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CORRIGENDUM

PAGE 392.—For side note against Section 6 of Ordinance No. XLV of 1933—Local Government (Municipalities) (Amendment) Ordinance, 1933—read “Repeal. No. 29 of 1932” instead of “Repeal. No. 31 of 1932.”

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LVIII	Registration of Patents Ordinance, 1933	29-12-33	29-12-33	441
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LXII	Game (Amendment) Ordinance, 1933	30-12-33	30-12-33	499
LXIII	Education (Amendment) Ordinance, 1933	30-12-33	30-12-33	509
LXIV	Companies (Amendment) Ordinance, 1933	30-12-33	30-12-33	511
LXV	European Officers Pensions (Amendment) Ordinance, 1933	30-12-33	30-12-33	512
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TABLE SHOWING THE EFFECT OF THE YEAR'S LEGISLATION
FORMER ORDINANCES (in Chronological Order) REPEALED OR AMENDED BY ORDINANCES OF 1933

Year and No. of Ordinance	Short Title	How Affected	Ordinance of 1933
<i>Revised Edition Cap. 24</i>	Legislative Council	Repeals and replaces sections 14 and 15. Adds section relating to period of elections. Amends sections 16, 17 and 19. Adds section relating to by-elections. Repeals and replaces Part A of Schedule I	56
" 34	Widows' and Orphans' Pension ..	Adds section regarding officers in services common to more than one East African Government	43
" 44	Currency Notes	Authorizes the Raising of Loans to enable the East African Currency Board to meet further redemptions of currency	16
" 52	Non-Native Poll Tax	Repealed, subject to revival on the expiry of Ordinance No. 40 of 1933	40
" 54	Dangerous Petroleum Tax	Adds section regarding repayment of tax in certain centres. Repeals Ordinance No. 57 of 1930	8
" 57	Stamp	Amends First Schedule	39
" 58	Traders' Licensing	Repealed	41
" 63	Vagrancy	Amends sections 10 (3) and 11 (3)	7
" 79	Stock and Produce Theft	Repealed	18
" 88	Patents and Designs	Repealed in so far as it relates to Designs	57
" 88	Patents and Designs	Repealed in so far as it relates to Patents	58
" 93	Companies	Repealed	28
" 113	Public Travel and Access Roads ..	Repeals and replaces section 14. Adds sections regarding Application of Ordinance and Public Rights of Way not to be extinguished	42
" 120	Drugs and Poisons	Amends section 26 by addition of a sub-section relating to metallic mercury and the cyanides of the alkali metals to be used exclusively in mining operations	54
" 129	Native Authority	Amends section 30	19
" 142	Registration of Titles	Amends sections 46 and 66. Repeals and replaces Form U in the First Schedule	52

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FORMER ORDINANCES (in Chronological Order) REPEALED OR AMENDED BY ORDINANCES OF 1933

Year and No. of Ordinance	Short Title	How Affected	Ordinance of 1933
<i>Revised Edition</i>			
Cap. 149	Forest	Repeals and replaces section 39	35
" 167	Marriage	Repeals and replaces section 22	11
3 of 1924	Civil Procedure	Repeals and replaces section 11.	13
3 of 1925	Mining	Amends section 11. Repeals and replaces section 50	48
8 of 1925	Arms and Ammunition	Repealed	61
4 of 1927	Companies (Amendment)	Amends sections 16 and 22	10
7 of 1927	Bills of Exchange	Repeals and replaces section 14	51
10 of 1927	Customs Revenue Allocation	Repealed	28
11 of 1927	European Officers' Pensions	Provides for sections 76 to 82 to apply to a banker's draft as if the draft were a cheque. Defines "banker's draft"	53
15 of 1927	Kenya and Uganda Railway	Amends long title. Amends sections 1 and 2. Repeals and replaces section 3	37
10 of 1928	Stock and Produce Theft (Amendment)	Amends sections 7 and 18	65
19 of 1928	Local Government (Municipalities)	Repeals and replaces section 49 (a)	30
25 of 1928	Game	Repealed	18
		Amends section 16. Repeals and replaces section 18. Amends sections 41 and 52	45
		Amends sections 4 and 5. Adds section relating to Unlicensed Assistants. Repeals and replaces section 8. Repeals sections 13, 18, 19, 20, 22, 37, 38 and 39. Repeals and replaces section 17 (1). Adds sections regarding (a) licence to bear name and signature of holder; (b) licence to be produced on demand; (c) non-transferability of licence; (d) killing of animal in any circumstances to count on licence; (e) photographic permits. Repeals and replaces section 26. Amends sections 26A and 27	62

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

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Year and No. of Ordinance	Short Title	How Affected	Ordinance of 1933
<i>Revised Edition</i>			
0 of 1929	Tribal Police	Adds sections regarding Tribal Police Rewards and Fines Fund; disposal of unclaimed property; rewards to Tribal Police Officer to be paid to the Fund; employment of additional Tribal Police Officers; award of compensation to sufferers from misconduct of inhabitants; definition of "inhabitants"; recovery and disposal of moneys paid under sections 17 and 18	9 18 32 24 12 29 5 55
20 of 1929	Stock and Produce Theft (Amendment)	Repealed	6
33 of 1929	Fire Inquiry	Amends section 10	31
1 of 1930	Customs Tariff	Amends Schedule	49
10 of 1930	Penal Code.. ..	Amends section 27	1
12 of 1930	Agricultural Advances	Amends section 26	61
32 of 1930	Bankruptcy	Repeals and replaces section 3	63
37 of 1930	Prisons	Amends sections 18 (1) and 22 (10). Repeals and replaces section 162	4
39 of 1930	Native Tribunals	Adds section regarding exemption from poll or hut tax and gratuities in lieu thereof	
42 of 1930	Sale of Wheat	Amends sections 33, 34, 37 and 43	
56 of 1930	Brokers	Adds section relating to power of Agency to call for books, returns, etc., from millers. Repeals and replaces section 15 (a) and 15 (c)	
1 of 1931	Mining	Repeals and replaces Schedule	
2 of 1931	Education	Repealed	
3 of 1931	Land and Agricultural Bank	Repeals and replaces sections 39 and 44	
		Adds section regarding the Board acting as agents for the Government. Amends section 11. Adds section regarding procedure for recovery on default by entry and sale of the property	

TABLE SHGWING THE EFFECT OF THE YEAR'S REGISTRATION—(Continued.)

FORMER ORDINANCES (in Chronological Order) REPEALED OR AMENDED BY ORDINANCES OF 1933

Year and No. of Ordinance	Short Title	How Affected	Ordinance of 1933
<i>Revised Edition</i>			
21 of 1931	Nursing Sisters (Retiring Allowances) ..	Amends section 2	3
22 of 1931	Butter Levy	Adds proviso to section 4. Adds sub-section to section 8	59
56 of 1931	Entertainments Tax	Amends section 3. Repeals and replaces section 8. Adds section regarding Entertainments Tax Commissioners	46
1 of 1932	Traders' Licensing (Amendment) ..	Repealed	41
15 of 1932	Mining (Amendment)	Repealed	61
29 of 1932	Local Government (Municipalities) (Amendment)	Repealed	45
45 of 1932	Moneylenders	Amends section 2	44
47 of 1932	Appropriation	Repealed	36
50 of 1932	Coffee Industry	Amends section 3 (2)	34
52 of 1932	Mining (Amendment) (No. 2)	Repealed	61
2 of 1933	Trading in Unwrought Precious Metals Companies	Amends section 3 (1). Repeals and replaces section 5 (3)	50
28 of 1933	Companies	Amends section 324 (1)	64
<i>Applied Acts:—</i>			
1872	Indian Contract Act	Chapter XI repealed as applied to the Colony	26
1875	Indian Majority Act	Repealed as applied to the Colony	17

Colony and Protectorate of Kenya

ORDINANCE No. I of 1933

Assented to in His Majesty's name this twenty-fourth day of April, 1933.

