

CHIEF NATIVE COMMISSIONER.



COLONY AND PROTECTORATE OF KENYA

ORDINANCES

ENACTED DURING THE YEAR

1931

VOL. X (NEW SERIES)

NAIROBI:

PRINTED BY THE GOVERNMENT PRINTER,

1932.

CENTRAL GOVERNMENT LIBRARY	
80-838	

INDEX TO ORDINANCES, 1931

ORDINANCE	No.	Page
1932 APPROPRIATION	54	253
ARBITRATION (FOREIGN AWARDS) (AMENDMENT) ..	27	164
ARMS (TRAFFIC WITH ABYSSINIA)	29	157
ASIATIC WIDOWS' AND ORPHANS' PENSION (AMENDMENT)	10	92
BEER (AMENDMENT)	31	132
BIRTHS AND DEATHS REGISTRATION (AMENDMENT) ..	25	161
BOWRING PENSION	13	103
BUTTER LEVY	22	127
CARRIAGE OF GOODS BY MOTOR (CONTROL)	23	131
CARRIAGE OF GOODS BY MOTOR (CONTROL) (AMENDMENT)	33	186
CIVIL PROCEDURE (AMENDMENT)	28	165
CO-OPERATIVE SOCIETIES (REGISTRATION)	24	139
CORPORATIONS (PROBATE AND ADMINISTRATION) ..	14	104
CORPORATIONS (PROBATE AND ADMINISTRATION) (AMENDMENT)	40	194
COURTS	16	107
CUSTOMS MANAGEMENT (AMENDMENT)	34	137
CUSTOMS TARIFF (AMENDMENT)	4	63
CUSTOMS TARIFF (AMENDMENT NO. 2)	30	177
DEFENCE FORCE (AMENDMENT)	47	211
EDUCATION	2	37
ENTERTAINMENTS TAX	56	260
EUROPEAN OFFICERS' PENSIONS (AMENDMENT)	7	88
EXCISE DUTIES	52	246
EXCISE DUTIES AGREEMENTS	53	251
EXPLOSIVES (AMENDMENT)	35	188
GAME BIRDS PROTECTION (AMENDMENT)	36	189
GERMAN MISSIONS (REPEAL)	8	89
HALL PENSION	42	197
KENYA ROYAL NAVAL VOLUNTEER RESERVE	45	200
KING'S AFRICAN RIFLES RESERVE OF OFFICERS (AMENDMENT)	37	190
LAND AND AGRICULTURAL BANK	3	57
LAND SURVEYORS (AMENDMENT)	15	106
LEGITIMACY (AMENDMENT)	26	162
LEVY ON OFFICIAL SALARIES	57	265
LEVY ON SALARIES (TRANSPORT SERVICES)	58	268
LIQUOR (AMENDMENT)	38	191
LOCAL GOVERNMENT (DISTRICT COUNCILS) (AMENDMENT)	19	119
LOCAL GOVERNMENT (ELDORET EUROPEAN HOSPITAL RATE)	18	117
LOCAL GOVERNMENT (MUNICIPALITIES) (AMENDMENT) ..	20	122

INDEX TO ORDINANCES, 1931—(Continued)

ORDINANCE	No.	Page
MAIZE SUBSIDY REPAYMENT	17	113
MAZRUI LANDS TRUST	11	96
MINING	1	1 <i>Repealed.</i>
NATIVE AUTHORITY (AMENDMENT)	43	198
NATIVE CHRISTIAN MARRIAGE AND DIVORCE	51	242
NATIVE LIQUOR (AMENDMENT)	39	193
NURSING SISTERS (RETIRING ALLOWANCES)	21	124
PENAL CODE (AMENDMENT)	41	196
POST OFFICE (AMENDMENT)	6	87
REGISTRAR OF THE SUPREME COURT (OATHS)	12	102
REGISTRATION OF DOMESTIC SERVANTS (AMENDMENT)	46	206
REGISTRATION OF TITLES (AMENDMENT)	32	183
ROADS IN NATIVE RESERVES (REPEAL)	44	199
SALE OF WHEAT (AMENDMENT)	49	239
1930 SUPPLEMENTARY APPROPRIATION	50	240
TOWN PLANNING AND DEVELOPMENT	48	214
TRAFFIC (AMENDMENT)	55	257
WIDOWS' AND ORPHANS' PENSION (AMENDMENT)	9	90
WINES AND SPIRITS CONSUMPTION TAX (REPEAL)	5	86

ORDINANCES, 1931
CHRONOLOGICAL TABLE

No.	Title	Date of Assent	Date of Commencement	Page
I	Mining Ordinance, 1930	11-2-31	By Notice	1
II	Education Ordinance, 1931	11-2-31	11-2-31	37
III	Land and Agricultural Bank Ordinance, 1930	20-2-31	3-3-31	57
IV	Customs Tariff (Amendment) Ordinance, 1931	16-6-31	16-6-31	83
V	Wines and Spirits Consumption Tax (Repeal) Ordinance, 1931	16-6-31	16-6-31	86
VI	Post Office (Amendment) Ordinance, 1931	10-7-31	10-7-31	87
VII	European Officers' Pensions (Amendment) Ordinance, 1931	10-7-31	10-7-31	88
VIII	German Missions (Repeal) Ordinance, 1931	10-7-31	10-7-31	89
IX	Widows' and Orphans' Pension (Amendment) Ordinance, 1931.. .. .	10-7-31	10-7-31	90
X	Asiatic Widows' and Orphans' Pension (Amendment) Ordinance, 1931	10-7-31	10-7-31	92
XI	Mazrui Lands Trust Ordinance, 1931	10-7-31	10-7-31	96
XII	Registrar of the Supreme Court (Oaths) Ordinance, 1931	10-7-31	10-7-31	102
XIII	Bowring Pension Ordinance, 1931.. .. .	10-7-31	10-7-31	103
XIV	Corporations (Probate and Administration) Ordinance, 1931	10-7-31	10-7-31	104
XV	Land Surveyors (Amendment) Ordinance, 1931	10-7-31	10-7-31	106
XVI	Courts Ordinance, 1931	10-7-31	By Proclamation	107
XVII	Maize Subsidy Repayment Ordinance, 1931	10-7-31	10-7-31	113
XVIII	Local Government (Eldoret European Hospital Rate) Ordinance, 1931	14-7-31	14-7-31	117

CHRONOLOGICAL TABLE—(Continued)

No.	Title	Date of Assent	Date of Commencement	Page
XIX	Local Government (District Councils) (Amendment) Ordinance, 1931 ..	14-7-31	14-7-31	119
XX	Local Government (Municipalities) (Amendment) Ordinance, 1931 ..	14-7-31	14-7-31	122
XXI	Nursing Sisters (Retiring Allowances) Ordinance, 1931 ..	14-7-31	1-1-29	124
XXII	Butter Levy Ordinance, 1931 ..	14-7-31	14-7-31	127
XXIII	Carriage of Goods by Motor (Control) Ordinance, 1931 ..	8-9-31	By Notice	131
XXIV	Co-operative Societies (Registration) Ordinance, 1931 ..	8-9-31	8-9-31	139
XXV	Births and Deaths Registration (Amendment) Ordinance, 1931 ..	8-9-31	8-9-31	161
XXVI	Legitimacy (Amendment) Ordinance, 1931 ..	8-9-31	8-9-31	162
XXVII	Arbitration (Foreign Awards) (Amendment) Ordinance, 1931 ..	8-9-31	8-9-31	164
XXVIII	Civil Procedure (Amendment) Ordinance, 1931 ..	8-9-31	8-9-31	165
XXIX	Arms (Traffic with Abyssinia) Ordinance, 1931 ..	26-9-31	26-9-31	167
XXX	Customs Tariff (Amendment No. 2) Ordinance, 1931 ..	4-12-31	4-12-31	177
XXXI	Beer (Amendment) Ordinance, 1931 ..	4-12-31	4-12-31	182
XXXII	Registration of Titles (Amendment) Ordinance, 1931 ..	15-12-31	15-12-31	183
XXXIII	Carriage of Goods by Motor (Control) (Amendment) Ordinance, 1931 ..	15-12-31	15-12-31	186
XXXIV	Customs Management (Amendment) Ordinance, 1931 ..	15-12-31	15-12-31	187
XXXV	Explosives (Amendment) Ordinance, 1931 ..	15-12-31	15-12-31	188
XXXVI	Game Birds Protection (Amendment) Ordinance, 1931 ..	15-12-31	15-12-31	189

CHRONOLOGICAL TABLE—(Continued)

No.	Title	Date of Assent	Date of Commencement	Page
XXXVII	King's African Rifles Reserve of Officers (Amendment) Ordinance, 1931	15-12-31	15-12-31	190
XXXVIII	Liquor (Amendment) Ordinance, 1931	13-12-31	13-12-31	191
XXXIX	Native Liquor (Amendment) Ordinance, 1931	13-12-31	13-12-31	193
XL	Corporations (Probate and Administration) (Amendment) Ordinance, 1931	15-12-31	15-12-31	194
XLI	Penal Code (Amendment) Ordinance, 1931	15-12-31	15-12-31	196
XLII	Hall Pension Ordinance, 1931 ..	15-12-31	15-12-31	197
XLIII	Native Authority (Amendment) Ordinance, 1931	15-12-31	15-12-31	198
XLIV	Roads in Native Reserves (Repeal) Ordinance, 1931	15-12-31	15-12-31	199
XLV	Kenya Royal Naval Volunteer Reserve Ordinance, 1931	15-12-31	By Proclamation	200
XLVI	Registration of Domestic Servants (Amendment) Ordinance, 1931 ..	15-12-31	15-12-31	206
XLVII	Defence Force (Amendment) Ordinance, 1931	15-12-31	15-12-31	211
XLVIII	Town Planning and Development Ordinance, 1931	18-12-31	18-12-31	214
XLIX	Sale of Wheat (Amendment) Ordinance, 1931	17-12-31	17-12-31	239
L	1930 Supplementary Appropriation Ordinance, 1931	17-12-31	17-12-31	240
LI	Native Christian Marriage and Divorce Ordinance, 1931 ..	17-12-31	17-12-31	242
LII	Excise Duties Ordinance, 1931 ..	17-12-31	1-1-32	246
LIII	Excise Duties Agreements Ordinance, 1931	17-12-31	17-12-31	251
LIV	1932 Appropriation Ordinance, 1931	15-12-31	15-12-31	253
LV	Traffic (Amendment) Ordinance, 1931	23-12-31	23-12-31	257
LVI	Entertainments Tax Ordinance, 1931	23-12-31	23-12-31	260
LVII	Levy on Official Salaries Ordinance, 1931	18-12-31	1-1-32	265
LVIII	Levy on Salaries (Transport Services) Ordinance, 1931	18-12-31	1-1-32	268

TABLE SHOWING THE EFFECT OF THE YEAR'S LEGISLATION
FORMER ORDINANCES (in Chronological Order) REPEALED OR AMENDED BY ORDINANCES OF 1931

Year and No. of Ordinance	Short Title	How Affected	Ordinance of 1931
<i>Revised Edition</i>			
<i>Cap.</i> 5	Courts	Repealed.. .. .	16
" 34	Widows' and Orphans' Pension	Amends Sections 2, 4(3) and 8. Adds Section giving option to con- tribute to officers enumerated in the Schedule	9
" 71	Liquor	Repeals and replaces Section 11. Amends Sections 13, 24, 25(2) and 28	38
" 85	Town Planning	Repealed.. .. .	48
" 100	Beer.. .. .	Amends Section 4	31
" 114	Roads in Native Reserves	Repealed.. .. .	44
" 117	Post Office Amendment	Amends Schedule	6
" 129	Native Authority	Amends Section 8	43
" 142	Registration of Titles	Amends Section 46. Adds Section providing that Part VIII shall not apply to a charge by deposit of Documents of Title. Repeals and replaces Section 66. Adds Section providing for discharge. Repeals and replaces Forms "U" and "V" in Schedule I. Adds Section regarding date of commencement	32
" 168	Native Christian Marriage	Repealed.. .. .	51
3 of 1924	Civil Procedure	Amends Section 48	28
5 of 1924	German Missions	Repealed.. .. .	8
17 of 1924	Education	Repealed.. .. .	2
3 of 1925	Mining	Repealed.. .. .	1
14 of 1925	Mining (Amendment)	Repealed.. .. .	1
8 of 1926	Game Birds Protection	Adds Section regarding hunting, etc., on private land.. .. .	36

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

FORMER ORDINANCES (in Chronological Order) REPEALED OR AMENDED BY ORDINANCES OF 1931

