warden has been obtained to export such animal, trophy or meat. Such written permission shall be surrendered to a customs officer before export is effected and a customs officer shall detain the animal, trophy or meat which it is sought to export until such written permission shall have been surrendered. Any animal, trophy or meat detained in accordance with the provisions of this sub-section may be confiscated and disposed of as the Governor may direct if such written permission is not produced within a reasonable time:

Provided that nothing in this sub-section shall be held to apply to any game animal, trophy or meat in transit through the Colony when such animal, trophy or meat is accompanied by the requisite customs documents issued in the country of origin or of export of such animal, trophy or meat and duly entered through a customs port of entry.

(5) Any game animal or any trophy or the meat of any game animal introduced into the Colony in contravention of any of the provisions of this section shall be confiscated and shall be disposed of as the Governor may direct.

(6) No person shall export from the Colony any live bird of a species which is found therein in a wild state unless the written consent of the Game Warden has been obtained to export such bird. Notwithstanding anything contained in this sub-section any such bird may be exported if it is accompanied by papers satisfying the Commissioner of Customs that it has been captured outside the Colony and is passing through the Colony in transit for exportation.

(7) Every trophy consisting of ivory, or rhinoceros horn, in an unmanufactured state, lawfully exported under the provisions of this section shall be identified by such marks as may be prescribed by the Governor and which, together with the weight of such trophy, shall be recorded in the export permit.

**38.** (1) The Governor may by notice in the Gazette declare that any animal or bird not mentioned in any of the Schedules to this Ordinance shall not be hunted, killed or captured, and such declaration may be general or subject to such conditions as to areas, times, methods of hunting, killing or capturing or other limitations as shall be stated in such notice.

Power of Governor to protect non-game animals or birds.

(2) Any person who hunts, kills or captures any animal or bird in contravention of the provisions of any notice made under sub-section (1) of this section shall be guilty of an offence against this Ordinance.

**39.** (1) The Governor may by notice in the Gazette declare that any provision of this Ordinance shall apply to any animal or bird not mentioned in any of the Schedules to this Ordinance and to the trophies or the meat of any such animal or bird, and thereupon such animal or bird shall be deemed to be a game animal for purposes of such provision.

Power of Governor to apply sections to non-game animals or birds.

(2) Any person who contravenes or fails to comply with the provisions of this Ordinance in respect of any animal or bird to which such provision has been declared to apply by notice under sub-section (1) of this section shall be guilty of an offence against this Ordinance.

**40.** (1) If any person kills a game animal by accident or in error he shall forthwith make a report to the nearest administrative officer, game warden, honorary game warden or police officer and the trophies and the meat of such animal shall be the property of the Government and shall be dealt with as the Governor shall direct:

Animals killed by accident or in error.

Provided that nothing in this sub-section shall be deemed to apply to any person killing a game animal by accident or in error if such person is in possession of a licence or permit entitling him to kill such animal:

Provided further that for the purposes of this sub-section the expression "kill" shall not include "attempt to kill."

(2) The provisions of section 16 of this Ordinance shall apply to any game animal killed by accident or in error.

Possession of  
game animal,  
trophy or meat.

**41.** No person shall possess any game animal or any trophy or the meat of such animal unless such animal, trophy or meat is obtained or possessed in one of the following circumstances—

- (a) if such animal, trophy or meat is obtained in accordance with the provisions of this Ordinance, or under any licence or permit issued under this Ordinance, or in accordance with any permission granted under this Ordinance which entitles any person to obtain such animal, trophy or meat and which does not declare such animal, trophy or meat to be the property of the Government: Provided that the provisions of this paragraph shall not apply to a person who is guilty of an offence against this Ordinance in respect of any matter relating to such animal, trophy or meat;
- (b) if such animal, trophy or meat is sold by order of the Governor, or of the Game Warden, or of a court, or in accordance with the provisions of section 36 of this Ordinance, and purchased by such person;
- (c) if such animal, trophy or meat has been granted to such person in accordance with the provisions of sub-section (2) of section 45 of this Ordinance;
- (d) if such animal, trophy or meat is imported in accordance with the provisions of section 37 of this Ordinance;
- (e) if such animal, trophy or meat is possessed or obtained at the time and in accordance with the provisions of any Ordinance repealed by this Ordinance.

Game  
animals and  
trophies found  
belong to  
Government.

**42.** When any game animal is found dying or dead or any part of any game animal is found, the trophies and meat of such animal shall belong to the Government.

Game  
animals and  
trophies obtained  
in contravention  
of Ordinance  
belong to  
Government.

**43.** When any game animal is killed or captured in contravention of the provisions of this Ordinance or of the conditions of any licence or permit issued under this Ordinance, such animal or the trophies and meat of such animal shall belong to the Government.

Removal of  
trophies  
belonging to  
Government  
an offence.

**44.** Any person who removes any trophy or meat the property of the Government, with intent to deprive the Government of the same, shall be guilty of an offence against this Ordinance.

45. (1) Any game animal, trophy or meat which is unlawfully possessed shall be the property of the Government.

Power of Governor to waive right to trophies.

(2) The Governor may waive the right of the Government in respect of any game animal or any trophy or any meat as he may see fit.

46. Whenever any person is charged with being in possession of or selling, buying, transferring or exporting any game animal or any trophy or the meat of any game animal obtained in contravention of this Ordinance or with attempting to do or abetting the doing of any of the acts, and proof is given that the possession was acquired or the act of selling, buying, transferring, exporting or attempting to do or abetting the doing of any such acts was done, the onus shall lie upon the person charged to prove that such animal, trophy or meat was lawfully obtained.

Onus of proof to be on person charged with unlawful possession or on dealing with game animal or trophy.

47. Any magistrate, justice of the peace, police officer, forest officer, game warden or honorary game warden, may enter upon any land for the purpose of carrying out the provisions of this Ordinance, or for the purpose of preventing or detecting offences against this Ordinance.

Power to enter upon land.

48. Whenever any magistrate, justice of the peace, police officer, forest officer, ~~game warden or~~ honorary game warden ~~//~~ thinks it necessary for the purposes of verifying the register of a licensee or permit holder or suspects that any person has committed an offence against this Ordinance, he may inspect and search or authorize any person subordinate to him to inspect and search any baggage, package, wagon, caravan, vehicle, aeroplane, tent or premises belonging to or under the control of such person or to any one in his employment, and if the magistrate, justice of the peace, police officer, forest officer, game warden or honorary game warden ~~//~~ finds any game animal or trophy or meat which appears to have been obtained or possessed in contravention of the provisions of this Ordinance the same may be seized and taken before a court.

Power to search and to seize.

*W: XXIX/45*  
*Mag. officer appointed under the provisions of S 3 of the Ordinance or any servant of the same Dept. who is authorized in writing on that behalf of the Game Warden*

49. (1) When any person is seen or found committing an offence or is reasonably suspected of having committed an offence against this Ordinance any magistrate, justice of the peace, police officer, forest officer, ~~game warden or~~ honorary game warden ~~//~~ may demand his name and address and if he refuses to give such information or fails to give such information to the satisfaction of such magistrate, justice of the

Powers of arrest.

peace, police officer, forest officer, ~~game warden~~ or honorary game warden, or if any such magistrate, justice of the peace, officer, ~~game warden~~ or honorary game warden has reasonable grounds for believing that unless arrested the offender may escape or cause an unreasonable amount of delay, trouble or expense in being made answerable to justice, he may arrest him forthwith.

(2) A person arrested under sub-section (1) of this section shall be taken with all practicable speed before a court and shall not be detained without a warrant longer than is necessary for the purpose.

Game Warden  
and District  
Officers to have  
powers of a  
public  
prosecutor.

50. In any prosecution for an offence against this Ordinance the Game Warden and any district officer may, subject to any directions of the Attorney General, exercise all the powers of a public prosecutor appointed under any law for the time being in force in the Colony.

Contravention of  
the Ordinance an  
offence.

51. (1) Any person who contravenes any provision of this Ordinance or of any proclamation, rule or notice made thereunder, or who fails to comply with any requirements of this Ordinance or of any such proclamation, rule, or notice, or who commits a breach of the conditions and restrictions subject to or upon which any licence or permit has been granted under this Ordinance or who fails to comply with any lawful order given to him under any power conferred by this Ordinance, shall be guilty of an offence against this Ordinance.

(2) When any person shall be charged with an offence against this Ordinance the onus of proving any fact which would be a valid defence to such charge shall lie upon the person charged.

Penalties.

52. (1) Any person who is guilty of an offence against this Ordinance in respect of the illegal killing or attempted killing of rhinoceros or of the unlawful possession, purchase, sale, barter, import or export of rhinoceros horn shall be liable to imprisonment for a period not exceeding six months without the option of a fine and to a fine not exceeding three hundred pounds, or, where the offence relates to more rhinoceros than one, in addition to such imprisonment and fine to a further fine in respect of each additional rhinoceros not exceeding fifty pounds.

(2) Any person who is guilty of an offence against this Ordinance in respect of any game animal mentioned in the Fifth Schedule or of any animal not mentioned in any Schedule

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Game

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shall be liable to a fine not exceeding twenty-five pounds or to imprisonment for a period not exceeding two months or to both such fine and imprisonment.

(3) Any person who contravenes any of the provisions of this Ordinance or who is guilty of an offence against this Ordinance or of any proclamation, rule, order or notice made thereunder or of any breach of the conditions and restrictions subject to or upon which any licence or permit has been granted under this Ordinance for which a penalty is not expressly provided, shall be liable to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding six months or to both such fine and imprisonment, or where the offence relates to more animals than one, in addition to such fine and imprisonment to a further fine in respect of each additional animal not exceeding fifty pounds.