J. BYRNE,
Governor.

[24TH APRIL, 1933.] Date of assent.

An Ordinance to Amend the Brokers Ordinance, 1930.

24th April, 1933

Date of commencement.

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

1. This Ordinance may be cited as "the Brokers (Amendment) Ordinance, 1933," and shall be read as one with the Brokers Ordinance, 1930, hereinafter referred to as "the Principal Ordinance."

Short title.

No. 56 of 1930.

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

Repeal and replacement of Schedule to the Principal Ordinance.

" SCHEDULE.

The fees leviable in respect of licences under this Ordinance shall be as follows :—

	£
Licence for Ordinary Broker	2
Licence for Official Broker	2
Licence for Money Changer	5
Licence for Goldsmith or Silversmith	5

Provided that in the case of all licences issued after the thirtieth day of June in any year, half the above-mentioned fee shall be payable :

Provided further that any goldsmith or silversmith who in any year has taken out a trading licence under the Traders' Licensing Ordinance for which he has paid the sum of £15 shall so long as such licence is in force be entitled to be licensed as a goldsmith or silversmith under this Ordinance free of charge."

Cap. 58.

ORDINANCE No. II of 1933

*Assented by
Ord. 50/33
Ord. 39/36
30/39
22/40.*

Assented to in His Majesty's name this twenty-fourth day
April, 1933.

J. BYRNE,
Governor.

Date of assent. [24TH APRIL, 1933.]

An Ordinance to Regulate Trading in Unwrought Precious Metals.

Date of commencement. 24th April, 1933

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

Short title. 1. This Ordinance may be cited as "the Trading in
Unwrought Precious Metals Ordinance, 1933."

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

Cap. 94. "banker" includes any manager, cashier, or other
officer acting in such capacity, of a company engaged in the
business of banking within the Colony and complying with
the provisions of the Bank Ordinance.

No. 614/1933. "Commissioner" means the Commissioner of Mines ap-
pointed under the Mining Ordinance, 1933, and any public
officer authorized by the Commissioner to act on his behalf;

"licence" means a licence described in section 5 of this
Ordinance;

"licensed dealer" means the holder of a licence;

"magistrate" for the purposes of this Ordinance means
a magistrate of a subordinate court of the first or second
class;

"precious metal" means gold, silver or metal of the
platinoid group (in the unmanufactured state;)

~~"unwrought precious metal" includes precious metal in
any form whatever, which though smelted, is not manu-
factured or made up into any article of commerce, and shall~~

Replaced by Ord. 39/36.

~~include amalgam, slimes, slags, black sands, pots, battery chips, sweeping or reduction works and scrapings and by products of unrefined precious metal.~~

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

Unlawful dealing in unwrought precious metals.

- (a) he is the holder of a licence; *or*
- (b) he is a banker; *or*
- (c) such unwrought precious metal has been won by him or his servant or agent acting on his behalf from ground held by him under mining title, or on which he is lawfully entitled to prospect; *or*
- (d) such unwrought precious metal does not exceed twenty pennyweights in quantity, and, not being a person described in paragraph (a), (b) or (c), he has obtained a certificate from the Commissioner authorizing him to be in possession or dispose of such quantity of unwrought precious metal:

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

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

4. (1) No person shall have in his possession any unwrought precious metal unless—

Unlawful possession of unwrought precious metal.

- (a) he is a person excepted under sub-section (1) of the last preceding section; or
- (b) he is able to satisfy the magistrate that he came into possession of such metal in a lawful manner.

(2) Any unwrought precious metal found without an apparent owner may be seized by any police officer or the Commissioner and shall as soon as possible be taken before a magistrate, who, if satisfied that the owner cannot be found, shall declare it to be forfeited to Government.

Forfeiture of unwrought precious metals without an apparent owner.

5. (1) The Commissioner may issue a licence which shall be substantially in Form I of the Schedule to this Ordinance, and every such licence shall expire on the following thirty-first day of December.

Issue of licences to deal in unwrought precious metals.

(2) The fee for a licence shall be five pounds, or if issued after the end of June, three pounds.

(3) ~~The Commissioner may, without assigning a reason, refuse to issue a licence or revoke a licence : Provided that on revocation the Commissioner may refund such part of the fee as he thinks just.~~

*Replaid to
On 5/5/33*

(4) Added

Contravention of conditions of licence.

6. No licensed dealer shall deal in unwrought precious metal in a manner which is not specially authorized by the terms of his licence. Contravention of this section shall, in addition to the prescribed penalties, render a licensed dealer liable to the forfeiture of his licence, and any right of renewal thereof for such time as the court which passes sentence may direct.

Prohibition of dealing in unwrought precious metals between sunset and sunrise and on Sundays, etc.

7. No person shall buy, sell, ~~deal~~ in, or receive by way of barter, pledge or otherwise, either as principal or agent, any unwrought precious metal between sunset and sunrise, or on a Sunday or a day declared by law a public holiday, or at any other place than his usual place of business. Contravention of this section shall, in addition to the prescribed penalties, render a licensed dealer liable to the forfeiture of his licence, and any right of renewal of the same for such time as the court which passes sentence may direct.

Burden of proof of being licensed.

8. Whenever in any proceedings against any person under this Ordinance, it is necessary to ascertain whether he is a licensed dealer or is otherwise authorized to buy, sell, deal in, receive, or dispose of unwrought precious metal the burden of proving that he was such licensed dealer or was otherwise authorized as aforesaid shall lie upon such person.

Register of transactions to be kept by persons dealing in unwrought precious metal.

9. (1) Every licensed dealer, and every banker and every person who receives or deposits for safe keeping or despatch unwrought precious metal, shall keep a true and correct register in English of all unwrought precious metal deposited with, or received, or despatched, or otherwise disposed of by him, and shall enter or cause to be entered in such register within twenty-four hours after every such transaction—

(a) the date of the transaction;

(b) the names of the parties to the transaction;

- (c) the nature and weight of the material and the weight of the precious metal, the subject of the transaction ;
 (d) the price (if any) received or paid.

(2) Any person required by this section to keep a register, who shall fail to keep the same in manner prescribed, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds, or to imprisonment for a period not exceeding three months.

(3) Every person required by this section to keep a register, shall, in the months of January, April, July and October, transmit or deliver to the Commissioner a true copy of such register in duplicate for the preceding three months, together with a statutory declaration of the correctness thereof, and shall also produce and exhibit such register to any European police officer whenever required in writing by such officer, and in default of compliance with any requirement of this sub-section he shall be guilty of an offence, and liable on conviction to the penalties mentioned in sub-section (2) of this section.

10. Any person who shall deliver or cause to be delivered unwrought precious metal in payment of any debt due from him or another person, or in consideration of any service rendered or to be rendered to him or to another person, shall be guilty of an offence, and liable on conviction to a fine not exceeding one hundred pounds, or to imprisonment for a period not exceeding three months or to both such fine and imprisonment.

Prohibition of payment of debts or wages in unwrought precious metal.

11. No person shall maliciously place any unwrought precious metal in the possession of or on the premises of any other person, with intent that such other person shall be convicted under any provision of this Ordinance.

Maliciously placing unwrought precious metal on premises with intent.

12. (1) No person shall export any unwrought precious metal from the Colony, whether by land, sea or air, unless he holds a certificate substantially in Form II of the Schedule to this Ordinance granted by the Commissioner, that all royalties thereon have been paid or secured to the satisfaction of the Commissioner or that no royalties are payable.

Restrictions on export and import of unwrought precious metal.

(2) No unwrought precious metal shall be carried coastwise in the Colony unless particulars thereof have been previously declared to the Commissioner of Customs.