Year and No. of Ordinance	Short Title	How Affected	Ordinance of 1931
11 of 1926	Town Planning (Amendment)	Repealed.. .. .	43
20 of 1926	Mining (Amendment)	Repealed.. .. .	1
25 of 1926	Customs Management	Adds Sections regarding interpretation of "motor vehicle," and exemption of motor vehicles imported for temporary stay in the Colony.. .. .	34
26 of 1926	Wines and Spirits Consumption Tax.. .. .	Repealed.. .. .	5
11 of 1927	European Officers' Pensions	Repeals and replaces Section 12	7
12 of 1927	King's African Rifles Reserve of Officers	Repeals and replaces Section 3	37
14 of 1927	Town Planning (Amendment)	Repealed.. .. .	42
20 of 1927	Asiatic Widows' and Orphans' Pension	Repeals Section 3. Repeals and replaces Section 4(2) and (4). Amends Sections 5, 7, 8, 9 and 17. Adds Sections regarding who may but need not become contributors; share of pensions; contributions of officers transferred to other Administrations; and Sections 23 and 29 not to apply in certain cases.. .. .	10
2 of 1928	Births and Deaths Registration	Adds Section regarding Powers and Duties of Principal Registrar of Births and Deaths	25
12 of 1928	Defence Force	Repeals and replaces Sections 4(1), 6 and 7. Amends Sections 11, 14(1), 25 and 27	47
19 of 1928	Local Government (Municipalities)	Amends Section 52	20
21 of 1928	Local Government (District Councils).. .. .	Amends Section 57. Repeals and replaces Sections 57(8) and 101	19
25 of 1928	Traffic	Section 2. Repeals and replaces Section 30. Adds Section regarding licence to drive a motor vehicle	55

TABLE SHOWING THE EFFECT OF THE YEAR'S LEGISLATION—(Continued)
 FORMER ORDINANCES (in Chronological Order) REPEALED OR AMENDED BY ORDINANCES OF 1931

Year and No. of Ordinance	Short Title	How Affected	Ordinance of 1931
11 of 1929	Registration of Domestic Servants	Amends Sections 3, 7 and 9. Repeals and replaces Sections 10 and 12. Amends Sections 13, 15, 16, 17, 18 and 20. Adds Section regarding extra Pocket Registers to be sent to Registrar	46
13 of 1929	Explosives	Amends Section 8. Adds Section regarding issue of duplicates of Licences or Permits	35
1 of 1930	Customs Tariff	Amends Schedule and General Notes	4
1 of 1930	Customs Tariff	Amends Section 4, Schedule and General Notes	30
2 of 1930	Courts (Amendment)	Repealed	16
10 of 1930	Penal Code	Repeals and replaces Section 28(iv)	41
23 of 1930	Legitimacy	Amends Sections 3(1), 4 and 5	26
34 of 1930	Arbitration (Foreign Awards)	Amends Section 2	27
36 of 1930	Native Liquor	Repeals and replaces Section 15(2). Amends Section 25	39
42 of 1930	Sale of Wheat	Amends Section 15	49
60 of 1930	Land Surveyors (Amendment)	Amends Section 4	15
14 of 1931	Corporations (Probate and Administration)	Amends Section 2	40
23 of 1931	Carnage of Goods by Motor (Control)	Adds to Section 8(2)	33

COLONY AND PROTECTORATE OF KENYA.



An Ordinance to Consolidate and Amend the
Law Relating to Mining.

ARRANGEMENT OF SECTIONS.

1. Short title and commencement.

PART I.

GENERAL.

2. Interpretation.
3. Prospecting in closed districts.
4. Mineral oil excluded from this Ordinance.
5. Control and property in minerals and mineral oils vested in the Governor.
6. Penalty for prospecting or mining without authority.
7. Saving for native custom.
8. Employment of officers.
9. Powers of Commissioner may be exercised by other officers.
10. No action lies against officers for acts done in execution of their duties.
11. Royalties.

PART II.

PROSPECTING.

12. Prospecting right.
13. Lands excluded from prospecting.
14. Native reserves.
15. Prospecting right privileges.
16. Prospecting on private land.
17. Authority to prospect on land excluded.
18. Exclusive prospecting licences.
19. Penalty for giving false information.

20. Rights under an exclusive prospecting licence.
21. Transfer of rights under licence.
22. Amalgamation of prospecting licence areas.
23. Disposal of minerals obtained in prospecting.
24. Obligation of the holder of an exclusive prospecting licence.
25. Records of prospecting operations.
26. Payment of compensation to owners or occupiers of land.
27. Revocation of prospecting right or exclusive prospecting licence.

PART III.

MINING.

28. Mining : when lawful.
29. Rents.
30. One alluvial claim only to be held in the case of precious metals or stones.
31. " Reward claims ".
32. Registration of claims.
33. Duration of claim.
34. Registration of transfer.
35. Failure to register.
36. Rights under a claim.
37. Amalgamation of claims.
38. Transfer of claims and interests therein.
39. Claims when liable to forfeiture by the Commissioner.
40. Obligation on abandonment.
41. Penalty for false representation.
42. Application of sections 16 and 26 to claims.
43. Grant of leases.
44. Applications for leases.
45. Applicant to show sufficient capital.
46. Giving false information.
47. Duration of lease.
48. Renewal of lease.
49. Surrender of lease.
50. Amalgamation of leases.
51. No transfer of lease without consent.
52. Special lease.
53. Rights under a lease.
54. Mining for mineral other than that for which lease granted.
55. Surface rights of lessee.

- 56. Mining near public buildings, railways, etc., prohibited except with the consent of the Governor.
- 57. Notice to private occupiers who may demand security.
- 58. Right of lessee and claim-holder to take timber.
- 59. Treatment of tailings, etc., after determination of lease.
- 60. Grounds for forfeiture of lease.
- 61. Discovery to be reported.
- 62. Subterranean limits.
- 63. Penalty on non-payment of rent.
- 64. Rent, how recoverable.
- 65. Registration of leases, etc.
- 66. Extension after breach.
- 67. Owner may remove plant.

PART IV.

DISPUTES.

- 68. Commissioner may decide disputes.
- 69. Procedure.
- 70. Commissioner to keep record and take notes.
- 71. Enforcement of Commissioner's decrees.
- 72. Appeal to Supreme Court from decisions of the Commissioner.
- 73. Jurisdiction of ordinary courts not excluded.

PART V.

POSSESSION AND PURCHASE OF CERTAIN MINERALS.

- 74. Minerals to which this Part applies.
- 75. Possession of minerals.
- 76. Purchase of minerals.
- 77. Licence to purchase minerals.
- 78. Restriction on purchase.
- 79. Payment of royalties by licensee
- 80. Books to be kept by licensee.
- 81. Penalties.

PART VI.

INSPECTION AND ACCIDENTS.

- 82. Powers of officers.
- 83. Obligation to remedy any dangerous practice.
- 84. Proceedings on objection to comply with notice.
- 85. Proceedings on failure to comply with notice.
- 86. Agreement not to preclude or exempt.
- 87. Proceedings in case of accidents.
- 88. Compensation on death of, or injury to, native.

PART VII.

MISCELLANEOUS.

89. Compensation on acquisition of land by Government.
 90. Power to remove materials.
 91. Subsequent grants.
 92. Protection of estate of deceased person, bankrupt, or lunatic.
 93. Government officers prohibited from acquiring rights.
 94. Discovery of mineral by Government servant.
 95. Salting.
 96. Obstructing officer.
 97. Penalty for interfering with mining, etc.
 98. Power of Commissioner to conduct prosecutions.
 99. Power to arrest.
 100. General penalty.
 101. Power to make regulations.
 102. Repeal.
-

Confirms: v.
C. No. 91/1932.
P. R. & P. P. 61/1932.

Confirmation
v. P. R. & P. P. 1933. P. 141.

Amended v. 519 15/1932.
" " " " 52/1932.

Repealed by
Act: LXI/23

AN ORDINANCE.

No. 1 of 1931.

Assented to in His Majesty's name this eleventh day of February, 1931.

H. M.-M. MOORE,
Acting Governor.

[11TH FEBRUARY, 1931.] Date of assent.

An Ordinance to Consolidate and Amend the Law Relating to Mining.

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 Mining Ordinance, 1931" and shall come into operation on such date as the Governor by notice in the Gazette shall determine.

Short title and commencement.
v. 15/1932

**PART I
GENERAL.**

2. In this Ordinance, unless inconsistent with the context—

Interpretation.

"alluvial" includes all forms of mineral deposits which do not fall within the definition of "lode";

"claim" means a portion of land lawfully taken possession of for the purpose of prospecting and mining, but does not include land comprised in a mining lease;

Amended.
v. Sec. 2 of
Cap. 52/1932.
P. 192.

"Government" means the Government of the Colony;

"High Commissioner" means the High Commissioner for Transport established by the Kenya and Uganda (Transport) Orders in Council, 1925 and 1927;

"lode" or "reef" includes all true fissure veins, contact veins, segregated veins, bedded veins, metalliferous bankets, stockworks, such irregular deposits as conform generically to the above classification, and beds of any mineral, such as beds of iron-stone;

"mine" includes any place, excavation or working whereon, wherein or whereby any operation in connection with mining is carried on;

"to mine" means intentionally to win minerals and shall include any operations necessary for the purpose;

"minerals" means all minerals and mineral substances, other than mineral oils, and may be precious metals, precious stones or non-precious minerals, but shall not include clay, murrum, lime, sand or other stone, or such other common mineral substances as the Governor may by notice in the Gazette declare not to be minerals for the purposes of this Ordinance;

No. 9 of 1930.

"Native Lands Trust Board" means the Native Lands Trust Board established under the Native Lands Trust Ordinance, 1930;

No. 9 of 1930.

"Native Reserve" has the meaning assigned to it in the Native Lands Trust Ordinance, 1930;

"non-precious minerals" means all minerals other than precious metals or precious stones;

"notice" means a notice in the Gazette;

"open-cast" means any uncovered excavation which has been made from the surface for the purpose of winning minerals;

"owner" or "occupier" includes an owner in fee simple, a lessee, a grantee, a licensee and a native in lawful occupation of Crown land;

"person" includes corporation, company, syndicate or individual;

"precious metals" means gold, silver or metal of the platinoid group in the unmanufactured state, including ores containing such metal, but shall not include ores containing any such metal in combination with another mineral where such metal cannot be worked apart from such mineral and the value of such metal is less than the cost of producing both the metal and the mineral;

"precious stones" means any diamond, emerald, opal, ruby, sapphire, turquoise and any other stones which the Governor in Council may by notice declare to be included in this definition;

"prescribed" means prescribed by this Ordinance or any regulations made thereunder;

"private lands" includes lands privately owned and land the subject of a grant, lease or licence from the Crown;

"to prospect" means to search for minerals and includes such working as is reasonably necessary to enable the prospector to test the mineral-bearing qualities of the land;

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

"salt licks" means those deposits of salt or other mineral which have been or are being used as salt licks for cattle, whether privately owned or not;

"shaft" and "pit" mean any vertical or inclined tunnel, other than a stope or winze, which is or might be used for winding, travelling, draining or ventilating purposes in connection with prospecting or mining operations;

"tailings" means all gravel, sand, slimes, or other substance which is the residue of *bona fide* mining operations.

3. Nothing in this Ordinance shall be deemed to authorise any person to enter any district or area to which entrance by him may be forbidden by any law, Ordinance or regulation for the time being in force.

Prospecting in closed districts.

4. Nothing contained in this Ordinance shall confer any right to prospect for or to win any mineral oil.

Mineral oil excluded from this Ordinance.

5. The entire property in and control of all minerals and mineral oils in, under or upon any lands in the Colony are and shall be vested in the Governor in trust for His Majesty, save in so far as such right may in any case have been limited by any express grant made before the commencement of this Ordinance, or by any certificate of ownership issued or hereafter issued under the hand and seal of the Recorder of Titles.

Control and property in minerals and mineral oils vested in the Governor.

6. Except as in this Ordinance provided, any person who shall prospect or mine on any lands in the Colony shall be liable to a fine of one hundred pounds or imprisonment for six months, and the forfeiture of all minerals obtained in the course of such unauthorised mining or prospecting, or if such minerals cannot be forfeited such sum as the court shall assess as the value of such minerals.

Penalty for prospecting or mining without authority.

7. Nothing in this Ordinance shall be deemed to prevent any native of the Colony from taking, subject to such conditions as may be prescribed, iron, salt or soda from lands (other

Saving for native custom.

Amended v.
Ord. 52/1932.
p. 192.

than lands within the area of a mining lease or claim) from which it has been the custom of the members of the community to which that native belongs to take the same.

Employment of officers.

8. The Governor may appoint an officer, to be styled the Commissioner of Mines (hereinafter referred to as "the Commissioner"), [and such other officers, to be known as] Inspectors and Assistant Inspectors of Mines, Wardens and Registrars, as may be necessary for the carrying into effect of the provisions of this Ordinance.

delete v. Cap. 52/1932.

and such other officers. v. Ord. 52/1932. p. 192.

Powers of Commissioner may be exercised by other officers.

9. The Commissioner may, with the approval of the Governor, delegate or assign to any other officer appointed under section 8 all or any of his powers and duties.

No action lies against officers for acts done in execution of their duties.

10. No action or other legal proceeding whatsoever, civil or criminal, shall be instituted in any court against the Commissioner or other officer or any person acting under his authority for or on account of or in respect of anything done in good faith and in the execution or intended execution of his duty under this Ordinance.

Royalties.

v. 15/1932.

11. All minerals obtained in the course of prospecting or mining operations shall be liable to such royalties as may be prescribed.
Proviso

PART II.

PROSPECTING.

Prospecting right.

12. (1) The Commissioner or other prescribed officer may issue to any person a prospecting right in the prescribed form upon the payment of the prescribed fee: Provided that a prospecting right shall not be granted—

- (a) to any person who is under eighteen years of age;
- (b) to any person who is unable to read or any person who is incapable of understanding the Ordinance in such a way as to form a reasonable guide to such restriction on his actions.