53. (1) The conviction of a licensee or permit holder for any offence against the provisions of this Ordinance or of any rules, proclamations, orders and notices made thereunder shall have the effect of cancelling all licences or permits held by him under this Ordinance as from the date of such conviction, unless the Governor shall otherwise direct.

Conviction shall have effect of cancelling licences and imposing disability.

(2) Any person who is convicted of any offence against this Ordinance or who has been convicted under any Ordinance repealed by this Ordinance or who has been convicted of any offence against any law for the time being in force and designed for the preservation of game in the Uganda Protectorate or the Tanganyika Territory, may, in the discretion of the Governor, be disqualified from holding any licence or permit under this Ordinance for a period of three years from the date of such conviction.

54. Where in any proceedings under this Ordinance any fine is imposed, the court may award any sum or sums not exceeding one-half the total fine collected to any informer or informers:

Rewards for informers.

Provided that no such sum may be awarded to any person appointed to assist in the administration of this Ordinance.

55. The Governor may make Rules prescribing anything required by this Ordinance to be prescribed, and generally for the better carrying out of the provisions of this Ordinance.

Power to make Rules.

## REPEAL

Repeal.  
 Cap. 161.  
 No. 7 of 1926.  
 No. 25 of 1928.  
 No. 49 of 1932.  
 No. 62 of 1933.  
 No. 8 of 1926.  
 No. 36 of 1931.

56. (1) The Game Ordinance (Chapter 161 of the Revised Edition) as amended by the Revised Edition of the Laws (Operation) Ordinance, 1926, the Game (Amendment) Ordinance, 1928, the Game (Amendment) Ordinance, 1932, and the Game (Amendment) Ordinance, 1933, and the Game Birds Protection Ordinance, 1926, as amended by the Game Birds Protection (Amendment) Ordinance, 1931, are hereby repealed.

Savings.

Provided that—

- (a) where any legal proceedings have been commenced under the said repealed Ordinances the same shall be continued as if this Ordinance had not been enacted;
- (b) any person who, before the commencement of this Ordinance, has committed an offence against the said repealed Ordinances or committed any breach of the provisions of the said Ordinances or of the conditions of any licence or permit granted thereunder, and which offence or breach cannot be punished under this Ordinance shall be proceeded against and punished as if this Ordinance had not been enacted;
- (c) licences or permits issued under the said repealed Ordinances and which are unexpired at the commencement of this Ordinance shall remain in force for the period for which they were granted, as if this Ordinance had not been enacted, and any refund due under the said repealed Ordinances shall not be affected by such repeal.

## FIRST SCHEDULE

Game animals which may be hunted and killed only as may be permitted by the conditions of a Governor's permit or an assistant's licence.

Item

- 9th. 12/1/37 - 1/5/37.
1. (a) Elephant carrying tusks each of which weighs less than 12 lb.
  2. ~~Hippopotamus in Lake Naivasha, Lake Elmenteita and Lake Nakuru.~~
  3. Buffalo in the area bounded as follows:—  
 Commencing at a point on the right bank of the Mbagathi River opposite the south-western corner of L.R. No. 7184/1;  
 thence up-stream by the right bank of that river to its intersection with the southern boundary of L.R. No. 6939;  
 thence generally westerly by the southern boundaries of that portion to its western corner;



thence generally northerly by the western boundaries of L.R. Nos. 6967, 5830/R, 5892, 5932, 4944, 4942, 193/3 to the north-western corner of the latter portion ;

thence south-westerly and north-westerly by part of the south-eastern and the south-western boundaries of L.R. No. 192/1/2 ;

thence north-westerly and north-easterly by the south-western and north-western boundaries of that portion ;

thence north-westerly by the south-western boundaries of L.R. No. 5842 and 197 ;

thence north-easterly by part of the north-western boundary of the latter portion to its intersection with the right bank of the Mbagathi River ;

thence up-stream by the right bank of that river to its intersection with the northern boundary of the Embakasi Forest Reserve ;

thence westerly and southerly by the northern and generally western boundaries of that Forest Reserve to its south-western corner ;

thence southerly by a straight line passing through Nairondi Spring to the point of intersection with the Southern Game Reserve boundary approximately two miles north-west of the trigonometrical beacon Lamwia on the Ngong Hills ;

thence south-easterly by the Southern Game Reserve boundary to the beacon Lamwia ;

thence north-easterly by that boundary to the point of commencement.

4. Greater Kudu, females everywhere ; and males everywhere except in the following areas :—

(a) The Turkana Extra-Provincial District ;

(b) The Northern Frontier Extra-Provincial District ;

excluding, however, the area lying within a radius of thirty miles from Marsabit Administration Post.

5. Roan, everywhere except in the Masai Extra-Provincial District and South Kavirondo District. *gh. uo/uo.*

6. Topi, in the Uasin Gishu District *trans Ngoin District*

7. Jackson's Hartebeeste in the Uasin Gishu District *trans Ngoin District*

8. Impala, in the following areas :—

(a) In the Kisumu area bounded as follows: From Kisumu following the railway line to Kibos Station ; thence following the Kibos River to Lake Victoria ; thence by the shore of the lake to the point of commencement.

(b) Within a distance of ten miles from the high-water mark of Lake Naivasha, except for males east of the railway line.

9. Thomas' Cob.  
 10. Yellow-backed Duiker.  
 11. Aard Wolf.  
 12. Pangolin (scaly anteater)  
 13. Vulture, all species.  
 14. Owl, all species.  
 15. Fish Eagle.  
 16. Osprey.  
 17. Secretary Bird.  
 18. Stork, all species.  
 19. Egret, all species.  
 20. Flamingo, both species.

21. Ibis, all species.
22. Ground Hornbill, both species.
23. Buff-backed Heron.
24. The following animals, when immature, or a mother when accompanied by her young :—
  - (a) Elephant.
  - (b) Rhinoceros.
  - (c) Hippopotamus. *Pl. 556/39-29. Kenia's Eagle*
  - (d) Giraffe.
  - (e) Ostrich.
  - (f) All Antelopes and Gazelles.
25. Sitatunga in the Trans Nzoia District.
26. White Colobus Monkey.
27. Any animal in a Game Reserve.

### SECOND SCHEDULE

Game animals which may be hunted and killed only as may be permitted by the conditions of a Governor's permit, a special licence, or an assistant's licence.

#### Item

1. Elephant carrying tusks of which one at least weighs 12 lb.
2. Rhinoceros.
3. Giraffe.
4. Ostrich.
5. Colobus Monkey, other than White Colobus Monkey

### THIRD SCHEDULE

The following game animals may, subject to the provisions of, and to the restrictions contained in, the First Schedule, be hunted and killed—

- (a) on Crown land, by the holder of a visitor's, serving officer's, or resident's, full licence to the numbers and subject to the restrictions herein stated and, with the consent of the owner, his agent or the lawful occupier of private land, in unlimited numbers on such land;
- (b) on Crown land, by the holder of a Governor's permit to the numbers and subject to the conditions and restrictions stated in such permit; and
- (c) on private land, with the consent of the owner, his agent or the lawful occupier of such land, in unlimited numbers by the holder of a private land licence, or of a native or Somali employee's licence.

#### Item

- |   |           |
|---|-----------|
| 1. Lion .. .. .                                   | 3         |
| but only 1 in the Masai Extra-Provincial District |           |
| 2. Leopard .. .. .                                | Unlimited |
| 3. Cheetah .. .. .                                | 1         |
| 4. Hippopotamus* .. .. .                          | 2         |
| but only 1 elsewhere than in Lake Victoria        |           |

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## Item

5. Buffalo*	.. .. .	6
6. Common Zebra	.. .. .	20
7. Grevy's Zebra	.. .. .	4
8. Eland	.. .. .	4
9. Greater Kudu,* male only..	.. .. .	1
and only in the following areas :—		
(a) The Turkana Extra-Provincial District ;		
(b) The Northern Frontier Extra-Provincial District, excluding, however, the area lying within a radius of thirty miles from Marsabit Administrative Post.		
10. Lesser Kudu	.. .. .	4
11. Bongo	.. .. .	2
but only 1 in the area comprised by the Aberdare and Kinangop ranges		
12. Sable	.. .. .	1
13. Roan*	.. .. .	1
but only in the Masai Extra-Provincial District and South Kavirondo District		
14. Wildebeeste	.. .. .	20
but only 4 elsewhere than in the Masai Extra-Provincial District.		
15. Waterbuck, <i>Defassa</i>	.. .. .	2
16. Waterbuck, <i>Ellipsiprymnus</i>	.. .. .	2
17. Oryx, Beisa	.. .. .	8
18. Oryx, Fringe-eared	.. .. .	2
19. Topi*	.. .. .	8
20. Hartebeeste, Coke's	.. .. .	10
21. Hartebeeste, Jackson's*	.. .. .	1
22. Hartebeeste, other than Coke's and Jackson's, altogether	.. .. .	1
23. Hunter's Antelope	.. .. .	1
24. Sitatunga*	.. .. .	1
25. Impala*	.. .. .	5
26. Bushbuck	.. .. .	20
27. Reedbuck, Bohor	.. .. .	4
28. Reedbuck, Chanler's	.. .. .	2
29. Grant's Gazelle	.. .. .	10
but not more in one area than as follows :—		
(a) The Northern Frontier Extra-Provincial District .. .. . 10		
(b) The Turkana Extra-Provincial District .. .. . 8		
(c) The Masai Extra-Provincial District and the Nyanza Province together .. .. . 4		
(d) The Rift Valley and Central Provinces together .. .. . 4		
(e) The Coast Province excluding the Teita District .. .. . 2		
(f) The Teita District .. .. . 4		
30. Peter's Gazelle	.. .. .	2
31. Thomson's Gazelle	.. .. .	20
32. Gerenuk	.. .. .	8
but not more than 2 may be hunted, killed or captured elsewhere than in the Northern Frontier Extra-Provincial District.. .. .		