(3) No person shall import any unwrought precious metal into the Colony, whether by land, sea, or air, unless he makes a declaration substantially in Form III before the Commissioner of Customs and obtains a certificate substantially in Form IV of the Schedule to this Ordinance.

Before any such unwrought precious metal is re-exported from the Colony the Certificate shall be surrendered to the Commissioner of Customs who shall send it to the Commissioner.

No. 25 of 1926. (4) This section shall have effect as if it formed part of the Customs Management Ordinance, 1926, but shall not apply to any unwrought precious metal mined elsewhere than in the Colony and passing through the Colony in transit for exportation (at Mombasa).

Ord. 39/36.
Warrant to enter and search and seizure of unwrought precious metal.

12A 13. (1) A magistrate who has reason to suspect that any unwrought precious metal with respect to which an offence under or in contravention of any of the provisions of this Ordinance has been committed is concealed in any place may issue a warrant authorizing any police officer with his assistants at any time within one month from the date of the warrant to enter and search that place and all buildings and things therein using such force as may be necessary, and to seize any unwrought precious metal and arrest any person found therein.

(2) Any person arrested and unwrought precious metal seized under the authority of such a warrant shall, as soon as possible, be brought before a magistrate to be dealt with according to law.

Payment of royalties by licensed dealers.

and every banker
14. (1) Every licensed dealer shall be liable for the due payment to Government of all royalties which may be due on any unwrought precious metal bought, sold, received, or exported by him, and, if so required by the Commissioner, shall give security for the due payment of all such royalties.

Ord. 39/36.

or a banker
(2) Subject to any agreement to the contrary, a licensed dealer who pays any royalty on any unwrought precious metal may recover or retain the amount from the person on whose behalf he sold or exported the unwrought precious metal, or from whom he received the unwrought precious metal.

Punishment for offences and disposal of unwrought precious metal on conviction.

~~15. Any person who contravenes any provision of this Ordinance for the contravention whereof no penalty is prescribed shall, on conviction, be liable to a fine not exceeding one thousand pounds and on the second or any subsequent~~
Repealed by Ord. 25/1930

~~conviction either to such fine or to imprisonment for any period not exceeding one year or to both such fine and such imprisonment, and the court may, if it thinks fit, declare that all or any part of any unwrought precious metal with respect to which the offence was committed, shall be forfeited to the Government.~~

16. (1) The magistrate who under this Ordinance declares any unwrought precious metal to be forfeited, shall advertise the forfeiture substantially in Form V of the Schedule to this Ordinance, in one issue of the Gazette. Claims to forfeited unwrought precious metal.

(2) If within three months from the date of the Gazette in which the advertisement appears any person proves to the satisfaction of the court a title to the forfeited unwrought precious metal or any part thereof, and that he was not concerned in any offence for which the unwrought precious metal was forfeited, the court shall order that the unwrought precious metal, or such part as the court considers just, be delivered to that person.

17. All charges for offences under this Ordinance may be heard and determined by a magistrate. Offences triable by magistrate.

18. The Governor may from time to time make Regulations, generally for carrying into effect the provisions of this Ordinance. Power to make Regulations.

SCHEDULE.

FORM I.

THE TRADING IN UNWROUGHT PRECIOUS METALS ORDINANCE, 1933.

LICENCE TO TRADE IN UNWROUGHT PRECIOUS METALS.

No.....

Licence is hereby granted to (name and address of Licensee) for (describe premises).

This Licence commences on (date) and expires on the following thirty-first day of December.

Fee paid :

Dated this.....day of.....

.....
Commissioner of Mines.

FORM II.

THE TRADING IN UNWROUGHT PRECIOUS
METALS ORDINANCE, 1933.

CERTIFICATE OF EXPORTATION.

No.....

It is hereby certified that all royalties on (*number of packages*) of unwrought precious metal (*state whether gold, silver, or other precious metal*) deposited at (*place*) belonging to (*name and address of owner*) and marked (*state marks*) and sealed with the seal of the Commissioner of Mines have been paid or secured to the satisfaction of the Commissioner of Mines.

Dated this.....day of.....

.....
Commissioner of Mines.

FORM III.

THE TRADING IN UNWROUGHT PRECIOUS
METALS ORDINANCE, 1933.

DECLARATION ON IMPORTATION.

I (*name and address*) hereby solemnly and sincerely declare as follows :—

1. I am in possession of and desire to import (*weight and description*) of unwrought precious metal (*state whether gold, silver or other precious metal*) and no more.

2. The said unwrought precious metal is my own property (*or as may be*).

3. I obtained the said unwrought precious metal from (*state place, person, and date*).

And I make this declaration conscientiously believing the same to be true.

(*Signature of Declarant*).

Declared at (*place*) this.....day of.....
before me.....

.....
Commissioner of Customs.

(N.B.—*This Form is liable to a stamp duty of Sh. 2.*)

FORM IV.

THE TRADING IN UNWROUGHT PRECIOUS
METALS ORDINANCE, 1933.

CERTIFICATE OF IMPORTATION.

No.....

It is hereby certified that (*name and address of importer*) has imported (*weight*) of unwrought precious metal (*state whether gold, silver or other unwrought precious metal*) in the form of (*e.g., "dust" or as the case may be*); the said (*name*) having declared that the said unwrought precious metal is his own property (*or as may be*) and that he obtained the said unwrought precious metal (*as in declaration*).

Dated this.....day of.....

.....
Commissioner of Customs.

FORM V.

GOVERNMENT NOTICE.

THE TRADING IN UNWROUGHT PRECIOUS
METALS ORDINANCE, 1933.

FORFEITURE OF UNWROUGHT PRECIOUS METALS.

In the Subordinate Court of.....

Notice is hereby given that (*weight and description of unwrought precious metal*) was on the (*date*) seized at (*place*) and has since been declared to be forfeited by reason of (*state grounds, e.g. "it having been unlawfully sold by," etc.*). Any person claiming any title to the said unwrought precious metal must prove his title to the satisfaction of the Court within three months from the date of this Notice. If no such claim is proved, the said unwrought precious metal will become the absolute property of the Government, and be disposed of accordingly.

Dated this.....day of.....

.....
Magistrate.

ORDINANCE No. III of 1933

Assented to in His Majesty's name this twenty-fourth day
of April, 1933.

J. BYRNE,
Governor.

Date of assent.

[24TH APRIL, 1933.]

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

Date of
commencement.

24th April, 1933

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

Short title.

No. 21 of 1931.

Amendment of
section 2 of
the Principal
Ordinance.

1. This Ordinance may be cited as “ the Nursing Sisters (Retiring Allowances) (Amendment) Ordinance, 1933 ” and shall be read as one with the Nursing Sisters (Retiring Allowances) Ordinance, 1931, hereinafter referred to as “ the Principal Ordinance.”

2. The definition of “ nursing sister ” contained in section 2 of the Principal Ordinance is hereby repealed and the following is substituted therefor :—

“ ‘ nursing sister ’ means a person who is a nurse, health visitor, or matron whose parents are both Europeans and who has received an appointment in the public service, or in a public hospital in the Colony, or in a public hospital elsewhere to which she received an appointment through the Overseas Nursing Association.”

ORDINANCE No. IV of 1933

Assented to in His Majesty's name this twenty-fourth day
of April, 1933.

J. BYRNE,
Governor.

[24TH APRIL, 1933.] Date of assent.

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

Section 3 : 3rd March, 1931
Remainder : 24th April, 1933

Date of
commencement.

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

1. This Ordinance may be cited as "the Land and Agricultural Bank (Amendment) Ordinance, 1933," and shall be read as one with the Land and Agricultural Bank Ordinance, 1930, hereinafter referred to as "the Principal Ordinance."

Short title.

No. 3 of 1931.