(2) A prospecting right may be granted to an individual as agent for another individual.

(3) A prospecting right shall not be granted to a company or partnership as such, but may be granted to an individual as agent of the company or partnership. In such case the application for the prospecting right must be made by the

Delete & substitute v. Cap. 52/1932. p. 192.

body of persons

individual in person, who must either be the lawfully constituted attorney of the company or partnership or produce an application in writing for the grant of the prospecting right to the individual as agent for the company or partnership, signed by a director or responsible manager or partner of the company or partnership. Such application must contain an undertaking by the company or partnership with the Government to be responsible for the acts and omissions of the individual, who shall also be responsible for his own acts and omissions.

board of persons
" "
" "
v. Cap. 52
1932. P. 191

(4) A prospecting right shall not be transferable and shall be in force for a period of one year from the date of issue, but may be renewed for a period of one year from the date of expiration thereof or of the expiration of any renewal thereof upon application being made in the prescribed form and upon payment of the prescribed fee.

del. v.
Cap. 52 / 1932
P. 192.

(5) A prospecting right shall be produced whenever demanded by the owner or occupier of private land on which the holder thereof is prospecting, or by any administrative officer, officer of the Mines Department or police officer.

(6) A fee of twenty shillings shall be paid for every prospecting right.

13. The following classes of land are (save where otherwise in this Ordinance provided) excluded from prospecting or occupation under any prospecting right :—

Lands excluded from prospecting.

- (a) Land dedicated or set apart as a place of burial or for any public purpose other than mining, except with the consent of the Governor.
- (b) Any area situate within any municipality or township except with the consent of the owner or holder of surface rights and of the Governor or municipal or township authority.
- (c) Lands held under grants or leases giving the holder rights of working the minerals, non-precious minerals, precious metals and precious stones which are recognised by the Government.
- (d) Any area over which exclusive prospecting or mining rights have previously been granted by the Governor and are still subsisting and any area in respect of which an application in the prescribed form has been made for such rights.

Accepted for consideration
v. Cap. 52/1932. Sec. 5.

(e) Land reserved for the purpose of any railway or situate within one hundred yards of any railway, except with the consent of the Railway Administration.

(f) Any area which is the site of or is within one hundred yards of any building, dam or reservoir, owned by Government except with the sanction of the Governor.

(g) Any street, road or highway without the consent of the Governor or of the municipal corporation or other public body having the control thereof.

(h) Salt licks which have been or are being used for cattle.

v. P.R. & O. 1933
v. Cap. 52 1932 Sec. 5.
p. 192 -
v. P.R. & O. 1938. p. 44.

(i) Land within a Native Reserve except with the consent in writing of the Native Lands Trust Board and on such conditions as may be prescribed. *stipulated*

(j) Land which the Governor may by notice declare to be excluded from prospecting.

Should any question arise as to whether any particular land is excluded under this section it shall be referred to the Governor, whose decision shall be final and conclusive.

Native Reserves.

14. For the purpose of this Ordinance, every Native Reserve shall be deemed to be private land, and the Native Lands Trust Board shall be deemed to be the owner: Provided that any moneys received by that Board by way of rents or compensation shall be devoted to the use of the natives concerned.

Prospecting right privileges.

15. Subject to the exceptions in section 13 and to the regulations and to the provisions of any law as to forests or as to the regulation of natural water supply, the holder of a prospecting right may—

- (1) prospect for any minerals on any land in the Colony;
- (2) whilst engaged in *bona fide* prospecting erect on any unoccupied land his camp and such buildings or machinery as may be necessary for the purpose of prospecting and for such purpose or for domestic purposes take timber and water from any lake, stream or water-course;

Provided that he shall not—

- (a) divert water from any river, stream or water-course without the consent of the authority having the control thereof; or
- (b) prospect in a forest or game reserve unless he has first given notice to the officer in charge of such reserve and complies with the conditions lawfully imposed by such officer;
- (3) sink shafts or wells or dig trenches;
- (4) on any land not excluded from prospecting take for his domestic use water from any lake, river or stream and with the consent of the owner or occupier of private land or on tendering to the owner or occupier a reasonable sum in payment therefor, any fuel other than standing timber;
- (5) graze upon lands not excluded from prospecting such horses or other animals as may be necessary for his subsistence and for the carrying on of prospecting or mining, free of charge on unoccupied Crown lands and on private lands on payment or tender of a reasonable sum in payment therefor;
- (6) apply for an exclusive prospecting licence, claim or a mining lease.

*Delete a
Subsidiary
v. Cap 53/1932 -*

16. Any person intending to prospect on private lands shall when practicable give notice of his intention to the occupier of such land before commencing prospecting operations thereon, and shall, if required by the owner or occupier, give security in such sum as the Commissioner may direct for the payment of compensation for the disturbance of surface rights and for any damage done to the lands or trees or crops thereon by the prospector and, if required by the owner or occupier, shall desist from prospecting on the land until such security has been given.

**Prospecting on
private land.**

17. The holder of a prospecting right may apply to the Governor for an authority to prospect on any lands excluded from prospecting and the Governor may grant such authority on such terms as to area, period, rent and other conditions as he shall think fit. Failure to comply with any of the terms so fixed shall render the authority liable to cancellation.

**Authority to
prospect on
land excluded.**

Exclusive prospecting licences.

18. (1) The Governor may grant an exclusive prospecting licence to any person who himself holds a prospecting right or to any person who employs a holder of a prospecting right.

(2) Application for an exclusive prospecting licence shall be in the prescribed form, and the applicant shall satisfy the Governor that he has sufficient capital to ensure the proper prospecting of the area in respect of which the application is made and the payment of any compensation which may be payable to the owners and occupiers of the land in respect of which the licence is required and shall, if required by the Governor or by the regulations, furnish a financial guarantee for such sum as the Governor may direct or as may be prescribed. Notice of every such application shall be published in the Gazette.

(3) The Governor may grant or withhold the grant of an exclusive prospecting licence as he may think proper :

Provided that a person who has previously held such licence shall not within a period of one year after its expiry be granted a further licence in respect of any portion of the area in respect of which he has previously held a licence. This prohibition shall extend to any person associated with the former holder of the licence.

(4) An exclusive prospecting licence shall not be granted in respect of any area exceeding eight square miles :

Provided that under special circumstances the Governor may at his sole discretion grant exclusive prospecting licences over areas exceeding eight square miles upon such terms and conditions as he may think fit.

(5) An exclusive prospecting licence shall be valid for one year from the date thereof, subject to renewal, at the discretion of the Governor, for further terms of one year each up to a maximum of three years in the case of an alluvial deposit, and of six years in the case of a lode deposit :

Provided that the Governor may, on such terms as he think proper, grant a renewal of such licence in respect of alluvial deposit for a fourth year if it be shown to his satisfaction that prospecting operations have been stopped or seriously hindered by special circumstances beyond the control of the licensee :

v. Sec. 7. Cap- 52/1932 p. 193-

Amended v. Cap. 52/ 1932.

Handwritten notes and stamps on the right side of the page, including a large stamp with the word "RECEIVED" and other illegible text.

Provided further that in the case of a lode deposit, the Governor may on any renewal of such licence direct that such renewal is allowed in respect of a specified portion only of the area of the licence.

(6) All exclusive prospecting licences shall be registered at the office of the Commissioner in the prescribed manner.

(7) For every exclusive prospecting licence there shall be paid a registration fee of ten shillings, and a conveyancing fee of seven pounds ten shillings.

v. Ord. 52/
1932. P. 192.

19. An applicant for an exclusive prospecting licence wilfully or recklessly giving false information as to any of the matters in respect of which information is or may be given under this Ordinance shall be liable to a fine of one hundred pounds or to imprisonment for six months or to both.

Penalty for giving false information.

20. (1) The holder of an exclusive prospecting licence shall have the sole right of prospecting upon the lands within the area of his prospecting licence, and for such purpose may—

Rights under an exclusive prospecting licence.

- (a) enter upon the lands within such area with his agents and workmen and thereon exercise all or any of the rights conferred upon the holder of a prospecting right;
- (b) employ in prospecting on such land any number of persons who for the purpose of such prospecting shall not be required to hold prospecting rights; and
- (c) on and over unoccupied land within the area of his licence erect and maintain such machinery and plant and construct such ways as may be necessary for or in connection with his prospecting operations.

v. Ord. 52/1932.

(2) The holder of an exclusive prospecting licence who shall have fulfilled all the conditions attached thereto may be granted, subject to the provisions of this Ordinance, a mining lease or leases over the whole or any part of the area the subject of the licence.

21. The holder of an exclusive prospecting licence shall not transfer his licence or any portion of the rights granted thereunder without the consent of the Governor signified by an endorsement thereon.

Transfer of rights under licence.

The transferee of a licence shall be liable for all rents and obligations which may have accrued at the time of transfer.

Amalgamation of prospecting licence areas.

22. The Commissioner may permit the amalgamation of any number of duly registered adjoining exclusive prospecting licence areas.

Disposal of minerals obtained in prospecting.

23. (1) Minerals obtained in the course of prospecting under a prospecting right or an exclusive prospecting licence shall be the property of the Government and, except for the purpose of sampling and assay, shall not be removed from the land or disposed of by the holder of the right or licence or by any other person except with the consent of the Commissioner :

Any person who commits an offence against this subsection shall be liable to a fine of one hundred pounds or imprisonment for six months, or both.

(2) The Commissioner may authorise the removal of minerals from the land from which they have been obtained to any place approved by him for safe custody, subject to such conditions, if any, as he may impose.

(3) If the holder of a prospecting right or an exclusive prospecting licence should desire to retain or dispose of any minerals obtained in the course of prospecting he shall make an application to the Commissioner in the prescribed manner, and if the Commissioner is satisfied that the prospector has been conducting such work only as is reasonably necessary to enable him to test the mineral-bearing qualities of the land, he may authorise the applicant to retain or dispose of the minerals in respect of which application is made on payment of the prescribed royalties.

Obligation of the holder of exclusive prospecting licence.

24. The holder of an exclusive prospecting licence shall during the continuance of the licence adequately carry on to the satisfaction of the Commissioner *bona fide* prospecting operations on the lands included in the area in respect of which the licence has been granted :

2. Provided that the Commissioner may on the application of the holder and for good cause shown by writing under his hand suspend the obligation imposed by this section in respect of any licence for such time as to the Commissioner may seem proper.

Records of prospecting operations.

25. The holder of an exclusive prospecting licence shall keep to the satisfaction of the Commissioner full and accurate records of his prospecting operations.

Repealed & substituted v. Ord. 52/1932

matter with... decision shall be...

26. (1) The holder of a prospecting right or of an exclusive prospecting licence shall, on demand being made by the owner or occupier of land upon or under which prospecting operations are or have been carried on, pay him fair and reasonable compensation for any disturbance of the rights of such owner or occupier, and for any damage done to the surface of the land by such operations, and shall, on demand being made by the owner of any crops, trees, buildings or works damaged by the holder of the right or licence or by any agent or servant of such holder, pay compensation for such damage.

Payment of compensation to owners or occupiers of land.

v. Ord. 52 |
1932.

(2) (i) If the holder of a prospecting right or exclusive prospecting licence fails to pay compensation when demanded under sub-section (1) or if an owner or occupier is dissatisfied with the compensation offered, the owner or occupier may take proceedings before the Commissioner in which case the provisions of Part IV of this Ordinance shall apply:

Provided that when the claimant is a native, the Administrative Officer in charge of the district shall, if the native so desires, assess and determine the amount of the compensation, and that the decision of such Administrative Officer shall in such case be final, subject only to an appeal to the Governor.

(ii) Notice of appeal against the decision of the Administrative Officer shall be given to such officer within fourteen days of the date on which his decision is notified to the party desiring to appeal.

(3) The sum awarded by the Commissioner or Administrative Officer or, when there has been an appeal, by the Governor, shall be paid by the holder of the prospecting right or exclusive prospecting licence to the person entitled thereto, within fourteen days of the date on which the amount of the award is notified to the holder of the right or licence.

(4) If the sum awarded is not paid within the time specified in sub-section (3), such sum may be paid out of any moneys deposited by the holder of the right or licence under section 16 or, if no moneys or insufficient moneys have been deposited, may be sued for by the persons entitled thereto in any court.

(5) The Governor may suspend the prospecting right or exclusive prospecting licence of the person in default until the amount awarded has been paid and until the holder of the right of licence has deposited with the Government such

N. Ord. 52 |
1932

for location

further sum as security for any future payments as the Governor may demand, and if such payment and deposit is not made within such time as the Governor may consider reasonable the Governor may revoke the prospecting right or exclusive prospecting licence of the person in default.

v. G-d. 52/1932
or location

Revocation of prospecting right or exclusive prospecting licence.

27. In the case of any breach by the holder of a prospecting right or an exclusive prospecting licence or by any attorney of or manager employed by such holder of any of the provisions of this Ordinance or of any regulation made thereunder, it shall be lawful for the Commissioner to call upon the holder of the right or licence to show cause, within a time specified by the Commissioner, why his right or licence should not be revoked, and should he fail to comply with such order within the time specified or should the cause shown not be adequate in the opinion of the Governor, the Governor may summarily revoke the right or licence, and thereupon all privileges and rights conferred thereby or enjoyed thereunder shall as from the date of such revocation cease :

Provided always that such revocation shall not in any way affect the liability of any person in respect of the breach of any provision of this Ordinance or of any regulation committed by him before such revocation.