<i>Item</i>								
33. Klipspringer	..	..	..	..	..	..	..	1
34. Steinbuck	..	..	..	..	..	..	..	4
35. Oribi, Haggard's	..	..	..	..	..	..	..	2
36. Oribi, Kenya	..	..	..	..	..	..	..	1
37. Oribi, other than Haggard's and Kenya, altogether	..	..	..	..	..	..	..	10
38. Duiker, any species, altogether*	..	..	..	..	..	..	..	20
39. Dikdik, any species, altogether	..	..	..	..	..	..	..	20
40. Pygmy Antelope	..	..	..	..	..	..	..	6
41. Blue Monkey	..	..	..	..	..	..	..	3

\*Items which are marked with an asterisk are subject to the provisions of, and to the restrictions contained in, the First Schedule.

#### FOURTH SCHEDULE

The following game animals may, subject to the provisions of, and to the restrictions contained in, the First Schedule, be hunted and killed on Crown land by the holder of a visitor's, serving officer's, or resident's, fourteen-day licence, to the numbers and subject to the restrictions herein stated, and, with the consent of the owner, his agent or the lawful occupier of private land, in unlimited numbers on such land.

<i>Item</i>								
1. Lion	..	..	..	..	..	..	..	1
2. Leopard	..	..	..	..	..	..	Unlimited	
3. Buffalo*	..	..	..	..	..	..	..	1
4. Common Zebra	..	..	..	..	..	..	..	5
5. Grevy's Zebra	..	..	..	..	..	..	..	1
6. Eland	..	..	..	..	..	..	..	1
7. Lesser Kudu	..	..	..	..	..	..	..	1
8. Wildebeeste	..	..	..	..	..	..	..	5
but only 1 elsewhere than in the Masai Extra-Provincial District								
9. Waterbuck	..	..	..	..	..	..	..	1
10. Oryx, Beisa	..	..	..	..	..	..	..	1
11. Oryx, Fringe-eared	..	..	..	..	..	..	..	1
12. Topi*	..	..	..	..	..	..	..	1
13. Hartebeeste, Coke's	..	..	..	..	..	..	..	2
14. Impala*	..	..	..	..	..	..	..	1
15. Bushbuck	..	..	..	..	..	..	..	5
16. Reedbuck, Bohor	..	..	..	..	..	..	..	1
17. Grant's Gazelle	..	..	..	..	..	..	..	4
but not more in any one area than as follows:—								
(a) The Northern Frontier Extra-Provincial District								
	..	..	..	..	..	..	..	2
(b) The Turkana Extra-Provincial District								
	..	..	..	..	..	..	..	2
(c) The Masai Extra-Provincial District and the Nyanza Province together								
	..	..	..	..	..	..	..	1
(d) The Rift Valley and Central Provinces together								
	..	..	..	..	..	..	..	1
(e) The Coast Province								
	..	..	..	..	..	..	..	1
18. Thomson's Gazelle	..	..	..	..	..	..	..	5
19. Gerenuk	..	..	..	..	..	..	..	2
but only in the Northern Frontier Extra-Provincial District								

*Item*

20. Steinbuck .. .. .	1
21. Oribi, Haggard's .. .. .	1
22. Oribi, other than Haggard's and Kenya, altogether ..	1
23. Duiker, any species, altogether* .. .. .	5
24. Dikdik, any species, altogether .. .. .	5
25. Pygmy Antelope .. .. .	1

\*Items which are marked with an asterisk are subject to the provisions of, and to the restrictions contained in, the First Schedule.

## FIFTH SCHEDULE

The following game animals may be hunted and killed—

(a) on Crown land, by the holder of a bird licence, or of a visitor's, serving officer's, or resident's, full licence, or of a visitor's, serving officer's, or resident's, fourteen-day licence to the numbers and subject to the restrictions herein stated and, with the consent of the owner, his agent or the lawful occupier of private land, in unlimited numbers on such land;

(b) in unlimited numbers by the holder of a private land licence on private land, with the consent of the owner, his agent or the lawful occupier of such land.

*Item*

1. Greater Bustard (all species) .. .. .	4
2. Lesser Bustard .. .. .	Unlimited
3. Geese .. .. .	"
4. Duck .. .. .	"
5. Teal .. .. .	"
6. Guinea Fowl .. .. .	"
7. Francolins (includes those birds known as Spur Fowl) (all species) .. .. .	"
8. Snipe .. .. .	"
9. Sandgrouse .. .. .	"
10. Quail .. .. .	"
11. Pigeons (including Doves) (all species) .. .. .	"
12. Cranes (all species) .. .. .	"
13. Plovers .. .. .	"
14. Grebes .. .. .	"
15. Waders .. .. .	"

## SIXTH SCHEDULE

## GAME RESERVES

1. *The Southern Reserve.*

Commencing at a point on the right bank of the Ngong River where it intersects the south-western limit of the 100-foot Railway Reserve on L.R. No. 1140;

thence proceeding up-stream by the right bank of that river to its intersection with the eastern boundary of the Aerodrome Road;

thence southerly by that boundary of the road to its junction with the Langata Road;

thence south-westerly by the south-eastern boundary of the latter road to its junction with the Mbagathi Road;

thence generally south-westerly by the south-eastern boundary of the latter road to its junction with the Magadi Road;

thence southerly by the eastern boundary of the latter road to the bridge over the Mbagathi River;

thence up-stream by the right bank of that river to a point near a stone beacon opposite the south-western corner of L.R. No. 7184/1;

thence south-westerly by a straight line to that stone beacon;

thence continuing south-westerly by a line defined by beacons to the trigonometrical beacon Lamwia on the Ngong Hills;

thence north-westerly by a straight line to a trigonometrical beacon Ol Doinyo Nyukie on the summit of Mount Suswa;

thence south-westerly by a straight line to Mosiro and onward by that straight line to the right bank of the Uaso Nyiro River;

thence down-stream by the right bank of that river to its intersection with the Kenya-Tanganyika boundary;

thence south-easterly by that boundary to beacon 56 (Usiri);

thence by a straight line to the source of the Rombo River;

thence down-stream by the left bank of that river to its confluence with the Tsavo River;

thence down-stream by the left bank of that river to a beacon at the southern extension of the Chyulu or Ngulia Range where the latter approaches the Tsavo River;

thence generally north-westerly by the foot of the eastern slopes of the Chyulu or Ngulia Range to Mount Kchumba;

thence north-westerly by a straight line to a beacon at the source of the Makindu River;

thence down-stream by the left bank of that river to its intersection with the south-western limit of the 100-foot Railway Reserve;

thence generally north-westerly by that 100-foot limit to the point of commencement.

*2. The Northern Reserve.*

Commencing at the north-eastern corner of L.R. No. 2379 on the E. Uaso Narok River;

thence north-westerly by the north-eastern boundary of that portion to its northern corner;

thence north-westerly by straight lines to the trigonometrical beacons Kuti and Pakka;

thence north-easterly and northerly by straight lines to the summits of the hills Poror and Kowop;

thence northerly by a straight line to the summit of Mount Nyiro;

thence easterly by a straight line to the summit of Lolajonga Hill which is approximately fifteen miles south-west of Lake Marsabit;

thence southerly by a straight line to the summit of Lodermut Hill;

thence south-westerly by a straight line to the summit of Elmonton Hill;

thence by a straight line to the foot of the northern end of the Mathews Range;

thence generally southerly by the foot of the eastern slopes of the Mathews Range and the Uaraguess Hills to the southern extremity of the latter;

thence southerly by straight lines to the summits of Lololokwi, Kalama and Koitorgor Hills;

thence southerly by a straight line to the ford at Kampi ya Nyama Yangu on the left bank of the E. Uaso Nyiro River;

thence up-stream by that bank of the River till it becomes the E. Uaso Narok River at the point of commencement.

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## SEVENTH SCHEDULE

I, A.B., do sincerely promise and swear that I will be faithful and bear true allegiance to His Majesty King George the Sixth, His Heirs and Successors according to law and that I will faithfully serve His Majesty in the office of an Honorary Game Warden in the Colony and Protectorate of Kenya.

So help me God.

## EIGHTH SCHEDULE

Animal	Date	Sex	Whether killed or captured	Locality where obtained

I, A.B., being the holder of a..... licence, do hereby solemnly affirm that the above is a true register, in accordance with the requirements of section 22 of the Game Ordinance, 1937, of all the game animals obtained by me since the commencement and during the validity of the licence stated above.

Signed.....



**ORDINANCE No. XXXIX of 1937**

Assented to in His Majesty's name this twenty-second day of December, 1937.

R. BROOKE-POPHAM,  
*Governor.*

[22ND DECEMBER, 1937.] Date of assent.

**An Ordinance to Amend the Medical Practitioners and Dentists Ordinance**

22nd December, 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 Medical Practitioners and Dentists (Amendment) Ordinance, 1937, and shall be read as one with the Medical Practitioners and Dentists Ordinance (Chapter 119 of the Revised Edition), hereinafter referred to as the Principal Ordinance.

Short title.

Cap. 119.

2. The Principal Ordinance is hereby amended by inserting immediately after section 7 thereof the following section:—

Amendment of the Principal Ordinance.

“7A. For the purposes of this Ordinance, the practice of dentistry shall be deemed to include the performance of any such operation and the giving of any such treatment, advice, or attendance as is usually performed or given by dentists, and any person who performs any operation or gives any treatment, advice, or attendance on or to any person as preparatory to or for the purpose of or in connexion with the fitting, insertion, or fixing of artificial teeth shall be deemed to have practised dentistry within the meaning of this Ordinance.”