2. (1) Notwithstanding anything to the contrary contained in the Principal Ordinance, the Board may be appointed and may act as agents for the Government in the administration of any advances to farmers or others : Provided that no expenses of such agency shall fall to be paid from the funds of the Bank, and that the Board shall be indemnified by Government against any losses, costs, or expenses which may be sustained or incurred by the Board in the performance of such agency.

The Board
may act as
agents for the
Government.

(2) The ~~Board~~^{Bank} when engaged in such agency work shall not be deemed to be engaged on the business of the Bank and the members of the Board shall in respect of such agency work be remunerated at such rates as the Governor in Council may approve.

Ord. 19/33

3. (1) Section 11 of the Principal Ordinance is hereby amended by deleting sub-section (2) thereof and substituting therefor the following :—

Amendment of
section 11 of
the Principal
Ordinance.

“(2) It shall be lawful for the Board to pay out of the funds of the Bank the reasonable travelling expenses incurred by a member when engaged on the business of the Bank, provided that no such expenses shall be paid

No. IV

Land and Agricultural Bank (Amendment) 1933

to any member who resides not more than five miles from the place at which he is engaged on the business of the Bank."

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

4. The Principal Ordinance is hereby amended by inserting the following section immediately after section 45 :—

Procedure for recovery on default by entry and sale of the property.

" 45A. (1) Three months after demand for the repayment of an advance made under Part II or Part III of this Ordinance has been made by registered letter addressed to the address given by the debtor in his application for the advance and after three months' notice of such demand has been given to all subsequent mortgagees of the property upon which the advance was made the Board may, without recourse to a court of law, enter upon and take possession of and sell by public auction the whole or any part of the security for the advance upon such terms and conditions as to the Board shall appear in all the circumstances to be just : Provided that in the circumstances mentioned in paragraph (c) of section 45 of this Ordinance, the Board may so enter upon and take possession of and sell the whole or any part of such security as soon as the Board may deem expedient after the happening of any of the events in the said paragraph (c) mentioned.

(1A) - *Added by Bd. 14/36*
 (2) *Replaced by Bd. 6/42*
 The Board may transfer such land or other security to a purchaser and give a good and valid title thereto, and may execute all such documents and do all other acts as may be necessary to perfect the same.

(3) Provided that no such sale shall take place until the expiry of at least thirty days from the date of a notice in the Gazette and in some newspaper circulating in the district stating the date, hour and place, and the terms and conditions of the sale and provided that every reasonable endeavour shall be made by the Board to communicate to persons interested that such sale is intended. *Replaced by Bd. 6/42*

(4) The provisions of section 9 of this Ordinance shall not apply to a transfer of land or other security by the Board to a purchaser under this section."

ORDINANCE No. V of 1933

Assented to in His Majesty's name this twenty-fourth day of April, 1933.

J. BYRNE,
Governor.

[24TH APRIL, 1933.] Date of assent.

An Ordinance to Amend the Agricultural Advances Ordinance, 1930.

By Notice *in July, 1933.*

Date of commencement.

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

1. This Ordinance may be cited as "the Agricultural Advances (Amendment) Ordinance, 1933," and shall be read as one with the Agricultural Advances Ordinance, 1930, hereinafter referred to as "the Principal Ordinance", and shall come into operation upon such date as the Governor may by notice in the Gazette appoint.

Short title and commencement.

No. 12 of 1930.

S.N. 426/33

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

Repeal and replacement of section 3 of the Principal Ordinance.

"3. There is hereby established a Central Agricultural Advances Board which shall consist of the persons who for the time being are members of the Land Bank Board established under the Land and Agricultural Bank Ordinance, 1930, together with such other persons as the Governor may from time to time nominate to be members of the Central Board."

No. 3 of 1931.

ORDINANCE No. VI of 1933

Assented to in His Majesty's name this twenty-fourth day of April, 1933.

J. BYRNE,
Governor.

Date of assent.

[24TH APRIL, 1933.]

An Ordinance to Amend the Prisons Ordinance, 1930.

Date of commencement.

1st January, 1933

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

Short title.

No. 37 of 1930.

1. This Ordinance may be cited as " the Prisons (Amendment) Ordinance, 1933," and shall be read as one with the Prisons Ordinance, 1930, hereinafter referred to as " the Principal Ordinance."

Exemption from poll or hut tax and gratuities in lieu thereof.

2. (1) Subject to the approval of the Governor on the recommendation of the Commissioner every African subordinate officer who has been enlisted on or before the thirty-first day of December, 1932, shall, after nine years' continuous good service, be exempt from payment of poll tax in respect of himself for his life, or alternatively, he shall be exempt from the payment of hut tax in respect of one hut for life :

Provided that any such African subordinate officer to whom exemption from paying poll or hut tax has been granted under this sub-section may, at his option exercisable at the time of discharge, be paid in lieu of such exemption, a gratuity, viz :—

£ s.

(a) In the case of such African subordinate officer on discharge after continuous good service extending to a period of nine years	... 7 10
(b) In the case of such African subordinate officer on discharge after continuous good service extending to a period of twelve years	... 10 0

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Prisons (Amendment)

No. VI

(2) Subject to the approval of the Governor on the recommendation of the Commissioner every African subordinate officer who has been enlisted on or after the first day of January, 1933, shall be granted, in lieu of exemption from paying poll or hut tax and in addition to any other gratuity payable on discharge under the provisions of the Principal Ordinance or any regulation thereunder, a gratuity, viz :—

	£	s.
(a) In the case of such African subordinate officer on discharge after continuous good service extending to a period of nine years ...	7	10
(b) In the case of such African subordinate officer on discharge after continuous good service extending to a period of twelve years ...	10	0

3. This Ordinance shall be deemed to have commenced and come into operation on the first day of January, 1933. **Commence-
ment.**

ORDINANCE No. VII of 1933

Assented to in His Majesty's name this twenty-fourth day of April, 1933.

J. BYRNE,
Governor.

Date of assent.

[24TH APRIL, 1933.]

An Ordinance to Amend the Vagrancy Ordinance.

Date of
commencement.

24th April, 1933

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

Short title.

1. This Ordinance may be cited as "the Vagrancy (Amendment) Ordinance, 1933", and shall be read as one with the Vagrancy Ordinance (Chapter 63 of the Revised Edition), hereinafter referred to as "the Principal Ordinance."

Amendment of
Section 10 (3)
of the
Principal
Ordinance.

2. Sub-section (3) of section 10 of the Principal Ordinance is hereby amended by the deletion of the words "Senior Commissioner" in the ninth and tenth lines thereof and the substitution therefor of the words "Provincial Commissioner or a District Commissioner."

Amendment of
Section 11 (3)
of the
Principal
Ordinance.

3. Sub-section (3) of section 11 of the Principal Ordinance is hereby amended by the deletion of the words "Senior Commissioner" in the third and fourth lines thereof and the substitution therefor of the words "Provincial Commissioner or a District Commissioner."

ORDINANCE No. VIII of 1933

Assented to in His Majesty's name this twenty-fourth day of April, 1933.

J. BYRNE,
Governor.

[24TH APRIL, 1933.] Date of assent.

An Ordinance to Amend the Dangerous Petroleum Tax Ordinance.

24th April, 1933

Date of commencement.

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

1. This Ordinance may be cited as "the Dangerous Petroleum Tax (Amendment) Ordinance, 1933," and shall be read as one with the Dangerous Petroleum Tax Ordinance (Chapter 54 of the Revised Edition), hereinafter referred to as "the Principal Ordinance." Short title.

2. The amount of tax paid under the Principal Ordinance in respect of dangerous petroleum which is used for fuelling aircraft which are operated by a company for the carriage of goods or passengers between places within the Colony or between places in the Colony and places outside the Colony shall be repayable to the person by whom such tax was paid on proof by him to the satisfaction of the Treasurer that the dangerous petroleum in respect of which such repayment of tax is claimed has been used solely in respect of journeys or parts of journeys which lie outside the boundaries of the Colony. Repayment of tax in certain cases.