PART III.

MINING.

Mining: when lawful.

28. Mining shall be lawful under a claim or a mining lease :

Provided that pending the grant of the mining lease the Commissioner may grant permission to the applicant to mine on the area applied for on such conditions and subject to such restrictions as the Commissioner may think fit, and provided also that the provisions of the Ordinance and regulations which are applicable to mining leases shall apply to any area in respect of which application has been made for a lease and on which permission to mine has been granted. Such permission may at any time be withdrawn by the Commissioner.

Repealed & amended.
v. Cap. 52/1932.

Viewed at...
-:role...
e to...
to...
best...
...ent...

Rents.

29. No rent shall be payable for a claim. For a mining lease there shall be paid, subject to the provisions of section 48 of this Ordinance, a rent of five shillings per annum per acre or part thereof.

v. Cap. 52/1932.

30. No person may hold more than one alluvial claim for precious metals or stones :

One alluvial claim only to be held in the case of precious metals or stones.

Provided that the Commissioner may, on being satisfied by a claim holder that owing to climatic reasons he is unable to work his claim, allow him to hold another such claim which he may work for the period during which he shall suspend work on the first claim. Should he desire to resume work on the first claim, he shall cease work on the second claim and may be granted a certificate of suspension in respect of such claim.

Repealed
V. 15/32

31. Any holder of a prospecting right who discovers minerals in apparently payable quantities may, in addition to the claims allowed by this Ordinance, peg five extra claims of the prescribed area, and shall apply to the Commissioner for registration of such claims. If the Commissioner is satisfied that minerals exist in apparently payable quantities and that the discovery lies in a locality in which such minerals were not hitherto known to exist, the Commissioner shall register such claims, which shall be known as "reward claims."

"Reward claims."

Repealed
V. 15/32

32. (1) When any holder of a prospecting right pegs out a claim on land not excluded from prospecting in accordance with the provisions of the Ordinance and regulations, he shall within thirty days thereafter apply in manner prescribed for registration in the office of the Commissioner through an officer who may be appointed for the purpose in the district in which the claim is situated.

Registration of claims.

(2) If the application is in accordance with the provisions of the Ordinance and the regulations, the Commissioner shall register the claim.

A mining location shall be valid

33. ~~The claim shall be granted~~ for one year from the date of pegging, and may be renewed, subject to the provisions of sections 16 and 26, for further terms of one year each, ~~on payment of the prescribed rent.~~

Duration of claim.

V. Ord. 52.
V. 15/32

34. Where any interest in a claim registered as aforesaid is transferred to, vests in (absolutely or as security only), or devolves upon any person, such person shall within thirty days thereafter register such transfer or vesting in the prescribed manner in the office aforesaid.

Registration of transfer.

Failure to register.

35. Any person failing to apply for the registration of a claim or a share in a claim within the period aforesaid shall forfeit all rights in respect thereof and shall, if he works or mines on such a claim, incur the penalty prescribed for unauthorised mining.

Rights under a claim.

"mining location"
v. Cap. 52/32.

36. The holder of a claim shall have the right to enter upon the land the subject of the claim, and the exclusive right to prospect or mine thereon and to remove therefrom and dispose of the minerals in respect of which the claim shall have been registered.

Amalgamation of claims.

v. Ord. 52/32.

37. The Commissioner may permit the amalgamation of any number of adjoining claims of the same class.

Transfer of claims and interests therein.

~~Amalgamated~~
v. Cap. 52/1932

"mining location"
v. Cap. 52/32.

Delete
v. 15/32.

38. Subject to the approval of the Commissioner, after a claim has been registered as aforesaid, the holder may in the manner prescribed by the regulations by instrument in writing divide his interest in the claim into such shares as he shall think proper, and may allot shares or transfer the claim or create or transfer any interest therein:

Provided that the holder who has transferred an alluvial claim for precious metals or precious stones may not hold another such claim until the first claim has been abandoned, subject to the provisions of sections 30 and 31.

v. Cap. 52/1932

Claims when liable to forfeiture by the Commissioner.

39. A claim ^{or location} shall be liable to forfeiture by the Commissioner by written notice to the holder or by notice published in the Gazette in the following circumstances:—

- (a) if the person pegging has failed to apply for registration in prescribed manner within the time fixed by section 32;
- (b) if the holder has not produced when demanded by the Commissioner, within such period as he may allow, satisfactory evidence of compliance with the working conditions prescribed;
- (c) if the rent payable is not paid to the Commissioner within thirty days from the date when it became due, or within such additional time as the Commissioner may allow;
- (d) if the holder fails to render any prescribed return when due, or within such additional time as the Commissioner may allow;

Delete
v. 15/32.

- (e) if the holder has not complied with any of the prescribed conditions; or
- (f) if registration thereof has been obtained by any false or fraudulent representation or concealment.

Nothing in this section contained shall impose any obligation on the Commissioner to declare the forfeiture of a claim.

40. (1) Any person who shall abandon his claim shall forthwith notify the Commissioner of such abandonment. Obligation on abandonment.

(2) Any person who shall abandon his claim and any person whose claim shall have been forfeited shall forthwith fill up, fence, or secure to the satisfaction of the Commissioner or other prescribed officer all shafts, pits, holes and excavations, in such a manner as to prevent persons or stock inadvertently entering them and shall remove the discovery beacon and all boundary posts thereon, and in default of so doing, shall be liable to a fine of fifty pounds or to imprisonment for three months, and in addition shall be liable to pay such sum as the Commissioner may certify the cost of doing so will be. v. Cap. 52/32
locations
v. 12/1932.

41. Any person who shall by false representation or fraudulent concealment of facts obtain registration of any claim under this Ordinance shall, in addition to the forfeiture of the claim, be liable to a penalty not exceeding fifty pounds or to imprisonment for three months. Penalty for false representation.

42. The provisions of sections 16 and 26 shall apply *mutatis mutandis* to a claim. *locations* Cap. 52/32.
Application of sections 16 and 26 to claims.

43. The Governor may grant a lease to the holder of a prospecting right or of an exclusive prospecting licence, provided that in the latter case the lease applied for shall be wholly within the boundaries of that licence; or to the holder of a claim in respect to the whole or any part of the area of his claim. Grant of leases.
Repealed & substituted.
v. Cap. 52/32.

44. Applications for leases shall be made in the prescribed form and manner, and shall be subject to the prescribed conditions as to marking out and survey of the land applied for, taking possession thereof and otherwise, and shall be accompanied by payment of one year's rent in advance at the rate prescribed. Applications for leases.

Applicant
to show
sufficient
capital.

45. The Governor may require an applicant for a lease to show to his satisfaction that he possesses or commands or will command within twelve months sufficient working capital to ensure the development of and working of mining operations on the area applied for, and may require any reports on the matter made by prospectors or engineers to be submitted for his information.

In the event of the applicant failing to satisfy the Governor as aforesaid, the Governor may refuse the application, but the applicant may make a new application at any time.

Giving false
information.

46. Any applicant for a lease wilfully or recklessly giving false information as to any of the matters in respect of which information is or may be required to be given under this Ordinance shall be liable to a fine of fifty pounds or to imprisonment for three months.

Duration of
lease.

47. A lease may be granted for such term, not being less than five or more than twenty-one years, as the Governor may think proper :

Provided that when permission to mine on the area is granted under section 28 pending the grant of the lease, such term shall commence from the date of the grant of such permission.

Delete v.
Cap. 52 | 1932.

Renewal
of lease.

48. If at the expiration of the term originally granted or of any renewal thereof the lessee shall be carrying on work in a normal and business-like manner, and the lease shall not at that time be liable to be forfeited under any of the provisions of this Ordinance, and the lessee shall have given to the Commissioner six months' notice in that behalf, then the lessee shall be entitled on payment of the prescribed fee to obtain a renewal of the lease for a further term not exceeding twenty-one years upon the conditions which are then generally applicable to new leases :

Provided that in the case of any renewal the rent shall not be increased by more than fifty per centum above that reserved by the original lease.

Surrender
of lease.

49. A lease may be surrendered at any time after six months' notice in writing has been given to the Commissioner of the intention to surrender if the sanction of the Governor be endorsed in writing thereon, and on payment of the prescribed fee, but not otherwise, provided that such surrender shall not affect any liability incurred by the holder before such surrender shall have taken effect.

50. The Commissioner may permit the amalgamation of any number of leases of the same kind. Amalgamation of leases.

51. A lessee shall not transfer or assign his lease or any of the rights conferred thereby without the consent in writing of the Governor signified by endorsement thereon. No transfer of lease without consent.

52. (1) The Governor may grant a special lease of any land if he is satisfied that by reason of the difficulties and cost attending the mining in, on or under such land, or for any other cause, it is necessary that such a lease be granted. Special lease.

(2) The Governor may fix the form of, and area to be comprised in, any such lease, the rent and royalty to be paid, and the labour and other conditions, reservations and exceptions to be contained in the same, but in all other respects such special lease and the application for the same shall be subject to the provisions of this Ordinance and of the regulations made thereunder.

53. A lease shall confer upon the lessee the right to enter upon the lands the subject of the lease, and, subject to the regulations, the exclusive right to mine on such lands and the right to remove and dispose of the minerals specified in the lease. Rights under a lease.

54. (1) The Commissioner may grant authority upon such terms as he may think fit permitting the lessee to mine on the land comprised in his lease for any mineral other than that in respect of which the lease was granted, and may vary or revoke any such authority. Mining for mineral other than that for which lease granted.

(2) If the lessee mines for any mineral other than that in respect of which his lease or any authority as aforesaid has been granted, his lease shall be liable to forfeiture.

55. In so far as it may be necessary to the lessee for or in connection with his mining operations and subject to the provisions of this Ordinance and to the regulations, the lessee shall have on the lands included in his lease the following rights— Surface rights of lessee.

- (a) to make all necessary excavations;
- (b) to erect, construct, and maintain houses and buildings for his use and for the use of his agents and servants;
- (c) to erect, construct and maintain such engines, machinery, buildings and workshops and other erections as may be necessary or convenient;

- (d) to stack or dump any of the products of mining;
- (e) subject to the provisions of any law relating to water, to lay water-pipes and to make water-courses and ponds, dams and reservoirs, and to divert from a natural water-course any water on or flowing entirely through the land, provided that—
- (i) any water diverted not containing any noxious or poisonous matter shall be returned to its natural channel before leaving such land;
 - (ii) any existing rights to use any source of natural water supply shall not be disturbed;
- (f) to construct and maintain all such tramways, roads, communications and conveniences as may be necessary :

Provided that whenever a disagreement shall arise between the owner in the case of private land and the lessee in connection with surface rights, the matter shall be determined by the Commissioner.

Mining near public buildings, railways, etc., prohibited except with the consent of the Governor.

56. A lease shall not authorise the lessee to occupy or mine on or under land occupied by a native village or by a market or burial ground, or on or under land within one hundred yards of any Government or public buildings or works, or any market, burial ground, public road, or tramways, or of any railway, without the consent in writing of the Governor first obtained, and subject to the conditions, if any, prescribed by the Governor.

Notice to private occupiers who may demand security.

57. The provisions of sections 16 and 26 shall apply *mutatis mutandis* to a lease granted under this Ordinance.

Right of lessee and claim-holder to take timber.

58. A lessee or a claim-holder may, on the lands included within the area of his lease or claim, cut, take and use any tree when necessary in the course of mining operations or when required for mining or domestic purposes, provided that he shall be liable for any fees or royalties which may be payable under any law relating to forests.

Treatment of tailings, etc., after determination of lease.

59. (1) Any lessee whose tenancy is by any means determined may, within thirty days of such determination, apply to the Commissioner for leave to enter the land comprised in the lease and treat or remove any tailings, ore or

Rent, how recoverable.

v. 15/1932

64. The rent reserved by any lease, ~~claim or exclusive prospecting licence~~ may be levied or recovered under the authority of or in the name of the Commissioner, in like manner as rent is or shall be leviable or recoverable by law in cases where private persons only are concerned.

Registration of leases, etc.

65. Every lease under this Ordinance, and every transfer or sub-lease of the land comprised in any such lease, shall be registered in the office of the Commissioner in the manner prescribed, and no such lease, transfer or sub-lease shall be valid unless so registered.

Extension after breach.

66. Whenever a lease becomes liable to forfeiture, the Governor may extend the period during which the lessee may perform the conditions of his lease, for such time and subject to such terms and conditions as he may think fit; and the terms and conditions so imposed by the Governor shall bind the lessee and all transferees, mortgagees, and other persons claiming through or under him, and the lease shall thereafter be construed as if such terms and conditions were inserted therein.

Owner may remove plant.

v. 15/1932

67. The owner of any plant, machinery, engines or tools on any forfeited or surrendered lease, ^{or claim} may within three months from the date of forfeiture or surrender or within such further period as the Commissioner may allow remove such plant, machinery, engines or tools, but shall not, under penalty of not more than one hundred and fifty pounds or less than seven pounds ten shillings for each such offence, ~~be~~ ^{be} permitted to remove or to interfere with any timber in an mine. If such plant, machinery, engines or tools are not removed they may be sold by auction by the order of the Commissioner at the risk of the former lessee. The proceeds of such sale shall be paid into the Treasury and held until applied for by such former lessee. ^{or claim holder}

Repealed & substituted.

v. Cap. 52/1932

or claim holder

v. 15/1932

PART IV.