Definition of dentistry.

3. The Principal Ordinance is hereby amended by inserting immediately after section 19 thereof the following section:—

Amendment of the Principal Ordinance.

“20. Nothing contained in this Ordinance shall be construed to prohibit or prevent—

Exemptions in respect of practising dentistry.

(a) the practice of dentistry by a medical practitioner registered or licensed under the provisions of this Ordinance;

**No. XXXIX***Medical Practitioners and Dentists* 1937*Cap. 120.*

- (b) the extraction of teeth by a druggist registered under the provisions of the Drugs and Poisons Ordinance, when—
- (i) the case is urgent; and
  - (ii) no registered medical practitioner or registered dentist is available; and
  - (iii) provided that no anæsthetic is used or administered; or
- (c) the extraction of teeth by any person when—
- (i) the case is urgent; and
  - (ii) no registered medical practitioner, registered dentist or registered druggist is available within five miles; and
  - (iii) provided that no anæsthetic is used or administered; and
  - (iv) provided no fee is charged or received.”

AD: XXIV/38  
XXV/46  
11/46

**ORDINANCE No. XL of 1937**

Assented to in His Majesty's name this twenty-ninth day of December, 1937.

**R. BROOKE-POPHAM,**  
*Governor.*

[29TH DECEMBER, 1937.] Date of assent.

**An Ordinance to provide for the Co-ordination and Control of means of and facilities for Transport**

*By Proclamation*

Date of commencement.

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

**PART I**

**PRELIMINARY**

1. This Ordinance may be cited as the Transport Licensing Ordinance, 1937, and shall come into operation on such date or dates as the Governor may by proclamation appoint, and the Governor may appoint different dates for the different purposes and different parts or provisions of this Ordinance.

Short title and commencement.

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

Interpretation.

“authorized vehicle” has the meaning assigned to it by section 5 of this Ordinance;

“carriage of goods” includes the haulage of goods;

“chairman” means the chairman of the Transport Licensing Board established under section 3 of this Ordinance;

“driver” in relation to a trailer means the driver of the vehicle by which the trailer is drawn, and where a separate person acts as steersman of a motor vehicle includes that person as well as any other person engaged in the driving of the vehicle, and the expression “drive” shall be construed accordingly;

“fares” includes sums payable in respect of a contract ticket or a season ticket;

“goods” includes goods or burden of any description;

“goods vehicle” means a motor vehicle constructed or adapted for use for the carriage of goods or a trailer so constructed or adapted;

“licence” means a licence granted under this Ordinance;

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the Governor in Council,  
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ard.

"motor vehicle" means a mechanically propelled vehicle intended or adapted for use on roads;

"owner" in relation to a vehicle which is the subject of a hiring agreement or hire purchase agreement means the person in possession of the vehicle under that agreement;

"prescribed" means prescribed by Regulations;

"public interest" means the interests and convenience of the inhabitants of the Colony as a whole;

"Regulations" means regulations made by the Governor in Council under this Ordinance;

"ship" includes every description of vessel used in navigation propelled otherwise than by oars or hand paddles and every lighter, barge, or like vessel used in navigation however propelled;

"trailer" means a vehicle drawn by a motor vehicle;

"public service vehicle" means a motor vehicle constructed or adapted for the carriage of both passengers and goods;

"road" means the carriageway or portion of any road to which the public has right of access for vehicular traffic being that portion commonly in use for vehicular traffic and includes the portion of any bridge used for that purpose;

"road authority" means the Director of Public Works or his duly authorized representative, except where the roads or any of them within any area or district have been vested in a local authority under any Ordinance, in which case the local authority or its duly authorized representative is the road authority for the purposes of this Ordinance.

PART II

APPOINTMENT OF TRANSPORT LICENSING BOARD AND LICENSING OF FORMS OF TRANSPORT

3. (1) There is hereby established a Transport Licensing Board in this Ordinance referred to as "the Licensing Authority" which shall consist of ~~five persons~~ *four persons part-time & time*  
(a) the Attorney General, who shall be chairman, and  
(b) ~~four~~ *three* such other persons as the Governor in Council may from time to time nominate.

When the Governor in Council proposes to <sup>appoint</sup> ~~n~~ nominate a person to the Licensing Authority, he shall, before making the ~~n~~ nomination, require such person to declare whether he has any, and if so what, financial interest in any transport undertaking operating in the Colony.

ad: xvii/36

There is a...  
Board...  
shall...  
appointed...  
also...  
of the...

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ad: iii/46

(2) No person shall be appointed a ~~nominated~~ member of the Licensing Authority—

(a) if he is insolvent or has assigned his estate for the benefit of his creditors or has made an arrangement with his creditors;

(b) if he is of unsound mind or has been convicted of an offence and sentenced to imprisonment therefor without the option of a fine.

(3) A ~~nominated~~ member of the Licensing Authority shall become disqualified to retain, and shall *ipso facto* cease to hold, his office as such member if he becomes subject to any of the disabilities set out in the last preceding sub-section or if he is absent from four consecutive meetings of the Licensing Authority without the leave of the Licensing Authority.

ND: XXIV / 38

Transport  
Licensing  
Council, where  
be chair  
wherever

(4) The Governor in Council may remove, on the ground of incapacity or misbehaviour, any ~~nominated~~ member of the Licensing Authority from his office.

(5) If a ~~nominated member~~ of the Licensing Authority be removed or vacate his office under this section, or die or resign before the expiry of the period for which he was appointed, his place shall be filled by an appointment by the Governor in Council; and any person appointed to fill the place of any such ~~nominated~~ member shall hold office for the remainder of the period for which such ~~nominated~~ member would otherwise have held office.

(6) The ~~nominated members~~ of the Licensing Authority shall hold office for three years, and each such ~~nominated~~ member shall be eligible for re<sup>appointment</sup> to the Licensing Authority at the expiration of each such period.

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R. BRC

<sup>Chairman</sup>  
In the absence of the Attorney General from any meeting of the Licensing Authority the chairman for such meeting shall be a public officer authorized in writing by the Attorney General.

ND: XXIV / 38

(8) At all meetings of the Licensing Authority the ~~Attorney General, or the public officer authorized by him~~ under sub-section (7) of this section, together with two other members of the Licensing Authority shall form a quorum.

Chairman or person chosen to act as chairman

(9) Meetings of the Licensing Authority shall be held at such times, on such occasions and at such places as the chairman may determine.

No. XI

AD: XXIV/38

in the previous clause  
no chairman is  
sub-section of this  
section

(10) The chairman shall have a deliberative vote and in the case of equality of votes shall also have a casting vote. A decision of the majority of the members present at a meeting of the Licensing Authority shall be deemed to be the decision of the Licensing Authority.

(11) The business of the Licensing Authority shall be conducted in such manner as may be prescribed:

Provided that until such procedure has been prescribed, the Licensing Authority shall conduct its business in such manner as the chairman may determine.

approval of  
AD III 46

(12) The Governor in Council may appoint such persons to act as officers and servants of the Licensing Authority as he considers requisite to enable it to discharge its duties under this Ordinance.

(13) There shall be paid from the revenues of the Colony to the members of the Licensing Authority and to the officers and servants appointed under sub-section (12) of this section such salaries, remuneration and allowances, if any, as the Governor in Council may determine.

(14) The Licensing Authority may delegate to any individual member of the Licensing Authority, or to any Provincial Commissioner, District Commissioner or any other person, any of its functions under this Ordinance:

Provided that any act done by any such individual member of the Licensing Authority, or by any such Provincial Commissioner, District Commissioner or other person, shall be subject to the prior approval of the chairman.

(15) All licences issued under this Ordinance and all communications from the Licensing Authority shall be under the hand of the chairman or of some other ~~public officer~~ <sup>person</sup> duly authorized by the chairman. A notification of any such authorization shall be published in the Gazette under the hand of the chairman.

Licensing Authority to submit annual report.

(16) The chairman shall submit to the Governor for publication an annual report of the proceedings of the Licensing Authority containing particulars with respect to such matters as the Governor may direct.

(17) No member of the Licensing Authority or any officer thereof shall be personally liable for any act or default done or omitted to be done in good faith in the course of the operations of the Licensing Authority under the provisions of this Ordinance.

“(3A) Where any member of authority is absent from the Colony for an excess of six weeks the Governor in Council at the request of the chairman, by notice in the Gazette, appoint a member in substitution of the member who is so absent from the Colony. The member so appointed shall hold office in the place of the member in whose place he has been appointed until the member returns to the Colony.”

“(3A) Where of the absence of the chairman of the Licensing Authority the members shall choose one of their number to act in his place at that meeting.”

4. (1) No person shall, except under and in accordance with the terms of a licence— Licensing of transport.

(a) use a motor vehicle on a road for the carriage of goods—

(i) for hire or reward; or

(ii) for or in connexion with any trade or business carried on by him.

(b) for hire or reward convey any person by means of any motor vehicle designed to carry more than six persons and the driver of such vehicle;

(c) upon the inland waters of the Colony convey by means of any ship—

(i) any goods or any person for hire or reward; or

(ii) any goods for or in connexion with any trade or business carried on by him.

(2) When a goods vehicle is being used on a road for the carriage of goods the driver of the vehicle, if it belongs to him or is in his possession under an agreement for hire, hire purchase or loan, and in any other case the person in whose ownership or possession the vehicle is, shall for the purposes of this Ordinance be deemed to be the person by whom the vehicle is being used.