For the purposes of this section "company" means any company incorporated or registered under any law in force in the Colony and any company which, though incorporated or registered outside the Colony, carries on business or has an office or place of business therein.

3. The Dangerous Petroleum Tax (Amendment) Ordinance, 1930, is hereby repealed. Repeal.
No. 57 of 1930.

Secord. 13/58

ORDINANCE No. IX of 1933

Assented to in His Majesty's name this twenty-fourth day of April, 1933.

J. BYRNE,
Governor.

Date of assent.

[24TH APRIL, 1933.]

An Ordinance to Amend the Tribal Police Ordinance, 1929.

Date of commencement.

24th April, 1933

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

Short title.

No. 10 of 1929.

1. This Ordinance may be cited as "the Tribal Police (Amendment) Ordinance, 1933," and shall be read as one with the Tribal Police Ordinance, 1929, hereinafter referred to as "the Principal Ordinance."

Additional sections.

2. The Principal Ordinance is hereby amended by the addition of the following sections after section 13 thereof.

Tribal Police Rewards and Fines Fund.

14. (1) In every Province there shall be established a fund called "the Tribal Police Rewards and Fines Fund", hereinafter referred to as "the Fund."

(2) All fines imposed by an administrative officer upon a tribal police officer under the provisions of this Ordinance shall be paid to the Provincial Commissioner to be placed to the credit of the Fund.

(3) No payment shall be made from the Fund except upon the authority of the Provincial Commissioner.

(4) The Provincial Commissioner may sanction payments from the Fund for any of the following purposes—

(a) assistance to the wives and families of deceased tribal police officers or to those discharged from the tribal police as medically unfit for further service;

(b) contributions towards prizes at athletic meetings, assault-at-arms or similar events organized by or for the benefit of the tribal police;

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Tribal Police (Amendment)

No. IX

(c) payments to tribal police officers as rewards for meritorious acts or service in the execution of duty, if such payments are not met from Colonial Funds;

(d) expenditure for the benefit and advancement of authorized recreation and sport and other branches of police activity organized within the tribal police.

(5) Annual estimates of revenue and expenditure on account of the Fund shall be framed by the Provincial Commissioner and shall be submitted to the ~~Treasurer~~ ^{Financial Secretary} in sufficient time to admit of their consideration before the commencement of the year to which they relate.

15. (1) It shall be the duty of every tribal police officer to take charge of all unclaimed property and to furnish an inventory or description thereof to a magistrate. Disposal of unclaimed property.

(2) Such property, if no person shall within six months from the date of the notice aforesaid establish his claim thereto, may be sold by order of the magistrate :

Provided that if such property is subject to speedy and natural decay, or if the magistrate is of opinion that its immediate sale would be for the benefit of the owner, the magistrate may at any time direct it to be sold.

(3) The proceeds of the sale of such property shall, if no claim to it has been established within the period aforementioned, be apportioned in the following manner :—

(a) one-half shall be paid to the credit of the Fund;

(b) such proportion of the remaining one-half as the magistrate may direct shall be paid to the finder of the property;

(c) the balance shall be paid to the ~~Treasurer~~ ^{Account General} for the use of the Colony.

16. All rewards, forfeitures and penalties which by law are payable to informers, when the information is laid by the tribal police officer, shall be paid into the Fund. Rewards to tribal police officer to be paid to the Fund.

17. The Governor, if he is satisfied that by reason of the misconduct of the inhabitants of any area in the Colony or of any class or section of such inhabitants it is expedient to increase the number of tribal police officers, Employment of additional tribal police officers.

stationed in such area may authorize the District Commissioner of such area to employ any number of tribal police officers in addition to the usual complement to be stationed in such area, and the District Commissioner may thereupon, subject to the directions of the Governor, employ any additional tribal police officers for service in such area, and the cost of such additional tribal police officers shall be a charge on the inhabitants of such area and shall be recoverable after inquiry by a magistrate from all or any of them in such proportion as the Governor, having regard to the respective means of such inhabitants, may direct.

Award of compensation to sufferers from misconduct of inhabitants.

18. (1) If in any area in regard to which the Governor has authorized the employment of additional tribal police officers under the last preceding section, death or grievous hurt or loss of or damage to property has been caused by or has ensued from the misconduct of the inhabitants ~~of such area or any class or section of the inhabitants of such area or any class or section of such inhabitants~~, ^{any} any person who claims to have suffered injury from such misconduct may, within one month after the date of the injury, make an application for compensation to the magistrate of the district, ~~within which such area is situated.~~ ^{within which the injury has occurred}

(2) Upon any such claim being made the magistrate may, subject to the directions of the Governor, after such inquiry as he may consider necessary, and whether any additional tribal police officers have or have not been stationed in such area under the last preceding section—

- (a) declare the person or persons to whom injury has been caused by or has ensued from such misconduct;
- (b) assess the amount of compensation to be paid to such person or persons and the manner in which it is to be distributed;
- (c) assess the proportions in which such compensation shall be paid by the inhabitants ~~in such area~~ ^{of such area} :

Provided that the magistrate shall not make any declaration or assessment under this sub-section unless he is of opinion that such injury as aforesaid has arisen from a riot or unlawful assembly within such area and

that the person who suffered the injury was himself free from blame in respect of the occurrences which led to such injury :

Provided also that the magistrate may, subject to the directions of the Governor, exempt any person or any class or section of such inhabitants from liability to pay any portion of such compensation.

(3) Every declaration or assessment made or exemption granted under the last preceding sub-section shall be subject to revision by the Governor, but, save as aforesaid, shall be final.

(4) No civil suit shall be maintainable in respect of any injury for which compensation has been accepted under this section.

19. For the purposes of the two last preceding sections the term "inhabitants" includes all persons who themselves or by their agents or servants occupy or hold land or other immovable property within ~~the area specified in the proclamation~~ and all landholders who themselves or by their agents or servants collect rents direct from lessees or occupiers in such area, notwithstanding that they do not actually reside in such area.

Definition of
"inhabitants."

20. (1) All moneys payable under sections ²²17 and ²³18 of this Ordinance shall be recoverable by a magistrate in the manner provided by law for the recovery of fines imposed in criminal proceedings or by suit in any competent court.

Recovery and
disposal of
moneys paid
under sections
17 and 18.

(2) All moneys recovered under section ²²17 of this Ordinance shall be paid ^{into the general revenues} to the Treasurer for the use of the Colony.

(3) All moneys recovered under section ²³18 of this Ordinance shall be paid by the magistrate to the persons to whom and in the proportions in which the same are payable.

ORDINANCE No. X of 1933

Assented to in His Majesty's name this twenty-fourth day of April, 1933.

J. BYRNE,
Governor.

Date of assent.

[24TH APRIL, 1933.]

An Ordinance to Amend the Arms and Ammunition Ordinance, 1925.

Date of
commencement.

24th April, 1933

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

Short title.

1. This Ordinance may be cited as “the Arms and Ammunition (Amendment) Ordinance, 1933,” and shall be read as one with the Arms and Ammunition Ordinance, 1925, hereinafter referred to as “the Principal Ordinance.”

No. 8 of 1925.

Amendment of
Section 16 of
the Principal
Ordinance.

2. Section 16 of the Principal Ordinance is hereby amended by the addition at the end thereof of the following :—

“Every licence granted under this section shall expire on the 31st day of December next following the day of issue. No fee shall be payable on the renewal of a licence under this section in respect of premises which were licensed before the 31st day of December, 1932.”

Amendment of
Section 22 of
the Principal
Ordinance.
No. 4 of 1926.