DISPUTES.

Commissioner may decide disputes.

68. The Commissioner may inquire into and decide disputes between persons engaged in prospecting or mining operations, either amongst themselves or in relation to themselves and third parties, concerning any of the matters herein after mentioned, and shall have power to make any order

1951

Mining

No. I

stone left thereon by him. The Commissioner may grant such leave and may fix a time within which such treatment or removal is to be completed.

(2) If such leave is not applied for within thirty days or such treatment or removal is not completed within the time fixed, any tailings, ore or stone remaining on the land shall become the absolute property of the Government.

60. (1) The Governor may, by notice to the lessee, determine a lease in the following cases:—

Grounds for forfeiture of lease.

(a) if the lessee shall commit a breach of any provision of this Ordinance or of any regulations, or of any conditions of the lease, and does not repair such breach, within such period, being not less than one month from the date of the receipt of a notice in writing from the Commissioner so to do, as the Governor may decide; or

(b) if the lessee shall wholly cease work in, on, or under the lease during a continuous period of six months, without the written consent of the Commissioner.

(2) Such determination shall not affect any liability already incurred by the lessee.

(3) Publication in the Gazette shall be sufficient notice to the lessee.

61. Any person who discovers any minerals on any land subject to any licence, claim or lease granted under this Ordinance shall forthwith report the discovery within a period of thirty days to the Commissioner, except in cases where it is proved to be impracticable to do so in the time stated and then in the earliest practicable time.

Discovery to be reported.

location

v. Cap. 52/32.

62. The subterranean limits of any claim or mining lease shall be vertical planes passing through the sides by which the claim or lease is bounded.

v. Cap. 52/32.

Subterranean limits.

63. The rent payable under a lease shall be payable yearly in advance, and, if not paid within three months of becoming due, and after the Commissioner shall have served notice on the person in default demanding payment, an amount of twenty-five per centum of the amount due shall be added to the rent and shall be due and payable as if it were part of the rent.

Penalty on non-payment of rent.

which may be necessary for the purpose of giving effect to his decision, and to order the payment by any party to the dispute of such compensation to any other party as may be reasonable. Such matters are as follows :—

- (a) disputed boundaries ;
- (b) any wrongful act committed, or any act wrongfully omitted, or alleged to have been committed or omitted, in the course of prospecting mining operations, by any person against any other person ;
- (c) acts, omissions or matters in the course of, connected with, or auxiliary to prospecting or mining operations ;
- (d) the claim of any person to be entitled to erect, cut, construct, or use any pump, line of pipes, flume, race, drain, dam or reservoir for mining purposes, or to have any priority of water taken, diverted, used, or delivered, as against any other person claiming the same ;
- (e) assessment and payment of compensation where provided for under this Ordinance.

69. The mode of proceeding in a complaint before the **Procedure.** Commissioner shall be as follows :—

- (1) The person complaining shall lodge a memorandum in duplicate at the office of the Commissioner.
- (2) The memorandum shall be in the prescribed form or in a form to the like effect, and shall specify shortly the subject-matter of the complaint and the relief claimed.
- (3) Upon receipt of the memorandum the Commissioner shall give notice in the prescribed form, by post or otherwise, to the party sued of the nature of the complaint, and the time and place at which the same will be heard and determined.
- (4) At the time and place appointed the parties shall attend and state their cases before the Commissioner and may call evidence on oath (which oath the Commissioner is hereby authorised to administer) in support thereof, and the Commissioner, having heard such statement and evidence, shall give his decision.

73. Nothing in this Part contained shall be deemed to prevent any person from instituting in any of the courts of the Colony any proceedings he may think fit to institute, as provided by law. Jurisdiction of ordinary courts not excluded.

PART V.

POSSESSION AND PURCHASE OF CERTAIN MINERALS.

74. The minerals referred to in this Part shall be tin and mica in the unmanufactured state, and shall include other mineral to which the Governor in Council may, by v. Cap 52/32.
Minerals to which this Part applies.

75. No person shall possess any such minerals unless he is the holder of a mining lease, claim or prospecting licence or right, or of a licence granted under section 77, or the duly authorised employee of such lessee or holder. Possession of minerals.

76. No person shall buy any mineral unless he is the holder of a licence granted under the next succeeding section. Purchase of minerals.

77. (1) The Commissioner may issue a licence in the prescribed form and on payment of the prescribed fee authorising the person named therein to buy minerals. Licence to purchase minerals.

(2) Every such licence shall expire on the thirty-first day of December in the year in which the licence is granted.

(3) No such licence shall be transferred without the consent of the Commissioner.

78. The holder of a licence under the last preceding section shall not buy any such mineral except from the holder of a lease, a claim, a prospecting right or exclusive prospecting licence, or a licence under this Part. Restriction on purchase.
location ✓
Cap. 52/32.

79. Every holder of a licence to purchase minerals shall be liable for the due payment to the Government of all royalties due on any minerals bought by him and, if so required by the Commissioner, shall give security for due payment of all such royalties. Payment of royalties by licensee.

80. The holder of a licence to purchase minerals shall— Books to be kept by licensee.

(a) keep books showing—

(i) all purchases made by him and the nature and weight of such minerals purchased;

- (ii) the date of each purchase; and
 - (iii) the name of the vendor and his title or authority to be in possession of such minerals; and
- (b) produce such books for the inspection of the Commissioner or any officer authorised by him whenever required to do so.

Penalties.

81. The holder of a licence who shall commit any breach of the provisions of either of the two last preceding sections or of the conditions of his licence shall be liable to forfeiture of his licence in addition to the penalties prescribed by section 100.

PART VI.

INSPECTION AND ACCIDENTS.

Powers of officers.

82. The Commissioner, or an officer duly authorised by him in that behalf, at all reasonable times by day or night, but so as not unreasonably to impede or obstruct work in progress, may—

- (i) enter, inspect, and examine any land on which prospecting or mining operations are being conducted or which is the subject of any right, licence, claim, or lease;
- (ii) examine into and make inquiry respecting the condition and ventilation thereof, and all matters relating to the safety and health of the persons employed;
- (iii) inspect and examine the state of the external parts of the machinery used upon or in the mine, and the state of all plant, works, and ways;
- (iv) examine and take extracts from all books, accounts, vouchers and documents relating thereto, or to any minerals obtained therefrom;
- (v) inspect the storage of explosives upon any mine and direct in what manner the same shall be stored;
- (vi) exercise all powers necessary for carrying this Part of the Ordinance into effect.

v. Cap. 52 / 1932.

Obligation to remedy any dangerous practice.

83. (1) If in any respect such officer finds any mine or any matter, thing or practice in or connected with mining or prospecting operations to be dangerous or defective so as, in his opinion, to threaten or tend to the bodily injury of any person, he shall give notice in writing thereof to the lessee or

RECEIVED AT THE OFFICE OF THE COMMISSIONER OF MINING AND GEOL. SURV. ON 11/11/32

BY THE CLERK

1931

Mining

No. I

the holder of the ^{right location} claim or licence or his agent in charge of the mine or operations and shall state in such notice the particulars in which he considers such mine, matter, thing or practice to be dangerous or defective, and shall require the same to be remedied, either forthwith or within such time as he may specify, and may order work to be suspended until the danger is removed to his satisfaction.

v. 15-1932

v. Cap. 52

(2) On receipt of such notice, the lessee or the holder of the right, claim or licence or his agent shall comply therewith, or, if he intends to object thereto, as provided by the following section, he shall cease to use the said mine, or part thereof, machine, plant, matter, thing or practice as to which such notice shall have been given, and shall forthwith withdraw all men from the danger indicated by such officer until such time as the matter shall have been determined by the Commissioner, and in case of default shall be guilty of an offence against this Ordinance: Provided that if, in the opinion of such officer, there be no immediate danger, he may allow work to proceed during such period, under such restrictions and upon such conditions as he may consider necessary and shall specify in writing to ensure the safety of the workmen.

location v. 57-1932

84. If such lessee or holder of the right, ^{location} claim or licence or his agent objects to remedy the matter complained of in any notice under the last preceding section he may, immediately after the receipt thereof, state his objection in writing to the Commissioner, and thereupon the matter shall be submitted to and determined by the Commissioner or by such officer as he may appoint in that behalf.

v. 52/1932
Proceedings on
objection to
comply with
notice.

85. If such lessee or holder or his agent fails to comply with the requisition of the notice, where no objection is stated within the time aforesaid, or with the decision of the Commissioner or other officer as aforesaid, immediately after the expiration of the time for objection or the decision (as the case may be), he shall be liable to a penalty not exceeding seven hundred and fifty pounds.

Proceedings on
failure to
comply with
notice.

86. No person shall be precluded or exempted by any agreement from doing such acts as may be necessary to comply with the provisions of the last preceding four sections, or be liable under any contract to any penalty or forfeiture for doing such acts.

Agreement not
to preclude or
exempt.

Proceedings
in case of
accidents.

87. (1) Whenever an accident shall occur in connection with mining or prospecting operations causing or resulting in loss of life or serious injury to any person, the person in charge of the operations shall report in writing with the least possible delay the facts of the matter so far as they are known to him to the District Officer and the nearest officer of the Mines Department.

(2) In the event of any such accident the Mines Officer or Administrative Officer shall hold an inquiry into the cause thereof.

(3) The officer holding the inquiry shall, for the purpose of an inquiry under sub-section (2), have the powers of a magistrate to summon witnesses, to call for the production of books and documents and examine witnesses and parties concerned on oath.

(4) Any person summoned to attend or to produce books or documents as aforesaid, and refusing and neglecting to do so, or refusing to answer any question put to him by or with the concurrence of the officer holding the inquiry, shall be liable on conviction to a fine of five pounds, provided that no person shall be bound to incriminate himself, and every witness shall, in respect of any evidence given by him at such inquiry, be entitled to the same privileges to which he would have been entitled if giving evidence before a court of justice.

(5) Any witness attending at the request of or upon summons by an officer holding such inquiry shall, subject to any order made by such officer, be entitled to like expenses as if summoned to attend the Supreme Court in a criminal trial, and payment shall be made in such manner as the Governor may direct.

Compensation
on death of,
or injury to,
native.

/ location
v. cap. 52 (82)

88. (1) If the person killed or injured is a native employed in connection with the mining or prospecting operations, and the lessee, or holder of the claim, licence or right shall fail to satisfy the officer holding the inquiry that the accident was due to the serious and wilful misconduct of such native, such native or his representative shall be entitled to compensation, the amount of which shall be assessed by the officer holding the inquiry.

(2) If the person ordered to pay compensation or the person to whom compensation is awarded shall within fourteen days of the date of the award give notice to the officer who

makes the award that he is dissatisfied with the award, the person to whom compensation was awarded may take such proceedings to recover such compensation as he may be entitled to under sub-section (1) in a court of competent jurisdiction as he may think fit.

PART VII.

MISCELLANEOUS.

89. In any case where the Government is acquiring, under the ~~Indian Land Acquisition Act, 1894~~, as applied to the Colony, any land held under a lease or claim, compensation shall be payable in respect of any disturbance of mining rights, in addition to any other compensation.

Compensation on acquisition of land by Government.

V. 15/1932

90. The Governor may at any time remove from Crown land subject to any lease or ~~claim~~ any clay, gravel, stone, brushwood, timber or other materials required for any public works.

Power to remove materials.

91. The Governor may, notwithstanding the previous grant of any ~~claim~~, lease or licence over any land under this Ordinance, make any grant of such land which he is empowered by law to make : Provided that the person to whom any such grant may be made shall not be entitled to compensation for any disturbance of his rights under the grant by reason of the exercise by any lessee, or the holder of any ~~claim~~, right or licence under this Ordinance of any rights conferred upon him by such lease, ~~claim~~, right or licence :

Subsequent grants.

location. v. 52/1932

location. v. 52/32

Provided always that before making such grant the Governor shall give notice to the lessee, ~~claim~~ or licence-holder of his intention to make such grant.

92. (1) In any case where the holder of any lease, ~~claim~~ or licence shall—

location v. Cap. 52/32

Protection of estate of deceased person, bankrupt, or lunatic.

- (i) die ;
- (ii) have a receiving order in bankruptcy made against him ; or
- (iii) be found to be a lunatic under the provisions of any law relating to lunacy for the time being in force in the Colony,

the obligations imposed upon such holder by this Ordinance and regulations thereunder shall not arise until after the expiration of ninety days—

- (a) from the date of the grant of probate or the issue of letters of administration;
- (b) from the date of the receiving order;
- (c) from the date of the appointment of any manager of the estate of the lunatic so found,

as the case may be.

(2) Where the grant of probate or the issue of letters of administration, the receiving order, and the appointment of any manager of the estate of the lunatic shall occur beyond the Colony, the said period of ninety days shall run from the date of the recognition by the courts of such probate or letters of administration, receiving order, or appointment of a manager.

Government
officers pro-
hibited from
acquiring
rights.

locating v.
Cap-52/32.