(3) Where at any time goods are carried in a goods vehicle, being a vehicle which has been let on hire by the person who at the time of the carriage of the goods is within the meaning of this Ordinance the user of the vehicle, the goods shall be deemed to be carried by that person for hire or reward.

(4) For the purposes of this Ordinance—

(a) the delivery or collection by a person of goods sold, used or let on hire or hire purchase in the course of a trade or business carried on by him;

(b) the delivery or collection by a person of goods which have been, or are to be, subjected to a process or treatment in the course of a trade or business carried on by him;

(c) the carriage by a person engaged in agriculture in any locality of goods for or in connexion with the business of agriculture carried on by another person

in that locality, so long as the goods are carried in a vehicle which the person carrying them is authorized by a licence to use for the carriage of goods for or in connexion with his agricultural business;

(d) the carriage of goods in a vehicle which is being used under, and in accordance with the regulations applicable to, a licence taken out by a manufacturer or dealer under section 11 of the Traffic Ordinance, 1928, or by a repairer of mechanically propelled vehicles;

(e) the carriage of goods in a vehicle by a manufacturer, agent or dealer, whilst the vehicle is being used by him for demonstration purposes,

No. 26 of 1928.

shall not be deemed to constitute a carrying of goods for hire or reward.

(5) It is hereby declared that, for the purposes of this Ordinance, the performance by a local or public authority of its functions shall be deemed to be the carrying on of a business.

(6) This section shall not apply—

(a) to the use for any purpose other than the carriage of goods for hire or reward of a trailer when drawn by a vehicle constructed solely for the carriage of not more than six passengers, including the driver, and their effects;

(b) to the use of a vehicle for the purposes of funerals;

(c) to the use by a local authority, or a person acting in pursuance of a contract with a local authority, of a vehicle for road cleansing, road watering or the collection or disposal of refuse, night-soil, or the contents of cesspools, or for the purpose of any law relating to the weights and measures or the sale of food and drugs;

(d) to the use of a vehicle for towing a disabled motor vehicle or for removing goods from a disabled vehicle to a place of safety;

(e) to the use of any ship owned by the Government of the Colony or by the High Commissioner for Transport for the Colony of Kenya and the Protectorate of Uganda;



(f) to the use of any vehicle or class of vehicles exempted by the Governor in Council by notice in the Gazette. For the purposes of this paragraph "vehicle" includes any ship.

(7) If any person uses a goods vehicle, motor vehicle or ship in contravention of this section he shall be guilty of an offence against this Ordinance.

5. (1) The following classes of licences may be issued under the provisions of this Ordinance:— Classes of licences.

(a) For goods vehicles—

- (i) a public carrier's licence,
- (ii) a limited carrier's licence,
- (iii) a private carrier's licence.

(b) For passenger and public service vehicles—  
a road service licence.

A road service licence issued in respect of a public service vehicle may authorize the holder to carry for hire or reward both goods and passengers.

(c) For ships—

an inland water transport licence.

(2) A public carrier's licence (in this Ordinance referred to as an A licence) shall entitle the holder thereof to use the authorized vehicles, subject to any conditions attached to the licence, for the carriage of goods for hire or reward, or for the carriage of goods for or in connexion with his business as a carrier of goods, but, unless the Licensing Authority, in its discretion, otherwise determines, it shall be a condition of the licence that no vehicle which is for the time being an authorized vehicle shall be used for the carriage of goods for or in connexion with any other trade or business carried on by him except such storage or warehousing of goods as may be incidental to his business as a carrier.

In relation to a licence held by a person carrying on a dock or harbour undertaking the reference in this sub-section to the use of authorized vehicles for the carriage of goods for or in connexion with the business of the holder of a licence as a carrier of goods shall include a reference to the use of such vehicles for the carriage of goods for or in connexion with that undertaking.

(3) A limited carrier's licence (in this Ordinance referred to as a B licence) shall entitle the holder thereof to use the authorized vehicles as he thinks fit from time to time, subject to any conditions attached to the licence, for the carriage of goods for or in connexion with any trade or business carried on by him and (to such extent as may be limited by the conditions attached to the licence) for the carriage of goods for hire or reward.

(4) A private carrier's licence (in this Ordinance referred to as a C licence) shall entitle the holder thereof to use the authorized vehicles, subject to any conditions attached to the licence, for the carriage of goods for or in connexion with any trade or business carried on by him, but it shall be a condition of the licence that no vehicle which is for the time being an authorized vehicle shall be used for the carriage of goods for hire or reward other than goods sold and delivered by the holder in cases where under the contract of sale a charge is made for delivery of the goods.

Notwithstanding anything in this Ordinance contained, the Licensing Authority may, in case of emergency and subject to such conditions as it thinks fit to impose, authorize the holder of a C licence to use an authorized vehicle for the carriage of goods for any person to whom he lets the vehicle, if the authority is satisfied that the needs of that person cannot conveniently be met from other sources.

(5) In this Ordinance the expression "authorized vehicle" means in relation to any licence a vehicle authorized to be used thereunder.

(6) The vehicles authorized to be used under a licence shall be—

- (a) such motor vehicles, being vehicles belonging to the holder of the licence or in his possession under a hire purchase agreement, as are specified in the licence;
- (b) motor vehicles from time to time in the possession of the holder of the licence under an agreement for hire or loan, not exceeding at any time such maximum number as is specified in the licence;
- (c) trailers from time to time belonging to the holder of the licence or in his possession under an agreement for hire purchase, hire or loan, not exceeding at

any time such maximum number as is specified in the licence;

(d) in the case of a C licence, subject to the provisions of the next succeeding sub-section, any motor vehicle belonging to the holder of the licence or in his possession under a hire purchase agreement, but acquired by him, or coming into his possession under such an agreement, only after the grant of the licence.

For the purposes of paragraph (b) or paragraph (c) of this sub-section, different types of motor vehicles or different types of trailers, as the case may be, may be distinguished in a licence and a maximum number may be specified in the licence for vehicles or trailers of each type.

(7) A motor vehicle which is acquired by, or under a hire purchase agreement comes into the possession of, the holder of a C licence after the grant thereof shall cease to be an authorized vehicle on the expiration of one month from the date on which it was acquired by him or came into his possession, unless before the expiration of that period the holder delivers to the Licensing Authority a notice in the prescribed form of the vehicle having been acquired by him or having come into his possession.

(8) A motor vehicle specified in the licence shall not, while it remains so specified, be capable of being effectively specified in any other licence.

(9) A person may be the holder of two or more licences whether of the same class or of different classes.

6. (1) Subject to the provisions of sub-section (2) of this section, every licence shall, unless previously revoked, remain in force until the thirty-first day of December in the year in which it is issued: Provided that if on the date of the expiration of a licence proceedings are pending before the Licensing Authority on an application for the grant of a new licence in substitution for an existing licence held by the applicant, the existing licence shall continue in force until such application is disposed of.

Duration of licences.

(2) With a view to enabling goods vehicles, passenger-carrying vehicles or any ship to be used temporarily—

(a) for the purpose of a seasonal business;

(b) for the purpose of the execution of a particular piece of work; or

(c) for any other purpose of limited duration,

a licence of any class may be granted for a period of less than one year, but not exceeding three months, and any licence granted under this or the next following sub-section is in this Ordinance referred to as a short-term licence.

(3) If on the date of the expiration of a goods vehicle licence, other than a short-term licence, proceedings are pending before the Licensing Authority on an application by the holder of that licence for the grant to him of a new licence, the existing licence shall continue in force until the application is disposed of, without prejudice, however, to the exercise in the meantime of the powers of suspension and revocation conferred by this Ordinance.

Licence not transferable.

7. No licence of any class shall be transferable except with the written consent of the Licensing Authority, and in the case of an exclusive licence, with the written consent of the Governor in Council, endorsed on such licence.

Protection of public interest.

8. (1) It is hereby declared that nothing in this Ordinance is to be treated as conferring on the holder of a licence of any class any right to the continuance of any benefits arising from the provisions of this Ordinance, or from a licence, or from any conditions attached to a licence.

(2) The grant of a licence of any class under this Ordinance shall not relieve the holder from complying with the provisions of any law in force in respect to motor vehicles or ships.

Exclusive licences.

9. (1) Notwithstanding any other provisions of this Ordinance, the Licensing Authority may, with the approval of the Governor in Council, and subject to such conditions as it may think fit to impose, grant to any person an exclusive licence authorizing such person to operate vehicles or ships, as the case may be, for the carriage of passengers or goods in such areas, over such routes or between such places and for such period as the Licensing Authority may decide, and the provisions of this Ordinance regarding applications for and objections to the grant of a licence shall apply to the applications for and grant of any exclusive licence as herein mentioned.

(2) Where the Licensing Authority intends to grant an exclusive licence under the provisions of sub-section (1) of this section, it shall by notice in the Gazette and in a local newspaper circulating in the area to which the proposed exclusive licence relates, give notice of its intention to grant such licence, and no such licence shall be granted until a period of six months after the date of publication of such notice has elapsed.

### PART III

#### PROCEDURE ON APPLICATION FOR LICENCES

##### A—GOODS VEHICLE LICENCES

10. (1) In the case of goods vehicles, a person applying for a licence shall submit to the Licensing Authority a statement in the prescribed form—

Procedure on application for goods vehicles licences.

- (a) containing, as respects motor vehicles proposed to be used under the licence which belong to the applicant or are in his possession under a hire purchase agreement or which if the application is granted he intends to acquire or obtain possession of under such an agreement, such particulars as may be prescribed;
- (b) stating the number and type of hired motor vehicles and of trailers proposed to be so used; and
- (c) specifying, in the case of an application for an A licence or a B licence, the facilities for the transport of goods intended to be provided by him under the licence for other persons, including particulars of the district within which, or the places between which, it is intended that the authorized vehicles will normally be used for the purpose of carrying goods for hire or reward, and the rates proposed to be charged therefor.