3. Section 22 of the Principal Ordinance, as amended by the Arms and Ammunition (Amendment) Ordinance, 1926, is hereby further amended by the addition at the end thereof of the following :—

“Every licence granted under this section shall expire on the 31st day of December next following the day of issue. No fee shall be payable on the renewal of a licence under this section in respect of premises which were licensed before the 31st day of December, 1932.”

ORDINANCE No. XI of 1933

Assented to in His Majesty's name this twenty-fourth day
of April, 1933.

J. BYRNE,
Governor.

[24TH APRIL, 1933.] Date of assent.

An Ordinance to Amend the Marriage Ordinance.

24th April, 1933

Date of
commencement.

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

1. This Ordinance may be cited as "the Marriage (Amendment) Ordinance, 1933," and shall be read as one with the Marriage Ordinance (Chapter 167 of the Revised Edition), hereinafter referred to as "the Principal Ordinance."

Short title.

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

Repeal and
replacement
of Section 22
of the
Principal
Ordinance.

" 22. Marriages may be celebrated in any licensed place of worship by any recognized minister of the church, denomination or body to which such place of worship belongs and according to the rites and usages of marriage observed in such church, denomination or body, or with the consent of a recognized minister of the church, denomination or body to which such place of worship belongs by any recognized minister of any other church, denomination or body according to the rites and usages of marriage observed in the church, denomination or body to which such last mentioned recognized minister belongs, provided that the marriage be celebrated with open doors between the hours of 8 o'clock in the forenoon and 6 o'clock in the afternoon, and in the presence of two or more witnesses besides the officiating minister."

ORDINANCE No. XII of 1933

Assented to in His Majesty's name this twenty-fourth day
of April, 1933.

J. BYRNE,
Governor.

Date of assent.

[24TH APRIL, 1933.]

An Ordinance to Amend the Penal Code.

Date of
commencement.

24th April, 1933

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

Short title.

1. This Ordinance may be cited as “ the Penal Code
(Amendment) Ordinance, 1933,” and shall be read as one
with the Penal Code, hereinafter referred to as “ the
Principal Ordinance.”

No. 10 of 1930.

Amendment of
section 27 of
the Principal
Ordinance.

2. Section 27 of the Principal Ordinance is hereby
amended by adding the following at the end of sub-section
(3) thereof :—

Provided that no sentence of corporal punishment
may be imposed in default of payment of a fine.

ORDINANCE No. XIII of 1933

Assented to in His Majesty's name this fifth day of May, 1933.

J. BYRNE,
Governor.

[5TH MAY, 1933.] Date of assent.

An Ordinance to Amend the Civil Procedure Ordinance, 1924.

5th May, 1933

19/35
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 Civil Procedure (Amendment) Ordinance, 1933," and shall be read as one with the Civil Procedure Ordinance, 1924, hereinafter referred to as "the Principal Ordinance." Short title.
No. 3 of 1924.

2. Section 11 of the Principal Ordinance, as amended by the Civil Procedure (Amendment) Ordinance, 1932, is hereby repealed and the following is substituted therefor :—

Repeal and replacement of section 11 of the Principal Ordinance.
No. 14 of 1932.
Courts in which suits to be instituted.

" 11. Every suit shall be instituted in the court of the lowest grade competent to try it, provided that where there are more subordinate courts than one with jurisdiction in the same district competent to try it, a suit may, if the party instituting the suit or his advocate certifies that he believes that a point of law is involved or that any other good and sufficient reason exists, be instituted in any one of such subordinate courts: Provided that if a suit is instituted in a court other than a court of the lowest grade competent to try it, the magistrate holding such court shall return the plaint for presentation in the court of the lowest grade competent to try it if in his opinion there is no point of law involved or no other good and sufficient reason for instituting the suit in his court: Provided further that nothing in this section contained shall be deemed to limit or affect the power of the Supreme Court to direct the distribution of business where there is more than one subordinate court in the same district :

And provided further that any suit may be instituted in the Supreme Court which could have been commenced in a subordinate court, then and in every such case the following provisions shall apply:—

Subject to the proviso hereinafter contained, should the plaintiff recover a sum less than Sh. 400 he shall not be entitled to any costs, and if he shall recover a sum of Sh. 400 or upwards, but not exceeding Sh. 1,500, he shall not be entitled to any more costs than he would have been entitled to if the suit had been brought in such subordinate court: Provided that in any suit a judge of the Supreme Court may, if satisfied that there was good reason for bringing such suit in that court, make such order as to costs as to him may seem just."

*or in a case where the
plaintiff is a native,
not exceeding Sh. 3,000*

Ord. 17/33

ORDINANCE No. XIV of 1933

Assented to in His Majesty's name this fifth day of May, 1933.

Dep. Secy. by
J. BYRNE, 10/48
Gov. Secy.

Amended in
Pa. 6/35-
35/36 [5TH MAY, 1933.] Date of assent.

An Ordinance to Carry out Certain Conventions relating to the Employment of Women, Young Persons and Children.

5th May, 1933

Date of commencement.
Preamble.

WHEREAS at Washington on the Twenty-eighth day of November, Nineteen hundred and Nineteen, the General Conference of the International Labour Organization of the League of Nations adopted three conventions containing (together with other provisions) the provisions set out in Part I, Part II and Part III of the Schedule to this Ordinance :

AND WHEREAS at Genoa the General Conference of the International Labour Organization of the League of Nations on the Ninth day of July, Nineteen hundred and Twenty, adopted a convention containing (together with other provisions) the provisions contained in Part IV of the Schedule to this Ordinance :

AND WHEREAS at Geneva the General Conference of the International Labour Organization of the League of Nations on the Eleventh day of November, Nineteen hundred and Twenty-one, adopted a convention containing (together with other provisions) the provisions contained in Part V of the Schedule to this Ordinance :

AND WHEREAS power is given under the Conventions hereinbefore mentioned to modify the terms of any such Convention in their application to Colonies, Protectorates and Possessions which are not fully self-governing, for the purpose of making same applicable to local conditions :

AND WHEREAS it is expedient that for the purpose of giving effect to the said Conventions the provisions hereinafter contained should have effect :

No. XIV Employment of Women, Young Persons and Children 1933

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

Short title

1. This Ordinance may be cited as "the Employment of Women, Young Persons and Children Ordinance, 1933."

Interpretation.

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

"child" means a person under the age of fourteen years;

"young person" means a person who has ceased to be a child and who is under the age of eighteen years;

"woman" means a woman of the age of eighteen years or upwards;

"employment" means employment in any labour exercised for the purposes of gain whether the gain be to the child, young person or woman, as the case may be, or to any other person;

"industrial undertaking" has, with respect to the employment of children, young persons and women, the meanings respectively assigned thereto in the Convention set out in Parts I, II and III of the Schedule to this Ordinance;

"native vessel" has the meaning assigned to that term in the Native Vessels Ordinance;

"duly authorized officer" means any officer appointed by the Governor for the purposes of this Ordinance;

"competent authority" means the Governor in Executive Council.

Cap. 108.

S. N. 579/33

Savings.

3. (1) The provisions of this Ordinance shall be in addition to and not in derogation of any of the provisions of any other Ordinance restricting the employment of women, young persons, or children.

(2) Nothing in this Ordinance contained shall apply to an industrial undertaking or a ship in which only members of the same family are employed.

(3) Nothing in this Ordinance contained shall prevent the employment in any industrial undertaking or ship of a child lawfully so employed at the commencement of this Ordinance.

4. (1) No child ~~under the age of twelve~~ shall be employed in any industrial undertaking. Restrictions on the employment of women, young persons and children in industrial undertakings, or in ships.

(2) No child shall be employed in any industrial undertaking, in attendance on any machinery, or in any open-cast workings or sub-surface workings which are entered by means of a shaft or adit.

(3) Notwithstanding the provisions of sub-section (1) of this section the Governor in Council may by order prohibit the employment of any child in any specified trade or industrial undertaking.