93. No person, whether civil or military, while in the service of the Government or of the High Commissioner, shall directly or indirectly acquire or hold any right or interest under any prospecting right, exclusive prospecting licence, claim or mining lease, and any right, licence or claim or lease or other document or transaction purporting to confer any such right or interest on any such officer shall be null and void: Provided that a temporary employee may retain rights and interests acquired prior to accepting Government employment.

Discovery of
mineral by
Government
servant.

94. (1) In the event of discovery of minerals by any person in the service of the Government or of the High Commissioner the discoverer may peg, in the manner prescribed for pegging a claim, an area, to be called a "Government Protection Area," not exceeding one square mile. Such discovery and pegging shall be forthwith reported to the Commissioner and no person may thereafter prospect in such area without the consent of the Commissioner.

(2) Authority to mine in any such Government Protection Area may be granted by the Governor in Council to such persons and subject to such terms and conditions, as he may think fit.

Salting.

95. Any person who shall place or deposit or be accessory to the placing or depositing of any minerals in any place with the intent to mislead any person as to the payable nature of such place or who shall mix or cause to be mixed with any ore, any valuable metal or substance whatsoever that will increase the value or in any way change the nature of the said

ore, with intent to deceive, cheat or defraud shall, on conviction, be liable to imprisonment for a term not exceeding three years or to a fine not exceeding three hundred pounds, or to both.

96. Any person who shall wilfully obstruct, hinder, assault or resist an officer, or any person duly authorised by an officer or a person authorised by this Ordinance to exercise any right or power or execute any duty or shall wilfully disobey an officer's order other than an order for the payment of money, or shall be guilty of contempt of the Commissioner or other officer when acting in a judicial capacity, shall be liable to a penalty not exceeding one hundred pounds or to imprisonment for any period not exceeding six months, or to both.

Obstructing officer.

97. Any person who—

- (a) interferes with any mining or prospecting operations authorised by or under this Ordinance;
- (b) obstructs any person in the exercise of any right conferred by or under this Ordinance;
- (c) interferes with any machinery, plant, works or property established on, in, under or over any land in exercise of a right conferred by or under this Ordinance;
- (d) without lawful authority shall wilfully break, deface or remove, or in any other way interfere with any boundary mark, beacon, pillar or post erected for any of the purposes of this Ordinance or under any regulations made thereunder,

Penalty for interfering with mining, etc.

shall be liable to a fine of three hundred pounds or to imprisonment for three years, or to both.

98. The Commissioner or any officer of the Mines Department may conduct or assist in conducting a prosecution for any offence against this Ordinance.

Power of Commissioner to conduct prosecutions.

99. Any officer of the Mines Department may without warrant arrest and search any person whom he may find committing, or whom he reasonably suspects of having committed, an offence against this Ordinance: Provided that the person arrested shall be taken, with as little delay as possible, before a magistrate to be dealt with according to law.

Power to arrest.

General
penalty.

100. Any person who commits any breach of any of the provisions of this Ordinance for which breach a penalty is not expressly provided, shall be liable to a fine of one hundred pounds or to imprisonment for six months, or to both.

Power to make
regulations.

101. The Governor in Council may make regulations in connection with or for all or any of the matters or purposes following :—

- (a) the manner in which applications for any right, licence, claim or lease which may be granted under this Ordinance shall be made and the forms to be used;
- (b) the information to be supplied by the applicants;
- (c) the classes of claims and leases;
- (d) the manner in which claims shall be pegged;
- (e) the shape of the areas over which exclusive prospecting licences may be granted;
- (f) the size and shape of the areas over which claims or mining leases may be granted;
- (g) the manner in which areas and boundaries shall be surveyed, marked and beaconed and the fees payable in respect of such survey;
- (h) the working conditions to be applied to mining leases, claims and licences;
- (i) the construction and use of roads, tramways, and railways;
- (j) the construction and erection of houses, pits, shafts, machinery, and other works to be used for prospecting or mining purposes;
- (k) the fencing off or rendering secure of any shaft, tunnel, drive or other works constructed, erected or made for prospecting or mining purposes;
- (l) the grazing of cattle or other animals and the cutting down and use of timber for the purpose of carrying on prospecting and mining operations;
- (m) the safety of persons employed in mines and the carrying on of prospecting or mining operations in a safe, proper and effectual manner;
- (n) the renewal, transfer, assignment and surrender of rights under licences, claims and mining leases;

- (o) the registration in the office of the Commissioner of mining leases, claims and exclusive prospecting licences and instruments under which any right or interest thereunder is transferred or surrendered and the fees payable on such registration;
- (p) the returns to be rendered and the nature of the accounts, books and plans to be kept by mining lessees and the holders of claims and of exclusive prospecting licences;
- (q) the rates of royalties to be paid to Government, the method of calculation of the amount of such royalties, and the manner and time of payment thereof;
- (r) for determining what proportion of any precious ~~min-~~^{metal} ~~eral~~ per ton any ore may contain without coming under the definition of precious ~~minerals~~; *metal also.* v. 18/19
- (s) the amalgamation of licences, claims and leases;
- (t) the disposal of any poisonous or noxious products the result of mining operations;
- (u) the procedure on an appeal to the Governor;
- (v) the fees to be paid in respect of any matter or thing done under this Ordinance;
- (w) the contribution by parties benefited of a fair share of the cost of pumping in cases where pumping in one mine benefits other mines;
- (x) the defiling or wasting of water, wherever situated and wherever obtained;
- (y) generally for the carrying into effect the purposes of this Ordinance.

102. The Mining Ordinance, 1925, as amended by the Mining (Amendment) Ordinance, 1925, and the Mining (Amendment) Ordinance, 1926, is hereby repealed: **Repeal.**
 No. 3 of 1925.
 No. 14 of 1925.
 No. 20 of 1926.

Provided that notwithstanding such repeal any right or title granted under the Ordinance so repealed shall be limited as prescribed by the Ordinance under which it was granted; and provided further that except as may be expressly provided by such right or title or by such Ordinance the holder of any

such right or title shall hold and exercise such right or title in accordance with the conditions set forth in this Ordinance, and in all respects as if such right or title were issued under this Ordinance.

Grant in Aid for African Education Rules 1920. (Came into operation 11/1/35) 37
Admission Burson's Rules 435 (S.N. 7232 p. 20)

4.4. No. 237
Rules - "The Education (Grant in aid of Secondary School for Africans) Rules 1931, p. 336
Supp. 21. to G.O. 21-4-1931.
Rules, "The Education (Apprenticeship of Arab & Africans) Rules 1932, Supp. No. 30/1932

Ord:
LXIII/33
X/36
XVIII/40

AN ORDINANCE.

No. 2 of 1931.

The "Admissions to European or Indian Coast School Rules, 1932" - vide P. 633. P. R. & R³ (Supp.) 4.4. 1932

Education (FAS) Rules, 1933 (Am) 1934. 763/34. p. 550

Assented to in His Majesty's name this eleventh day of February, 1931.

H. M.-M. MOORE,
Acting Governor.

[11TH FEBRUARY, 1931.] Date of assent.

An Ordinance to make provision for Education throughout the Colony and Protectorate.

[11TH FEBRUARY, 1931.] Date of commencement.

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

1. This Ordinance may be cited as "the Education Short title. Ordinance, 1931."

**PART I.
DEFINITIONS.**

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

" Director " means the Director of Education ;

" Department " means the Department of Education of the Colony ;

" School " means an institution in which not less than ten pupils receive regular instruction and shall include any assembly of not less than ten pupils for the purpose of receiving regular instruction but shall not include—

(a) any institution or assembly in which the instruction is wholly or, in the opinion of the Director, mainly of a religious character, or

(b) any institution owned and maintained by a religious society for the purpose of training persons—

(i) for the ordained ministry, or

(ii) for admission to a religious order under the direction of or associated with such religious society ;

Interpretation.

“ Public school ” means any school maintained from public funds or aided by grants-in-aid from public funds ;

“ Government school ” means a public school maintained from public funds ;

“ Private school ” means a school which receives no assistance from public funds ;

“ Inspector ” means any person duly authorised by the Director to be an inspector of schools ;

“ Education officer ” means any officer of the Department or any person named as such carrying the written authority of the Director to visit or inspect schools or to assist in the carrying out of the provisions of the Ordinance ;

“ School medical officer ” means any officer of the Medical Department or any other registered medical practitioner duly appointed by the Director of Medical and Sanitary Services to act as school medical officer ;

“ Medical inspection ” means the physical examination of children in attendance at school, and the consideration of all matters affecting the health of such children by a school medical officer and shall include physical examination by a school nurse ;

“ School nurse ” means any person appointed by the Director of Medical and Sanitary Services to be a school nurse ;

“ School Committee ” means a committee appointed under Part IV ;

“ Parent ” means the father of a child and if there be no father or if the father be absent from the Colony or dead the mother of such child and, if the child has been placed by order of a competent court in the custody of some person the custodian so appointed, and if the father and mother are both dead or absent from the Colony the person having actual custody of such child ;

“ Manager ” means the person or persons directly responsible for the maintenance of a school other than a Government school, and if such person or persons are not resident in the Colony means the person acting on his behalf or their behalf ;

“ Child ” means any person under the age of twenty-one years.

Amended 10/36
15

PART II.

CONTROL OF EDUCATION.

3. The functions of the Department shall be the performance of all work necessary or incidental to the control of education by the Governor and the exercise of any powers or the carrying out of any duties that may be specially conferred on it by this Ordinance or by rules made thereunder.

Functions of Department.

4. The Governor may from time to time from funds voted for the purpose by the Legislative Council—

General powers of Governor.

- (a) establish or maintain or make grants in aid of schools;
- (b) establish or maintain boarding houses accessory to schools established or maintained under this Ordinance, and make grants or advances in aid of the establishment, maintenance or repair of boarding houses accessory to schools maintained or aided under this Ordinance; provided that in the case of schools aided from public funds the consent of the manager shall first have been obtained;
- (c) make grants in aid of governesses and tutors;
- (d) make grants in aid of such of the following institutions as are constituted and administered in manner approved by him—
 - (i) public libraries and public museums;
 - (ii) orphanages, provided that grants in aid of such institutions may include grants in aid of the maintenance of the inmates thereof;
 - (iii) creches;
 - (iv) institutions or organisations which in his opinion promote the education or health of the children of the Colony;
 - (v) institutions or organisations for the education of adults;
- (e) provide for the conduct of all such examinations as are held under the supervision or control of the Department;
- (f) provide in whole or in part for transporting children to or from any public school;

- (g) provide for the compulsory medical inspection of children at school and for the exclusion on medical grounds of children from school;
- (h) make such other provision for the carrying on of public education as may be consistent with the provisions of this Ordinance.

Bursaries.

5. The Governor may from time to time from funds voted for the purpose by the Legislative Council provide bursaries—

- (i) to assist in transporting children to any public school which in the opinion of the Director provides education suitable to their age or standard of attainment or in boarding them at or near any such school;
- (ii) to assist in the education or maintenance or transport of children or students who are undergoing or proceeding to undergo courses of instruction at institutions approved by the Governor outside the Colony,

and may withdraw any such bursaries, provided always that the grant or withdrawal of any bursary shall be in accordance with and subject to conditions prescribed by rule.

PART III.
ADVISORY COUNCILS.**Advisory Councils appointed by Governor.**

6. The Governor may appoint one or more Advisory Councils to advise the Director in regard to matters affecting education in the Colony.

Functions of Advisory Councils.

7. The functions of an Advisory Council shall be to advise the Director upon the following matters in connection with the education of the race or community in whose interests the Council is appointed:—

- (a) the organisation of schools;
- (b) the curricula to be adopted in different types of schools;
- (c) the fees to be charged in Government schools;
- (d) the fees to be charged in boarding houses attached to Government schools;
- (e) to advise on proposed legislation affecting education;
- (f) any matter affecting education submitted by two members of the Council;
- (g) any other matters referred to the Council by the Director.

8. An Advisory Council shall consist of such and so many members as the Governor may from time to time decide and shall hold office for a period of three years provided that—

Constitution and period of Advisory Council

- (a) the chairman of an Advisory Council shall be the Director or his nominee;
- (b) at least one member of each Advisory Council shall be an elected member of the Legislative Council;
- (c) the Governor may at any time revoke the appointment of any member.

9. The Secretary to an Advisory Council shall be an officer of the Department appointed by the Director.

Secretary to Advisory Council.

10. An Advisory Council shall at its first meeting decide the number required to constitute a quorum.

Quorum of Advisory Council.

11. (1) An Advisory Council shall meet not less than once in each year and at such other time as the Director may decide; provided that on receipt of a written requisition signed by three members, the Director shall within six weeks of the receipt of such requisition summon a meeting of the Council.

Meetings of Advisory Council.

(2) It shall be the duty of the chairman to report to the Council the action taken on any matter on which the Council has advised the Director.

PART IV.

SCHOOL COMMITTEES.

12. The provisions of this Part shall not apply to schools for the education of Arab or African children.

Provisions of this part not to apply to Arabs or Africans.

13. If, in the opinion of the Director the establishment of a school committee is in the interests of any Government school or group of schools, or if the Director receives a requisition in writing from not less than fifty per cent of the parents of the children in attendance at such school or group of schools, he shall take steps to constitute a school committee for such Government school or group of schools as provided in the next following section.

Appointment of school committees for Government schools.