(2) A separate application shall be made in respect of each permanent base or centre from which it is intended that the authorized vehicles will normally be used:

Provided that where applications are made by a person for an A or B licence in respect of two or more bases or centres the Licensing Authority may, if it thinks fit, grant a single licence in respect of those applications or any of them.

Discretion of  
Licensing  
Authority to  
grant or  
refuse goods  
vehicle licences.

11. (1) Subject to the provisions of the next succeeding section, the Licensing Authority—

(a) on an application for an A licence or for a B licence, shall have full power in its discretion either to grant or to refuse the application, or to grant a licence subject to such conditions as it may impose or to grant a licence in respect of motor vehicles other than those of which particulars were contained in the application, or in respect of motor vehicles or trailers less in number than, or differing in type from, those for the use of which authorization was applied for; and

(b) on an application for a C licence, shall grant the application, ~~subject to such conditions as may be necessary in the public interest, unless the applicant is the holder of a licence which is suspended, or unless a licence previously held by him has been revoked, in either of which cases the Licensing Authority shall have full power in its discretion either to grant or to refuse the application,~~ *or to grant a licence subject to such conditions as it may, in its discretion, impose*

(2) The Licensing Authority in exercising its discretion shall have regard primarily to the public interest, including the interest or interests of persons requiring, as well as those of persons providing, facilities for transport, and, in particular, shall have regard in the case of an application for an A licence or for a B licence—

(a) where the applicant is the holder of an existing licence of the same class, to the extent to which he is authorized to use goods vehicles thereunder for the carriage of goods for hire or reward;

(b) to the previous conduct of the applicant in the capacity of a carrier of goods;

(c) to the number and type of vehicles proposed to be used under the licence;

(d) in determining the number of vehicles to be authorized, to the need for providing for occasions when vehicles are withdrawn from service for overhaul or repair,

and, in the case of an application for a B licence, also to the extent to which the applicant intends that the vehicles proposed to be used under the licence shall be used for the carriage of goods for hire or reward.

ad xxv/46.

*licence subject to such conditions as it may, in its discretion, impose*

1937

Transport Licensing

a road service licence No. XL  
ad: XXIV/38

12. (1) If, on an application for an A or B licence/or an inland water transport licence, made not later than such date as the Governor in Council may by notice in the Gazette appoint, the applicant shows to the satisfaction of the Licensing Authority that, during the twelve months immediately preceding such date, he carried on either wholly or mainly the business of a carrier of goods/for hire or reward, the Licensing Authority shall, unless it is satisfied that, having regard to the previous character of the applicant as a carrier of goods, he is not a fit person to receive a licence, grant to the applicant a licence of the class applicable to the business carried on by him in respect of the vehicles or ships, as the case may be, regularly employed by him during the said twelve months in such business:

Protection of existing interests.

in passengers

Provided that the Licensing Authority may if it thinks fit permit the applicant to substitute for the said vehicles, or ships, as the case may be, employed by him as aforesaid, vehicles or ships of a similar type or, in the case of an application for an A or B licence, vehicles of an aggregate weight unladen not greater than the aggregate weight unladen of the said vehicles.

(2) Any licence granted pursuant to the provisions of this section shall be subject to the provisions of section 17 of this Ordinance.

(3) The provisions of this section shall apply ~~only~~ to an application for a licence in respect of the first year of the operation of this Ordinance and thereafter the provisions of section 11 of this Ordinance shall apply.

ad: XXIV/38

B—ROAD SERVICE LICENCES

13. (1) Every person applying for a road service licence shall submit to the Licensing Authority—

Procedure on application for a road service licence.

- (a) particulars of the type or types of vehicles to be used; and
- (b) in the case of regular services, the time-tables and fare-tables of the services which it is proposed to provide under the licence; and
- (c) in any other case, such particulars as to the frequency of the services and the times expected to be taken on the journeys included in those services as the Licensing Authority may require.

(2) If the licence is required in respect of a public service vehicle, the applicant shall also furnish the particulars required, in the case of an application for an "A" or "B" licence, under paragraph (c) of sub-section (1) of section 10 of this Ordinance.

Discretion of  
Licensing  
Authority to  
grant or refuse  
a road service  
licence.  
No. 26 of 1928.

14. (1) On an application for a road service licence, the Licensing Authority shall not grant such licence if it appears to it from the particulars furnished in pursuance of section 13 of the Ordinance that the provisions of the Traffic Ordinance, 1928, relating to the speed of motor vehicles are likely to be contravened, and in exercising its discretion to grant or refuse a road service licence in respect of any routes and its discretion to attach conditions to any such licence shall have regard to the following matters—

- (a) the suitability of the routes on which a service may be provided under the licence;
- (b) the extent, if any, to which the needs of the proposed routes or any of them are already adequately served;
- (c) the extent to which the proposed service is necessary or desirable in the public interest;
- (d) the needs of the areas through which the proposed routes or any of them pass as a whole in relation to traffic (including the provision of adequate, suitable and efficient services, the elimination of unnecessary services and the provision of unremunerative services) and the co-ordination of all forms of passenger transport, including transport by rail,

and take into consideration any representations or objections which may be made in the prescribed manner by persons who are already providing transport facilities along or near to the routes or any part thereof or by any local authority in whose areas any of the routes is situate.

(2) In any case in which the Licensing Authority refuses to grant a licence, or grants a licence which differs from the licence applied for, or attaches conditions to which the applicant does not agree, the Licensing Authority shall, if requested by the applicant, state in writing the reasons for its decision.



## C—INLAND WATER TRANSPORT LICENCES

15. (1) In the case of a ship every person applying for a licence for the carriage of passengers and/or goods shall submit to the Licensing Authority—

Procedure on application for inland water transport licence.

- (a) particulars of the type or types of ships to be used;
- (b) particulars of the construction of such ship;
- (c) the total number of crew to be carried in such ship;
- (d) the number of passengers such ship is intended to carry;
- (e) the places between which such ship is intended to be navigated, and the services to be provided thereby.

(2) The Licensing Authority, on an application for an inland water transport licence, shall have full power in its discretion either to grant or refuse the application, but in exercising its discretion shall have regard primarily to the public interest, to the extent to which the existing transport services serve the routes proposed to be served in the application and to the fares and rates proposed to be charged:

Discretion of Licensing Authority to grant or refuse inland water transport licence.

*subject to the provisions of section 12 of this ordinance*

Provided that, where such application is for a licence to carry passengers and/or goods over any route which includes a portion of the inland waters of either the Uganda Protectorate or the Tanganyika Territory, or both of these territories, before adjudicating upon such application the Licensing Authority shall take such steps as may appear to it to be necessary to ascertain the views upon such application of any Licensing Authority appointed in either or both of those territories.

## D—GENERAL

16. A person applying for a licence under the provisions of this Part shall, in addition to the particulars which he is required under the provisions of this Part to furnish with his application, give to the Licensing Authority any information which it may reasonably require for the discharging of its duties in relation to the application and in particular shall, if required by the Licensing Authority, submit to the Licensing Authority such particulars as the Licensing Authority may require with respect to any business as a carrier of passengers or goods for hire or reward carried on by the applicant at any time before the making of the application and of the rates charged or proposed to be charged by the applicant and of the wages and conditions and hours of employment of persons employed in connexion with the vehicles or ships proposed to be used under the licence.

Power to call for further particulars.

## PART IV

CONDITIONS, VARIATION, REVOCATION AND SUSPENSION OF LICENCES. PENALTY FOR NON-COMPLIANCE WITH CONDITIONS OF LICENCES AND OBJECTIONS TO APPLICATIONS AND APPEALS IN CONNEXION WITH LICENCES.

Conditions of licences.

17. (1) It shall be a condition of every goods vehicle or road service licence—

- (a) that any authorized vehicles are maintained in a fit and serviceable condition;
- (b) that the provisions of any law for the time being in force relating to limits of speed and weight, laden and unladen, the loading of goods vehicles, and the number of passengers to be carried, are complied with in relation to the authorized vehicles;
- (c) that the provisions of this Ordinance and of the Regulations relating to the keeping of records shall be complied with.

(2) The Licensing Authority may attach to a licence of any class all or any of the following conditions—

- (a) a condition that the authorized vehicles or ships shall or shall not be used in a specified area or over specified routes;
- (b) a condition that certain classes or descriptions of goods shall or shall not be carried;
- (c) a condition specifying the charges or the maximum or minimum charges to be made for the carriage of goods;
- (d) conditions as to the wages, conditions and hours of employment of persons employed in connexion with the authorized vehicles or ships;
- (e) a condition specifying the types and sizes of tyres that shall or shall not be used on the authorized vehicles;
- (f) such other conditions as may be prescribed in the public interest or with a view to preventing un-economic competition,

and in addition to the above in the case of goods vehicle or road service licences—

- (g) a condition specifying the maximum laden weights of any authorized vehicle;

(h) a condition specifying the number and type of vehicles and trailers to be used,

and in addition to the above in the case of B licences—

(i) a condition that they shall be so used only in a specified district or between specified places;

(j) a condition that goods shall be so carried only for specified persons.

(3) Subject to the provisions of section 14 of the Ordinance and to the Regulations, the Licensing Authority may attach to a road service licence such conditions as it may think fit with regard to the matters to which it is required to have regard under that section, and in particular for securing that—

(a) the fares shall not be unreasonable;

(b) where desirable in the public interest the fares shall be so fixed as to prevent wasteful competition with alternative forms of transport, if any, along the routes or any part thereof, or in proximity thereto;

(c) copies of the time-table and fare-table shall be carried and be available for inspection in vehicles used on the service;

(d) passengers shall not be taken up or shall not be set down except at specified points or shall not be set down between specified points,

and generally for securing the safety and convenience of the public; and the Licensing Authority may from time to time vary in such manner as it thinks fit the conditions attached to a road service licence.