(4) No child shall be employed in any ship except to the extent to which and in the circumstances in which such employment is permitted under the Convention set out in Part IV of the Schedule to this Ordinance :

Provided that the provisions of this sub-section shall not apply in the case of a child who is employed in a native vessel or is under the care of a relative who is a member of the crew of the same vessel, if such relative is, in the opinion of a duly authorized officer, a fit and proper person to have charge of such child.

(5) No young person or woman shall be employed at night in any industrial undertaking, except to the extent to which and in the circumstances in which such employment is permitted under the conventions set out in Part II and Part III respectively of the Schedule to this Ordinance : Ord. 6/33
~~Provided that in the application to the Colony of the Convention set out in Part II of the Schedule to this Ordinance Article 2 shall not apply to male young persons.~~

(6) Where young persons are employed in any industrial undertaking a register of the young persons so employed, of their ages or apparent ages, and of the dates on which they enter or leave the service of their employer, shall be kept, and shall at all times be open to inspection by any duly authorized officer.

(7) The master of every ship shall, if young persons under the age of sixteen years are employed therein, keep a register of those persons with particulars of their ages or apparent ages and of the dates on which they become or cease to be members of the crew, and the register so kept shall be open to inspection by any authorized officer : Provided that this sub-section shall not apply to the master of a native vessel.

No. XIV *Employment of Women, Young Persons and Children 1933*

Employment of
young persons
as trimmers or
stokers.

5. (1) Subject to the provisions of Articles 3 and 4 of the Convention set out in Part V of the Schedule to this Ordinance, no young person shall be employed on work as a trimmer or stoker in any ship.

(2) The master of every ship shall, if young persons are so employed therein, keep a register of those persons with particulars of their ages or apparent ages and of the dates on which they become or cease to be members of the crew.

5A Restriction on the employment of women in ships.

Penalties.

6. (1) If any person employs a child or a young person in any industrial undertaking in contravention of this Ordinance he shall be liable for each offence to a fine not exceeding two pounds, or, in the case of a second or subsequent offence, not exceeding five pounds; and where a child is taken into employment in any industrial undertaking in contravention of this Ordinance on the production by or with the privity of the parent, of a false or forged certificate, or on the false representation of his parent that the child or young person is of an age at which such employment is not in contravention of this Ordinance, that parent shall be liable to a fine not exceeding two pounds.

(2) If any child is employed in any ship, or any young person is employed as a trimmer or stoker in any ship in contravention of this Ordinance the master of the ship shall be liable for each offence to a fine not exceeding two pounds, or, in the case of a second or subsequent offence, not exceeding five pounds, and where a child or young person, as the case may be, is taken into employment in any ship in contravention of this Ordinance on the production, by or with the privity of the parent, of a false or forged certificate, or on the false representation of his parent that the child or young person is of an age at which such employment is not in contravention of this Ordinance, that parent shall be liable to a fine not exceeding two pounds.

(3) If any person employs a woman in contravention of this Ordinance he shall be liable to a fine of twenty pounds.

(4) If any person who is by this Ordinance required to keep a register fails to keep such a register, or refuses or neglects, when required, to produce it for inspection by a duly authorized officer, he shall be liable to a fine not exceeding twenty pounds.

7. (1) If it appears to any magistrate, on the complaint of a duly authorized officer, that there is reasonable cause to believe that a child is employed in contravention of this Ordinance in any place, whether a building or not, such magistrate may by order under his hand empower such officer to enter into such place at any reasonable time, and examine such place or any person therein, touching the employment of any child therein.

Power of duly authorised officer to enter place of employment.

(2) Any person refusing admission to an officer authorized by an order under this section, or obstructing him in the discharge of his duty, shall for each offence be liable to a fine not exceeding twenty pounds.

8. If in a charge for an offence under this Ordinance it is alleged that the child or young person in respect of whom the offence was committed was under the age of fourteen or sixteen, as the case may be, at the date of the commission of the alleged offence, such person shall for the purposes of this Ordinance be presumed at that date to have been under the age of fourteen or sixteen, as the case may be, unless the contrary is proved.

Presumption of age.

SCHEDULE.

PART I.

CONVENTION FIXING MINIMUM AGE FOR ADMISSION OF CHILDREN TO INDUSTRIAL EMPLOYMENT.

Article 1.

For the purpose of this Convention the term " industrial undertaking " includes particularly :—

- (a) Mines, quarries, and other works for the extraction of minerals from the earth.
- (b) Industries in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including shipbuilding, and the generation, transformation, and transmission of electricity and motive power of any kind.
- (c) Construction, reconstruction, maintenance, repair, alteration, or demolition of any building, railway, tramway, harbour, dock, pier, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain,

No. XIV *Employment of Women, Young Persons and Children 1933*

well, telegraphic or telephonic installation, electrical undertaking, gas work, water work, or other work of construction, as well as the preparation for or laying the foundations of any such work or structure.

- (d) Transport of passengers or goods by road or rail or inland waterway, including the handling of goods at docks, quays, wharves, and warehouses, but excluding transport by hand.

The competent authority in each country shall define the line of division which separates industry from commerce and agriculture.

Article 2.

Children under the age of fourteen years shall not be employed or work in any public or private industrial undertaking, or in any branch thereof, other than an undertaking in which only members of the same family are employed.

Article 3.

The provisions of Article 2 shall not apply to work done by children in technical schools, provided that such work is approved and supervised by public authority.

Article 4.

In order to facilitate the enforcement of the provisions of this Convention, every employer in an industrial undertaking shall be required to keep a register of all persons under the age of sixteen years employed by him, and of the dates of their birth.

PART II.

CONVENTION CONCERNING THE NIGHT WORK OF YOUNG
PERSONS EMPLOYED IN INDUSTRY.

Article 1.

For the purpose of this Convention the term " industrial undertaking " includes particularly :—

- (a) Mines, quarries, and other works for the extraction of minerals from the earth.

- (b) Industries in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including ship-building, and the generation, transformation, and transmission of electricity or motive power of any kind.
- (c) Construction, reconstruction, maintenance, repair, alteration, or demolition of any building, railway, tramway, harbour, dock, pier, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gas work, water work, or other work of construction, as well as the preparation for or laying the foundations of any such work or structure.
- (d) Transport of passengers or goods by road or rail, including the handling of goods at docks, quays, wharves, and warehouses, but excluding transport by hand.

The competent authority in each country shall define the line of division which separates industry from commerce and agriculture.

Article 2.

Young persons under eighteen years of age shall not be employed during the night in any public or private industrial undertaking, or in any branch thereof, other than an undertaking in which only members of the same family are employed, except as hereinafter provided for.

Young persons over the age of sixteen may be employed during the night in the following industrial undertakings on work which by reason of the nature of the process is required to be carried out continuously day and night:—

- (a) Manufacture of iron and steel; process in which reverberatory or regenerative furnaces are used, and galvanizing of sheet metal or wire (except the pickling process).
- (b) Glass works.
- (c) Manufacture of paper.
- (d) Manufacture of raw sugar.
- (e) Gold mining reduction work.

Article 3.

For the purpose of this convention the term "night" signifies a period of at least eleven consecutive hours, including the interval between ten o'clock in the evening and five o'clock in the morning.

In coal and lignite mines work may be carried on in the interval between ten o'clock in the evening and five o'clock in the morning, if an interval of ordinarily fifteen hours, and in no case of less than thirteen hours, separates two periods of work.

Where night work in the baking industry is prohibited for all workers, the interval between nine o'clock in the evening and four o'clock in the morning may be substituted in the baking industry for the interval between ten o'clock in the evening and five o'clock in the morning.

Article 4.

The provisions of Articles 2 and 3 shall not apply to the night work of young persons between the ages of sixteen and eighteen years in cases of emergencies which could not have been controlled or foreseen, which are not of a periodical character, and which interfere with the normal working of the industrial undertaking.