14. A school committee shall consist of not less than three or more than nine members as the Director shall in each case decide, such members to be appointed by the Governor :

Constitution of school committees.

Provided that in the case of a Government school established to meet the educational requirements of the Colony as a whole, and not of a particular locality, the constitution of the committee for such school shall be as the Governor may direct.

Additional members.

15. The Governor may appoint as an additional member of any school committee any person who is, in his opinion, a benefactor of such school or of one of the schools in respect of which the committee is constituted.

Tenure of office of school committees.

16. (1) One-third of the members of a school committee as near as may be, other than the additional member or members appointed in terms of the preceding section, shall retire in rotation after holding office for one year, but shall be eligible for reappointment.

(2) If a member of a school committee resign or die or be absent from the Colony, the Director may appoint a member to take his place.

(3) If a member of a school committee absent himself without leave from two consecutive meetings of the committee without an explanation satisfactory to the committee he shall be deemed to have resigned.

(4) The Governor may on the recommendation of the Director call upon a member of a school committee to resign and he shall thereupon be deemed to have resigned.

Chairman and quorum of committee.

17. At the first meeting of a school committee or thereafter whenever necessary the committee shall—

- (a) elect a chairman;
- (b) appoint a secretary who may, with the approval of the Director, be an officer of the Department;
- (c) fix the number required for a quorum;
- (d) make rules for the conduct of their business, subject to the approval of the Director;
- (e) decide by ballot the members who shall retire in each year under section 16 of this Ordinance.

Meetings of committee.

18. A school committee shall meet not less than once in every four months, provided that the chairman may summon a special meeting if he considers such meeting to be necessary and shall summon such a meeting on the written request of not less than half the members.

- 19.** The functions of a school committee shall be— Functions
of school
committee.
- (1) to advise regarding the school buildings and premises;
 - (2) to recommend reduction or remission of fees for books, stationery or equipment or tuition or board or medical attendance in the case of children whose parents are in the opinion of the committee unable to pay such fees in whole or in part;
 - (3) to report on boarding houses (not maintained by Government) for children in attendance at school when called upon to do so by the Director;
 - (4) to account for grants in aid of repairs or maintenance of the school buildings or premises when such are not maintained by Government;
 - (5) to consider and decide all applications for admission or readmission of pupils to the school in respect of which the Committee is appointed, subject to the right of appeal to the Director whose decision shall be final;
 - (6) to assist generally in the administration of the school in so far as required by rule or so far as called upon to do so by the Director;
 - (7) to advise generally on matters affecting the interests of the school :

Provided that the Committee shall have no control or authority over any teacher or servant appointed by the Government.

PART V.

SCHOOL AREA COMMITTEES FOR ARAB AND AFRICAN EDUCATION.

20. The Governor may constitute school area committees in respect of such areas or districts as he may think fit or may combine two or more such areas or districts for the constitution of such committees. School area
committees in
certain areas.

21. A school area committee shall consist of a chairman who shall be the Provincial Commissioner or a deputy nominated by him, and the following members— Constitution of
school area
committees.

- (i) in areas in which there is one local native council—
 - (a) three members nominated by the local native council and appointed by the Provincial Commissioner;

- (b) such other members as the Governor may from time to time appoint not being less than three nor more than six in number;
- (ii) in areas in which there are two or three local native councils—
 - (a) two members nominated by each local native council and appointed by the Provincial Commissioner;
 - (b) such other members as the Governor may from time to time appoint not exceeding twice the number of members nominated by local native councils and not being less than the number of members nominated by the local native councils;
- (iii) in areas in which there are four or more local native councils—
 - (a) one member nominated by each and appointed by the Provincial Commissioner;
 - (b) such other members as the Governor may from time to time appoint not exceeding twice the number of members nominated by local native councils and not being less than the number of members nominated by the local native councils :

Provided that in case a school area committee is constituted in an area in which there is no local native council the school area committee shall be constituted in such manner as the Governor may from time to time decide.

Functions of school area committees.

22. The functions of a school area committee shall be as follows :—

- (a) to advise the Director in regard to the provision of schools within its area;
- (b) to make recommendations to the Director in regard to the opening, management or closing of public schools for Arabs and Africans in the area;
- (c) to make recommendations to the Director as to the nature and amount of assistance to be invited from any local native council for the carrying out of any educational project for the benefit of Africans;
- (d) subject to the provisions of any Ordinance relating to the use of land to make recommendations to the Director as to the sites for the establishment of schools for Arab and African children;

(e) to advise the Director generally upon any educational matters referred to the committee by him or by the Provincial Commissioner.

23. (1) A school area committee shall hold office for a period of three years.

Period of office of school area committees.

(2) A school area committee shall meet not less than once in every four months.

(3) If a member of a school area committee resign or die, the authority nominating such member shall nominate a substitute who shall hold office for the period for which the member whom he replaces would have continued to be a member if he had not resigned or died.

(4) The Governor may call upon a member of a school area committee to resign and he shall thereupon be deemed to have resigned.

24. A school area committee shall decide what number of members shall constitute a quorum at the meetings of such committee provided that in no case shall such quorum be less than one-third of the members.

Quorum of school area committees.

25. Any member of a school area committee other than the chairman may resign therefrom by notification in writing to the chairman.

Resignation of members of school area committees.

PART VI.

COMPULSORY EDUCATION.

26. (1) The provisions of this Part shall apply only to such races or sections of the community, and to children of such sex and age as the Governor with the advice and consent of the Legislative Council may by proclamation prescribe.

Education to be compulsory.

(2) Such proclamation may apply the provisions of this Part to the whole of the Colony or to such area or areas as may be defined in such proclamation.

27. (1) It shall be the duty of the parent of every child to whom this Part has been applied who has reached the age at which education is made compulsory in respect of such child and has not completed the age at which education ceases to be so compulsory to cause such child to attend at a school on every day on which such school is open unless such child—

Duties of parents where education of children is compulsory.

(a) is in the opinion of the Director receiving efficient instruction in some other way; or

- (b) is prevented from ill-health or any other cause whether temporary or permanent which the Director may deem a sufficient excuse for non-attendance; or
- (c) the parent is in the opinion of the Director unable to pay the fees prescribed for tuition under this Ordinance and has applied for but has not received exemption from the payment of such fees.

(2) If any such child as aforesaid lives more than three miles by the nearest road from a school (or more than two miles from a school if he has not completed his ninth year) the following provisions (subject to the exemptions otherwise in this section provided) shall apply :—

- (a) if in the opinion of the Director the parent of such child is himself in such a financial position as to enable him to make the necessary provision for the child's attendance at school, whether in respect of fees, transport, or boarding or fees and transport and boarding it shall be the duty of such parent to do so at whatever distance he may reside from the school;
- (b) if in the opinion of the Director the parent is in such a financial position as to enable him to defray a portion of the fees, transport, or boarding of his child in order to enable him to attend school and in case such fees have been remitted in whole or in part, and there have been provided by the Government or by any other person or body to the approval of the Director reasonable facilities or assistance for such transport or boarding the parent shall not be excused from causing the child to attend school regularly by reason that the whole cost of transport or boarding is not defrayed by the Government;
- (c) if in the opinion of the Director the parent is not in a financial position to pay the fees prescribed under this Ordinance or to defray the cost of such transport or boarding or any portion thereof he shall be excused from sending his child to school unless the fees are wholly remitted and facilities for transport or boarding or both free of cost to the parent have been provided by the Government or from some other approved source.

(3) The Governor may with the advice and consent of the Legislative Council prescribe the limits of age between which attendance at school is compulsory, either for children of any race or section of the community or for children of either sex.

(4) It shall be the duty of the parent of every such child who has reached the age at which education ceases to be compulsory for such child, and who remains on the school roll to cause such child to attend regularly.

(5) The Governor may with the advice and consent of the Legislative Council by proclamation vary the distance prescribed in this section.

28. Every principal of a school at which a child whose attendance at school is required under the preceding section is enrolled shall report to the Director or other education officer approved by him, any case of irregular attendance on the part of such child, in such manner as may be by rule prescribed.

Duty of principal to report irregular attendance.

29. (1) When a proclamation has been issued under this part it shall be the duty of every parent of a child who, but for the fact that he has not yet attained the age at which education becomes compulsory for him, would have been subject to such proclamation, not less than six months before such child attains such age as aforesaid to forward in writing to the Director or to an education officer approved by the Director the following particulars in regard to such child—

Parents' duty to notify particulars of children.

- (i) full name and sex;
- (ii) date of birth;
- (iii) distance of residence from nearest school;
- (iv) name of the school to which it is proposed to send such child, or alternatively if the parent of such child does not intend to send it to school he shall inform the Director in what other way he proposes to give it efficient instruction.

(2) It shall be the duty of the parent of every child who, within six months after the date on which a proclamation is issued under this Part, will attain the age at which education becomes compulsory for him, to forward in writing to the Director or to an education officer approved by the Director the particulars prescribed in sub-section (1) of this section.

(3) Every parent of a child to whom this Part has been applied entering the Colony shall within three months of arrival in the Colony forward in writing to the Director the information required in the preceding sub-section.

(4) Any person who fails to give any information required under this section shall on conviction be liable to a penalty not exceeding fifty shillings for a first offence and to a penalty not exceeding five pounds for a second or subsequent offence.

Procedure in case of non-attendance.

30. (1) If the Director or the education officer charged by him with the duty of seeing that all children who are required to receive education do receive education, is of opinion that any such child is not receiving education he shall apply to a magistrate having jurisdiction in the area in which the parent of such child resides, for an order calling upon the parent to cause such child to attend school and shall at the same time inform such parent that such application is being made to the magistrate.

(2) The magistrate upon receipt of such application shall after affording the parent an opportunity of stating either in writing or in person any reason why an order should not be made, make an order to the parent to cause his child to attend school regularly or to give his child efficient instruction in some other way to the satisfaction of the Director, unless he is of opinion that the matter should be reconsidered by the Director. In that event he shall request the Director to reconsider the matter and if the Director renews the application he shall give his decision. If the magistrate decide against the issue of such an order no such application with respect to the same child shall be made before the lapse of four months from the date of the magistrate's decision.

(3) If a parent to whom the magistrate has issued an order in accordance with the preceding sub-section fails to carry out such order, the Director or an education officer acting with the authority of the Director shall cause such parent to be summoned before a magistrate and on conviction such parent shall be liable to a penalty not exceeding fifty shillings for a first offence and for a second or any subsequent offence a penalty not exceeding ten pounds :

Provided that a complaint under this sub-section with respect to the same child shall not be repeated at any less interval than two months.

31. If a parent who is summoned before a magistrate as provided in the preceding section claims that he is providing efficient instruction the magistrate may call for a report on such instruction to be submitted to him by an inspector.

Power to call for report on education of child not attending school.

32. In any proceedings before a magistrate for an order or penalty in regard to the school attendance of children under this Ordinance the following provisions shall apply :—

Provisions as to legal proceedings.

- (a) it shall lie on the parent to prove that the child is not of the age in respect of which attendance at school is compulsory;
- (b) the magistrate may require by summons the parent of a child to produce the child before him and any parent failing to comply with such a summons without reasonable excuse to the satisfaction of the magistrate shall be liable on summary conviction to a penalty not exceeding five pounds;
- (c) in any proceedings relating to a child at which the child is present the magistrate shall sit either in a different room from that in which the ordinary sittings of the court are held or on different days or at different times from those at which the ordinary sittings of the court are held, and no persons other than the officers of the court, officers of the Department and the parties to the case, their advocates and other persons directly concerned in the case shall, except by leave of the magistrate, be allowed to attend;
- (d) no fees shall be payable for any process applied for or issued under this Part.

PART VII.

PRIVATE SCHOOLS.

33. (1) It shall be the duty of the manager of any private school in the Colony—

Registration of private schools.

- (a) to register such school at the office of the Department;
- (b) to keep a register of teachers employed thereat, showing the qualifications of such teachers;
- (c) to see that the school is properly conducted and provided with a curriculum approved by an inspector;

19/40

(d) to see that the principal teacher keeps a register of enrolment and a register of daily attendance of pupils in the form prescribed by the Director and furnishes to the Department at such times and for such periods as the Director may require correct returns in the form prescribed by rule of the entries in any register kept as aforesaid.

(2) Any such manager as aforesaid who shall fail to comply with any of the requirements of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty-five pounds.

Ord. x/26

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

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

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

to a fine not exceeding fifty pounds.

Inspection and rised closing of private and schools. in or
is conducted in a
ector calculated to
moral welfare of
the premises on
school purposes,
ng such alteration
duct of the school
thin a time fixed
to his satisfaction
he premises to be
eal within seven
n order to close a
ernor in Council
or, or any other
powers conferred
bl without having
ribed as aforesaid
rector use for the
es ordered to be
section; "
able on conviction

Give notice to the manager ordering such alterations in the conduct of the school as he may think necessary to be made within a time fixed by such order and if the same be not made to his satisfaction within the time specified he may,

(3) The Director or any accredited representative may at any reasonable time without notice visit and inspect any private school in the Colony and such of its records as are required by the Department, provided that in the case of purdah schools the inspection shall be carried out by a woman duly authorised.

PART VIII.

TEACHERS.

35. No person except in special circumstances to be recognised as such by the Director shall be appointed as a teacher in any public school who does not hold a certificate or licence to teach issued or recognised by the Director, and every licence to teach and every certificate issued under the provisions of this section shall be signed by the Director.