(4) The Licensing Authority may, from time to time, cancel or vary any of the conditions attached to a licence under the provisions of this Ordinance.

18. (1) On the application of the holder of a goods vehicle licence of any class the Licensing Authority by whom the licence was granted may at any time during its currency vary the licence by directing that additional vehicles shall be specified therein, or that vehicles specified therein shall be removed therefrom, or that the maximum number of motor vehicles or of trailers specified in the licence in pursuance of paragraphs (b) and (c) respectively of sub-section (6) of section 5 of this Ordinance shall be increased or reduced.

Variation of goods vehicle licences.

(2) The foregoing provisions of this Ordinance as to applications for goods vehicle licences of any class, as to the grant or refusal of licences of any class (except the provisions of section 12), and as to the attaching of conditions to goods vehicle licences, shall apply in relation to the variation of any such licence: Provided that the Licensing Authority shall be bound to grant an application for a variation consisting only of the removal of a specified vehicle from the licence, or of a reduction in the maximum number specified as aforesaid, or of the specification in the licence in substitution for a specified vehicle of a vehicle of the same or of a less weight unladen.

(3) Where it comes to the knowledge of the Licensing Authority that a vehicle specified in a licence has ceased to be used under the licence for any reason other than a fluctuation in business, or is specified in another licence, it may vary the licence by directing that the vehicle shall be removed therefrom.

(4) When a Licensing Authority by whom a C licence was granted receives notice under sub-section (7) of section 5 of this Ordinance that the holder of the licence has acquired, or come into possession of, a vehicle as therein mentioned, it shall vary the licence by directing that the vehicle shall be specified therein.

Power to revoke  
or suspend  
licences.

**19.** (1) A licence of any class may be revoked or suspended by the Licensing Authority on the ground that any of the conditions of the licence have not been complied with.

(2) In any case where a licence is revoked or suspended the Licensing Authority shall, if requested by the licenceholder, state in writing under the hand of the chairman the grounds for the revocation or suspension.

(3) The Licensing Authority may, in lieu of revoking or suspending a goods vehicle licence, direct that any one or more of the vehicles specified therein shall be removed therefrom, or that the maximum number of motor vehicles or of trailers specified in the licence in pursuance of paragraphs (b) and (c) respectively of sub-section (6) of section 5 of this Ordinance shall be reduced, and references in this or any other section of this Ordinance to the revocation or suspension of a licence shall be construed as including a reference to the giving of a direction under this sub-section.

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## Transport Licensing

No. XL

**20.** (1) Subject to the provisions of this section, any person who fails to comply with any condition of a licence of any class held by him shall be guilty of an offence against this Ordinance.

Penalty for non-compliance with and exceptions from conditions of licences.

(2) In the case of a goods vehicle licence, and notwithstanding that a vehicle is an authorized vehicle, the conditions of the licence shall not apply while the vehicle is being used for any purpose for which it might lawfully be used without the authority of a licence.

**21.** (1) The Licensing Authority shall, subject as in this section hereinafter contained, publish in the prescribed manner notice of an application for a goods vehicle or road service licence specifying the time within which and the manner in which objections may be made to the grant of the application.

Objections to certain applications or variations of goods vehicle or road service licences.

(2) It shall be the duty of the Licensing Authority, on an application to which this section applies, to take into consideration any objections to the application which may be made by any local authority in whose area the routes intended to be served are situate, or by persons who are already providing facilities, whether by means of road transport or any other kind of transport, for the carriage of goods or passengers for hire or reward in the district, or between the places, which the applicant intends to serve, on the ground that suitable transport facilities in that district, or between those places, are or, if the application were granted, would be, either generally or in respect of any particular type of vehicles, in excess of requirements, or contrary to public interest, or on the ground that any of the conditions of a licence held by the applicant have not been complied with: Provided that, on an application for the grant or variation of an A licence, the Licensing Authority shall not be bound to take into consideration objections made by a person who holds a B licence and does not hold an A licence.

(3) This section shall apply to every application for the grant for one year of an A licence or of a B licence, or for the variation of such a licence by a direction that additional vehicles shall be specified therein or that the maximum number of motor vehicles or of trailers specified in the licence in pursuance of paragraphs (b) and (c) respectively of sub-section (6) of section 5 of this Ordinance shall be increased, or, in the case of a B licence, that the district specified in the licence

within which, or the places so specified between which, the vehicles can be used for the carriage of goods for hire or reward shall be varied or extended, not being—

- (a) an application which the Licensing Authority is bound to grant; or
- (b) an application for a licence to expire not later than an existing licence under which the vehicles to which the application relates are authorized to be used for the purposes of a business which the applicant has acquired or intends to acquire; or
- (c) an application as respects which the Licensing Authority is of opinion that, having regard to its trivial character, it is not necessary that any opportunity should be given for objection.

(4) This section shall apply to every application under sub-section (2) of section 6 of this Ordinance for a short-term licence unless the Licensing Authority is of opinion either—

- (a) that, having regard to the trivial nature of the application, it is not necessary that any opportunity should be given for objection; or
- (b) that the application has been made with reasonable expedition and that the demand for the use of the vehicles to be authorized under the licence is so urgent as to render compliance with the requirements of this section impracticable.

(5) The Licensing Authority may hold such inquiries as it thinks necessary for the proper exercise of its functions under this Ordinance, including inquiries into the applicant's reliability, financial stability, and the facilities at his disposal for carrying out mechanical repairs.

(6) Where, on an application for the grant of an A licence or a B licence, the Licensing Authority proposes to grant the application in respect of vehicles other than those of which particulars were contained in the application, it shall publish notice of its proposal as if that proposal were an application to which this section applies, and thereupon the provisions of this section with respect to the making and consideration of objections shall apply accordingly:

Provided that it shall not be necessary for the Licensing Authority to publish such a notice if it is satisfied that the

variation, subject to which it proposes to grant the application, will not materially increase the total carrying capacity of the authorized vehicles.

22. (1) The Licensing Authority shall, in the case of an application for an inland water transport licence, publish in the prescribed manner notice of such application specifying the time within which, and the manner in which, objections may be made to the grant of the licence.

Objections to applications for inland water transport licence.

(2) On any such application, the Licensing Authority shall take into consideration any objections to the application which may be made by persons who are already providing transport facilities for the carriage of goods or passengers for hire or reward between the same places which the applicant intends to serve.

22b  
23. (1) Any person who—

- (a) being an applicant for the grant or variation of a licence, is aggrieved by the decision of the Licensing Authority on the application; or
- (b) having duly made an objection to any such application as aforesaid, being an objection which the Licensing Authority is bound to take into consideration, is aggrieved by the decision of the Licensing Authority thereon; or
- (c) being the holder of a licence, is aggrieved by the revocation or suspension thereof,

Provision for appeals in connexion with licences.

may within the prescribed time and in the prescribed manner appeal to the Supreme Court.

(2) The case shall be heard by a judge of the Supreme Court to be assigned by the Chief Justice for the purpose.

(3) In hearing any such appeal such judge shall have all the powers which may be exercised by a judge in the hearing of an ordinary civil suit, and may permit any party to appear before him either personally or by advocate.

## PART V

### OFFENCES AND PROSECUTIONS

24. (1) If, with intent to deceive, any person—

- (a) forges within the meaning of Chapter XXXIV of the Penal Code, or alters or uses or lends to or allows to be used by any other person a licence, or any

Forgery, etc., of licences.

No. 10 of 1930.

document, plate or mark by which the subject of the licence is to be identified as being licensed under this Ordinance; or

- (b) makes or has in his possession any document, plate or mark so closely resembling a licence, or any such document, plate or mark as aforesaid, as to be calculated to deceive; or
- (c) alters an entry in a record under section 29 of this Ordinance,

he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

(2) If any person, for the purpose of obtaining the grant of a licence to himself or any other person, or the variation of a licence, or for the purpose of preventing the grant or variation of any licence or of procuring the importation of any condition or limitation in relation to a licence, knowingly makes any false statement, he shall be guilty of an offence under this Ordinance and be liable on conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Prosecutions and penalties for offences.

25. (1) A person guilty of an offence under this Ordinance for which no special penalty is provided shall be liable, in the case of a first offence, to a fine not exceeding twenty pounds, and in the case of a second and subsequent conviction to a fine not exceeding fifty pounds.

(2) If any person acts in contravention of, or fails to comply with, the Regulations, and contravention of or failure to comply with the Regulations is not made an offence under any other provision of this Ordinance, he shall, for each offence, be liable on conviction before a magistrate of the first or second class to such maximum penalty, not exceeding a fine of twenty pounds, as may be prescribed by the Regulations.

#### PART VI

##### MISCELLANEOUS PROVISIONS

Financial provisions.

26. All fees payable under this Ordinance and all fines imposed in respect of offences under this Ordinance or the Regulations shall be paid into the general revenue of the Colony.



**27.** Such fees, payable at such times and in such manner as the Governor in Council may prescribe, shall be charged by the Licensing Authority in respect of the grant or variation of licences.

Fees in respect of licences.

**28.** (1) The Governor in Council may make Regulations for any purpose for which Regulations may be made under this Ordinance and for prescribing anything which may be prescribed under this Ordinance and generally for the purpose of carrying this Ordinance into effect, and, in particular, but without prejudice to the generality of the foregoing provisions, may make Regulations with respect to any of the following matters—

General power of making Regulations.