Teachers required to have certificates.

36. In the case of teachers who may be employed in a Government school at the time of the passing of this Ordinance but who do not hold a certificate to teach, ten years' approved experience of teaching shall be regarded as equivalent to the possession of a certificate. All teachers appointed to teach in Government schools after the date of this Ordinance with less than ten years' approved experience shall be required to obtain a certificate before their appointments are confirmed.

Provisions in case of existing teachers.

37. The appointment of teachers in a public school other than a Government school shall lie with the manager of such school, but every such appointment shall be subject to the approval of the Director. The manager of a public school may be required to dismiss any teacher upon the order of the Director approved by the Governor and refusal to comply with such order shall entitle the Director to reduce or withhold the grant payable to such school.

Teachers in public schools to be approved by the Director.

38. (1) The manager or principal of any institution in which provision is made for the training of teachers may with the approval of the Director enter into an agreement in the form to be by rule prescribed whereby the person undergoing a course of training as a teacher is required to serve as a teacher on the completion of the course of training for a period not longer than the period of training.

Students in training to be subject to agreement to teach.

(2) No stamp duty shall be payable on any agreement made under this section.

of Education may in own
te legal proceedings the
any fees or other sum i
he attendance of pup a
chool.

PART IX.

FEEES.
or reduced fees

Fees in Government schools.

39. (1) Such fees, as may be prescribed by rule shall be payable in any Government school provided that the Governor in Council may, at any time and for such period as he shall think fit, by order determine that no fees for tuition or for books or for medical attendance be payable in any one or more of such schools or in any class or classes of such schools or in respect of any individual pupil or group of pupils.

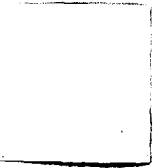
(2) All fees for tuition or books or board, or medical attendance shall, as the Director may decide, be payable by the month or term in advance to principals of schools, or to such other person as the Director may decide, and any person not so paying shall within fourteen days after the commencement of the month or term (as the case may be) or if he has been advised in writing by the person to whom the payment is required to be made, that such fees are due up to the date of such exclusion have been paid.

~~(3) If such fees are not paid within one month after such notice is duly given the Director may institute legal proceedings in his own name against the person in default for the recovery thereof. Prorided that such exclusion shall not take place until the school committee has been consulted.~~

(3) The Director may remit in whole or in part the fees due in respect of tuition or books or board or medical attendance if he is satisfied that the parent of the child in respect of whom such remission is recommended is unable to pay such fees in whole or in part.

(4) 40. All fees whether paid or recovered as in the last preceding section shall be accounted for and paid into the general revenue of the Colony.

Ord: LXII/33



Fees to be paid into general revenue.

PART X.

MISCELLANEOUS.

Delegation of authority by Director.

41. When any proceedings under this Ordinance are brought in the name of the Director it shall be lawful for the Director to appoint any person to conduct the proceedings in court on his behalf.

Children to attend school serving prescribed area.

42. The Director may by order published in the Gazette prescribe the area to be served by any Government school. No child living outside the area so prescribed shall be admitted to the school serving such area without the writte

permission of the Director, and any child living outside the area so prescribed who has been admitted to such school may be excluded from such school, but such exclusion shall not be deemed to be a sufficient excuse for non-attendance at school within the meaning of Part VI of this Ordinance.

43. Every child in attendance at a public school shall be liable to medical inspection provided that if the parent of any child objects to medical inspection he may signify his objection in writing to the Director through the school committee if one exists who shall either excuse such child from medical inspection or submit the matter to the Governor whose decision shall be final.

Medical inspection.

44. (1) Every child attending a public school and undergoing a course of training for any trade or vocation or a preliminary general course of instruction leading to such course of training shall be bound by a form of apprenticeship to be prescribed by rule to complete such course of training unless released therefrom with the authority of the Director.

Apprenticeship for learning trade.

Ord: 1911/33

(2) No stamp duty shall be payable on any agreement made under this section.

PART XI.

RULES AND REGULATIONS.

45. The Governor in Council may from time to time make rules—

Power of Governor in Council to make rules.

- (a) prescribing the conditions of admission to Government schools;
- (b) prescribing the conditions of expulsion or exclusion from school on grounds of age, discipline or health, and the administration of corporal punishment;
- (c) prescribing the manner in which compulsory attendance at school is to be ensured;
- (d) prescribing the conditions for the payment of grants in aid of boarding houses conducted in connection with Government schools;
- (e) prescribing the conditions of payments of grants in aid of schools, or boarding houses;

- (f) prescribing the conditions of the grant of bursaries to enable children to attend school, either by means of transport or boarding or both;
- (g) prescribing the conditions under which funds raised by local native councils or other local bodies are to be expended for educational purposes;
- (h) prescribing the amounts and the manner of payment of fees payable under this Ordinance and the recovery thereof;
- (i) prescribing the manner in which the medical inspection and treatment of school children shall be carried out;
- (j) prescribing conditions for securing liberty of conscience and due respect for the religious beliefs of pupils attending public schools;
- (k) prescribing the conditions of payment of grants in aid of public libraries;
- (l) prescribing the conditions of the issue of teachers' certificates or licences and the withdrawal of such certificates or licences.
- (m) prescribing the conditions under which children may for the purpose of learning a trade or becoming teachers be apprenticed to the Director or his representative or to the head of an approved institution;
- (n) prescribing the duties of officers appointed under this Ordinance;
- (o) generally for the better carrying out of the objects of this Ordinance.

**Power of
Director
to make
regulations.**

46. The Director may make Regulations—

- (a) prescribing the subjects of instruction to be given in any public school and the courses in such subjects;
- (b) prescribing conditions of any examinations held by the Department and the fees payable for any examinations held by or under the supervision of the Department;

1931

Education

No. II

- (c) prescribing the manner in which records, statistics, and accounts shall be kept and returns and reports shall be made to the Department;
- (d) prescribing the procedure to be adopted at meetings of bodies constituted under this Ordinance;
- (e) prescribing the conditions of the use of Government school buildings out of school hours.

47. The Education Ordinance, 1924, is hereby repealed.

Regulation
1932. V.P. 2. 11
Supp. 15 15 6 11
Repeal.
No. 17 of 1924.

amended. v. Ord. IV/1933 p. 11.

vide Ord: $\frac{IV}{XXXIII}$ of 1934.

Land Agricultural Bank (Amendment) Ordinance 1934

Ord. xiv/36
~~xv~~ / 40

v/46

xv / 40
 xx / 40
 xxv / 43
 xxv / 44

AN ORDINANCE.

No. 3 of 1931.

ASSENTED TO BY HIS MAJESTY.

An Ordinance to Establish and to Regulate the Management and Control of a Land and Agricultural Bank for the Colony and Protectorate of Kenya.

*Amended
 v. Ord. 7/1932
 Reg. 2/1/32*

3rd March, 1931.

Date of commencement.

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

1. This Ordinance may be cited as "the Land and Agricultural Bank Ordinance, 1930," and shall come into operation on such date as the Governor may, by notice in the Gazette, appoint.

Short title and date of commencement.

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

Interpretation.

"Farmer" means a person who devotes his attention to farming in the Colony, either exclusively or together with some profession, business or other occupation;

"Mortgagor" includes any person or company to whom an advance has been made under this Ordinance, and his or its legal representative; and the words "mortgage," and "mortgagee" shall include a charge, or chargee under the Registration of Titles Ordinance.

Cap. 142.

"Mortgage" includes a charge or lien.

"Registrar" means a Registrar of Documents, Registrar of Crown Lands, or a Registrar of Titles;

"Staff" means the officers and clerks of the Bank appointed under section 7 of this Ordinance.

PART I.

ESTABLISHMENT AND MANAGEMENT OF A LAND AND AGRICULTURAL BANK.

Establishment
of Land and
Agricultural
Bank.

3. (1) There shall be established in the Colony a Bank under the name of "The Land and Agricultural Bank of Kenya" hereinafter referred to as "the Bank," which shall be administered and managed as in this Ordinance is provided.

(2) The Bank shall be a body corporate and shall, under the said name, be capable of suing and of being sued, and of purchasing or otherwise acquiring, holding and alienating property, movable and immovable, and of doing or performing such acts and things as bodies corporate may by law do and perform, subject to the provisions of this Ordinance.

Control of
operations of
Bank by
Board.

4. (1) The operations of the Bank shall be controlled by a Board, hereinafter referred to as the Board, consisting of five members each of whom shall be appointed by the Governor.

(2) ~~Of the five members of the Board, first appointed under this Ordinance, one, except~~ ^{the Chairman} the Chairman, shall retire annually in rotation. The dates of the retirement shall be the first day of January, 1932, and in every year thereafter until all such members have retired. The members so retiring shall, unless they agree amongst themselves who shall retire, be determined by lot immediately after their first appointment and the place of the member retiring shall be filled by the appointment of another member in his place by the Governor. Thereafter, one member of the Board, not being the Chairman, shall retire annually in rotation, the order of retirement being determined by the date of appointment. A retiring member may be reappointed as a member of the Board unless removed or disqualified as hereinafter provided.

vide art:
XIX / 1931

(3) The Chairman shall be appointed by the Governor for such period as he may direct.

(4) The name of every member of the Board shall, as soon as practicable after his appointment, be published in the Gazette.

Functions of
Secretary.

5. (1) The Governor shall appoint a Secretary to the Board who shall be the chief executive officer of the Bank and shall be present at all meetings of the Board, unless he has obtained leave of absence from the Governor, or is absent on duty, or is incapacitated by sickness or other cause.

(2) In the event of the Secretary being absent on leave or on account of incapacitation, the Governor may appoint a person to act as Secretary during such period of absence or incapacitation and the person so acting may exercise all the powers and discharge all duties by this Ordinance exercisable or to be performed by the Secretary.

6. (1) The Chairman shall preside at all meetings of the Board unless he has obtained leave of absence from the Governor or is absent on duty or is incapacitated by sickness or other cause.

Functions of
Chairman.

(2) In the event of the absence for any cause of the Chairman, the Board shall choose one of their number, who shall, during the absence of the Chairman, act as Chairman and preside at all meetings of the Board.

7. (1) The Board may from time to time, subject to the approval of the Governor, appoint upon such terms and conditions as it may deem fit such officers and clerks as may be necessary for conducting the business of the Bank. Officers and clerks in receipt of a salary not exceeding £200 may be suspended from duty or removed from office by the Governor. Officers and clerks in receipt of a salary exceeding £200 may be suspended from duty or removed from office by the Governor, after inquiry by a committee of the Executive Council, in manner provided for pensionable public officers by the Regulations for His Majesty's Colonial Service.

Appointment of
Staff of the
Bank.

(2) Every person so appointed shall, subject to the provisions of this Ordinance, exercise the powers and functions and perform the duties assigned to him from time to time by the Secretary.

Resident Fund.

8. The salaries and allowances of the Secretary and of the staff and the persons employed by the Bank and all other expenditure incurred by the Bank shall be paid out of its funds.

Expenses of
administration.

9. (1) No stamp duty, transfer duty or registration fees shall be payable in respect of any transfer of property to the Bank otherwise than by way of mortgage or security for an advance.

Exemption from
stamp duty and
other charges.

(2) Subject to the provisions of sub-section (1) hereof, no certificate, document or instrument issued by or in favour of the Bank in giving effect to the powers conferred upon it by this Ordinance shall be subject to stamp

duty, fee or any charge whatsoever, nor shall the Bank be liable for the payment of any search or inspection fee in any land titles or deeds registry or other registration office; and the Bank is furthermore specially exempted from the provisions of any law specially governing banks other than this Ordinance.

Execution of documents and signing of cheques.

Ord: XIV/36
Ord: XIX/44

10. All deeds, instruments, contracts and other documents shall be deemed to be duly executed by or on behalf of the Bank if signed by the Chairman of the Board and one other member of the Board, ^{or by the Chairman of the Board, or by} ~~deputed thereto by the Board in each case~~, underneath the name of the Bank: Provided that a cheque upon any banking account kept by the Bank shall be signed by the Secretary and one member of the Board.

Remuneration of members of Board.

Ord: V/40

11. (1) Every member of the Board, other than the Chairman and other than members who are officers in the public service, shall be paid out of the funds of the Bank a fee of three pounds for each day or portion of a day while he is engaged upon the business of the Bank and the Chairman shall be paid such salary as the Governor may determine on the advice of the Board: Provided that no member other than the Chairman shall be paid more than three hundred pounds in any one year and provided that a member who is an officer in the public service shall be paid such fees as the Governor may determine on the advice of the Board.

Ord: VII/40
XIX/44

(2) The expression "while engaged on the business of the Bank," shall, in the case of a member who habitually resides more than twenty miles distant from the place where the meetings of the Board are held, include the time actually and necessarily occupied in—

- (a) travelling from and to his residence in connection with such meetings,
- (b) remaining at such place in order to attend such meetings.

Quorum and proceedings of Board.

12. Three members shall constitute a quorum at any meeting of the Board and all acts, matters or things authorised or required to be done by the Board shall be decided by resolution of any meeting at which a quorum is present: Provided that, when only three members of the Board are present, no advance shall be made except upon a unanimous resolution. The Chairman at any meeting shall, in addition to his deliberative vote as a member of the Board, have a casting vote.