- (a) the forms to be used and the particulars to be furnished for any of the purposes of this Ordinance;
- (b) the procedure on applications for, and the determination of questions in connexion with, the grant, variation, suspension and revocation of licences;
- (c) the issue of licences, and the issue of copies of licences in the case of licences lost or destroyed;
- (d) the means by which vehicles or ships are to be identified, whether by plates, marks or otherwise, as being authorized for use under this Ordinance;
- (e) the custody of licences, the production, return and cancellation of licences on expiration, suspension or revocation, and the custody, production and return of documents and plates; and
- (f) the notification to the Licensing Authority of vehicles or ships which have ceased to be used under a licence,

and in the case of vehicles different Regulations may be made as respects different classes or descriptions thereof and as respects the same class or description of vehicles in different circumstances.

(2) All regulations made under this section shall have the same force and effect as if they had been enacted in this Ordinance and shall be laid as soon as conveniently may be before the Legislative Council; and if a resolution is passed within forty days of their being so laid before the Legislative Council praying that any such regulation shall be revoked or amended, such regulation shall thenceforth be deemed to be revoked or amended, but without prejudice to anything done thereunder.

Records as to  
hours of work,  
journeys,  
loads, etc.

29. (1) Subject to the provisions of the Regulations, the holder of a licence shall, if required by the Licensing Authority, keep or cause to be kept, in accordance with the Regulations, current records showing—

- (a) as respects every person employed by him as a driver or statutory attendant of an authorized vehicle, or master of a ship, the times at which that person commenced and ceased work and particulars of his intervals of rest and the like information as respects himself when acting as such a driver or attendant or master;
- (b) as respects every journey of a vehicle or ship on which goods are carried under the licence, particulars of the journey, of the rates charged and of the greatest weight of goods carried by the vehicle or ship at any time during the period to which the record relates and the description and destination of the goods carried.

and the Regulations may make provision for requiring drivers of authorized vehicles and masters of ships, to carry the prescribed documents and to make any prescribed entries therein.

(2) Subject to the provisions of the Regulations, the Licensing Authority may dispense with the observance, as respects the carriage of goods under a licence granted by it, of any requirements of the Regulations, and may grant such dispensation either generally or as respects any particular vehicle or ship or as respects the use of vehicles or ships for any particular purpose.

(3) The holder of a licence shall preserve every record kept under the Regulations for a period of six months, commencing on the date on which the record is made, and for such further period, not exceeding six months, as may be required by the Licensing Authority or a police officer not below the rank of superintendent, and during the period for which he is required by or under this sub-section to preserve a record shall, if required so to do at any time by the Licensing Authority or by any person authorized in that behalf by the Licensing Authority or by any person authorized in that behalf by a police officer not below the rank of superintendent, produce the record for the inspection of the Licensing Authority or of the person so authorized.

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Transport Licensing

No. XL

(4) If any person fails to comply with the provisions of this section or of the Regulations, he shall be guilty of an offence under this Ordinance. *in writing*

*W:XXIV/38*

30. (1) Any police officer, ~~or any other person duly authorized in writing by the Licensing Authority,~~ may stop any vehicle or ship and/or inspect any vehicle or ship with a view to ascertaining whether or not the provisions of this Ordinance or of any Regulations made thereunder are being complied with, and may demand for inspection the production of any licence, certificate, document or record of any description whatsoever which may, under the provisions of this Ordinance or of any Regulations made thereunder, be required to be carried on such vehicle or ship, and may require the driver or any other person travelling on such vehicle or ship to give such information as such police officer ~~or such authorized person~~ may reasonably request in order to ascertain whether or not the provisions of this Ordinance or Regulations are being complied with.

Power to stop and inspect vehicles.

(2) Any person who obstructs any police officer ~~or duly authorized person~~ in the exercise of the powers conferred on such police officer ~~or such authorized person~~ by this section, or fails to comply with any lawful order given by such police officer ~~or such authorized person~~ or refuses to give any information when requested so to do by such police officer ~~or such authorized person~~ shall be guilty of an offence under this Ordinance.

31. Any police officer, of or above the rank of assistant sub-inspector, having reasonable grounds for believing that any person has committed an offence against this Ordinance and that such person will not attend the court in answer to any process which may be issued against him, may arrest such person without a warrant.

Arrest.

**ORDINANCE No. XLI of 1937**

Assented to in His Majesty's name this twenty-second day of December, 1937.

R. BROOKE-POPHAM,  
*Governor.*

Date of assent.

[22ND DECEMBER, 1937.]

**An Ordinance to Apply a Sum of Money for the Service of the Year ending the Thirty-first day of December, 1938**

Date of commencement.

*1st January, 1938*

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 1938 Appropriation Ordinance, 1937.

2. The Public Revenue for the year 1938, 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-eight, with the sum of three millions, five hundred and seventy-seven thousands, nine hundred and eighteen pounds.

Application of money granted.

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

Treasurer's authority for payment.

4. The Treasurer of the Colony and Protectorate of Kenya is hereby authorized and required from time to time upon the warrant or order of the Governor to pay out of the Revenue and other funds of the Colony and Protectorate of Kenya, for the several services specified in the Schedule, the said sum of three millions, five hundred and seventy-seven thousands, nine hundred and eighteen 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-eight.

**SCHEDULE**

<i>No. of Head.</i>		£
I	His Excellency the Governor ...	16,005
II	Administration ... ..	225,630
IIA	Administration Extraordinary ...	1,340
III	Agriculture ... ..	77,666
IIIA	Agriculture Extraordinary ... ..	1,303

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Appropriation

No. XLI

## SCHEDULE—Contd.

No. of Head.		£
IV	Audit ... ..	20,947
V	Civil Aviation ... ..	24,359
VI	Coast Agency ... ..	5,438
VII	Conference of East African Governors	955
VIII	Customs ... ..	49,998
VIII A	Customs Extraordinary ... ..	105
IX	Education ... ..	197,427
IX A	Education Extraordinary ... ..	350
X	Forest ... ..	32,262
X A	Forest Extraordinary ... ..	60
XI	Game ... ..	8,466
XII	Government Analyst ... ..	2,210
XIII	Interest and Unfunded Debt ... ..	4,177
XIV	Judicial ... ..	31,203
XV	Kenya Royal Naval Volunteer Reserve ... ..	5,626
XV A	Kenya Royal Naval Volunteer Reserve Extraordinary ... ..	12,627
XVI	Legal ... ..	9,624
XVI A	Legal Extraordinary ... ..	25
XVII	Local Government, Lands and Settlement ... ..	35,110
XVII A	Local Government, Lands and Settlement Extraordinary ... ..	155
XVIII	Local Government Contributions to Local Authorities ... ..	109,348
XVIII A	Local Government Contributions to Local Authorities Extraordinary ... ..	1,762
XIX	Medical ... ..	215,163
XIX A	Medical Extraordinary ... ..	2,925
XX	Military ... ..	152,028
XX A	Military Extraordinary ... ..	18,112
XXI	Mining and Geological ... ..	10,799
XXI A	Mining and Geological Extraordinary ... ..	125
XXII	Miscellaneous Services ... ..	32,835
XXII A	Miscellaneous Services Extraordinary ... ..	3,425
XXIII	Pensions and Gratuities ... ..	231,500
XXIV	Police ... ..	143,984
XXIV A	Police Extraordinary ... ..	1,233
XXV	Posts and Telegraphs ... ..	259,626
XXV A	Posts and Telegraphs Extraordinary ... ..	30,770
XXVI	Printing and Stationery ... ..	33,754

SCHEDULE—*Contd.*

<i>No. of Head.</i>		£
XXVII	Prisons ... ..	56,737
XXVIII	Public Debt Funded ... ..	1,054,502
XXIX	Public Works Department ... ..	95,753
XXX	Public Works Recurrent ... ..	117,937
XXXI	Registrar General's Department ... ..	5,179
XXXII	Rent and Interest to His Highness the Sultan of Zanzibar ... ..	16,000
XXXIII	Secretariat and Legislative Council ... ..	27,473
XXXIV	Trade and Information Office ... ..	2,950
XXXV	Treasury and Inland Revenue Office ... ..	37,012
XXXVA	Treasury and Inland Revenue Office Extraordinary ... ..	170
XXXVI	Veterinary Services ... ..	63,770
XXXVIA	Veterinary Services Extraordinary ... ..	1,080
XXXVII	Public Works Extraordinary ... ..	38,759
XXXVIII	Colonial Development Fund ... ..	42,020
XXXIX	Parliamentary Grant ... ..	8,119
		<hr/>
		£3,577,918

**ORDINANCE No. XLII of 1937**

Assented to in His Majesty's name this twenty-ninth day of December, 1937.

R. BROOKE-POPHAM,  
*Governor.*

[29TH DECEMBER, 1937.] Date of assent.

**An Ordinance to Declare the Rights of the Crown to Mineral Oil**

*29th December, 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 Mineral Oil Ordinance, 1937. Short title.

2. In this Ordinance "mineral oil" includes natural gas, bitumen, asphalt and other bituminous substances with the exception of coal. Interpretation.

3. In order to remove doubts it is hereby declared that, notwithstanding anything to the contrary in any other law contained, the property in all mineral oil existing in its natural condition in strata in the Colony and Protectorate of Kenya is, and shall be deemed always to have been, vested in the Crown, and that any grant of mineral rights contained in any conveyance, grant, lease, or licence, from the Crown, or in any certificate of title issued under the provisions of the Land Titles Ordinance, shall be deemed not to include mineral oil unless mineral oil is expressly mentioned as being included therein. Declaration that mineral oil is property of Crown.

Cap. 143.