Article 7.

The prohibition of night work may be suspended by the Government, for young persons between the ages of sixteen and eighteen years, when in case of serious emergency the public interest demands it.

 PART III.

 CONVENTION CONCERNING THE NIGHT WORK OF WOMEN
EMPLOYED IN INDUSTRY.
Article 1.

For the purpose of this Convention the term "industrial undertaking" includes particularly :—

- (a) Mines, quarries, and other works for the extraction of minerals from the earth.
- (b) Industries in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in

which materials are transformed, including ship-building, and the generation, transformation, and transmission of electricity or motive power of any kind.

- (c) Construction, reconstruction, maintenance, repair, alteration, or demolition of any building, railway, tramway, harbour, dock, pier, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gas work, water work, or other work of construction, as well as the preparation for or laying the foundations of any such work or structure.

The competent authority in each country shall define the line of division which separates industry from commerce and agriculture.

Article 2.

For the purpose of this Convention, the term "night" signifies a period of at least eleven consecutive hours, including the interval between ten o'clock in the evening and five o'clock in the morning.

Article 3.

Women without distinction of age shall not be employed during the night in any public or private industrial undertaking, or in any branch thereof, other than an undertaking in which only members of the same family are employed.

Article 4.

Article 3 shall not apply—

- (a) In cases of *force majeure*, when in any undertaking there occurs an interruption of work which it was impossible to foresee, and which is not of a recurring character.
- (b) In cases where the work has to do with raw materials or materials in course of treatment which are subject to rapid deterioration, when such night work is necessary to preserve the said materials from certain loss.

Article 6.

In industrial undertakings which are influenced by the seasons and in all cases where exceptional circumstances demand it, the night period may be reduced to ten hours on sixty days of the year.

PART IV.

CONVENTION FIXING THE MINIMUM AGE FOR ADMISSION OF
CHILDREN TO EMPLOYMENT AT SEA.*Article 1.*

For the purpose of this Convention the term "vessel" includes all ships, and boats, of any nature whatsoever, engaged in maritime navigation, whether publicly or privately owned; it excludes ships of war.

Article 2.

Children under the age of fourteen years shall not be employed or work on vessels other than vessels upon which only members of the same family are employed.

Article 3.

The provisions of Article 2 shall not apply to work done by children on school-ships or training-ships, provided that such work is approved and supervised by public authority.

Article 4.

In order to facilitate the enforcement of the provisions of this Convention, every shipmaster shall be required to keep a register of all persons under the age of sixteen years employed on board his vessel, or a list of them in the articles of agreement, and of the dates of their births.

PART V.

CONVENTION FIXING THE MINIMUM AGE FOR THE ADMISSION
OF YOUNG PERSONS TO EMPLOYMENT AS TRIMMERS
OR STOKERS.*Article 1.*

For the purpose of this Convention, the term "vessel" includes all ships and boats, of any nature whatsoever, engaged in maritime navigation, whether publicly or privately owned; it excludes ships of war.

Article 2.

Young persons under the age of eighteen years shall not be employed or work on vessels as trimmers or stokers.

Article 3.

The provisions of Article 2 shall not apply :—

- (a) To work done by young persons on school-ships or on training-ships, provided that such work is approved and supervised by public authority;
- (b) To the employment of young persons on vessels mainly propelled by other means than steam;

- (c) To young persons of not less than sixteen years of age, who, if found physically fit after medical examination, may be employed as trimmers or stokers on vessels exclusively engaged in the coastal trade of India and of Japan, subject to regulations made after consultation with the most representative organizations of employers and workers in those countries.

Article 4.

When a trimmer or stoker is required in a port where young persons of less than eighteen years of age only are available, such young persons may be employed and in that case it shall be necessary to engage two young persons in place of the trimmer or stoker required. Such young persons shall be at least sixteen years of age.

Article 5.

In order to facilitate the enforcement of the provisions of this Convention, every shipmaster shall be required to keep a register of all persons under the age of eighteen years employed on board his vessel, or a list of them in the articles of agreement, and of the dates of their births.

Article 6.

Articles of agreement shall contain a brief summary of the provisions of this Convention.

Article 11.

Each member of the International Labour Organization which ratifies the Convention engages to apply it to its colonies, possessions and protectorates, in accordance with the provisions of Article 421 of the Treaty of Versailles and of the corresponding Articles of the other Treaties of Peace.

ORDINANCE No. XV of 1933

Assented to in His Majesty's name this fifth day of May, 1933.

J. BYRNE,
Governor.

Date of assent.

[5TH MAY, 1933.]

An Ordinance relating to Children and Young Persons.

Date of
commencement.

Sections 1-17, 21-25—5th May, 1933.

Sections 18, 19, 20—By resolution of the Legislative Council.

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

Short title.

1. This Ordinance may be cited as "the Juvenile Offenders Ordinance, 1933."

Interpre-
tation.

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

"child" means a person under the age of fourteen years.

"young person" means a person who is fourteen years of age or upwards and under the age of sixteen years.

"guardian" in relation to a child or young person includes any person who, in the opinion of the court having cognizance of any case in relation to the child or young person or in which the child or young person is concerned, has for the time being the charge of or control over the child or young person.

"probation officer" means a person appointed under this Ordinance by the Governor or by the court to be a probation officer.

Juvenile
courts.

3. (1) A court when hearing charges against children or young persons shall, unless the child or young person is charged jointly with any other person not being a child or young person, sit either in a different building or 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 are held and a court so sitting is in this Ordinance referred to as a juvenile court.

(2) Where in the course of any proceedings in a juvenile court it appears to the court that the person charged or to whom the proceedings relate is of the age of sixteen years or upwards, or where in the course of any proceedings in any court other than a juvenile court it appears that the person charged or to whom the proceedings relate is under the age of sixteen years, nothing in this section shall be construed as preventing the court if it thinks it undesirable to adjourn the case, from proceeding with the hearing and determination of the case.

(3) Provision shall be made for preventing persons apparently under the age of sixteen years whilst being conveyed to or from court, or whilst waiting before or after their attendance in court, from association with adults charged with or convicted of any offence other than an offence with which the person apparently under the age of sixteen years is jointly charged or convicted.

(4) In a juvenile court no person other than the members and officers of the court and the parties to the case, their advocates, and other persons directly concerned in the case, shall, except by leave of the court, be allowed to attend:

Provided that bona fide representatives of a newspaper or news agency shall not be excluded, except by special order of the court:

Provided that no person shall publish the name, address, school, photograph, or anything likely to lead to the identification of the child or young person before the juvenile court, save with the permission of the court or in so far as required by the provisions of this Ordinance. Any person who acts in contravention of the provisions of this proviso shall be liable to a fine not exceeding fifty pounds.

4. Where a person apparently under the age of sixteen years is apprehended with or without warrant and cannot be brought forthwith before a court, the officer to whom such person is brought shall inquire into the case, and may in any case, and

Bail of
children
and young
persons
arrested

(a) unless the charge is one of homicide or other grave crime; or

(b) unless it is necessary in the interest of such person to remove him from the association with any undesirable person; or

- (c) unless the officer has reason to believe that the release of such person would defeat the ends of justice,

shall release such person on a recognizance, with or without sureties, for such amount as will, in the opinion of the officer, secure the attendance of such person upon the hearing of the charge, being entered into by him or by his parent or guardian, or other responsible person.

Custody of children and young persons not discharged on bail after arrest.

5. Where a person apparently under the age of sixteen years having been apprehended is not so released as aforesaid, the officer to whom such person is brought shall cause him to be detained in a place of detention provided under this Ordinance until he can be brought before a court, unless the officer certifies—

- (a) that it is impracticable to do so; or
- (b) that he is of so unruly or depraved a character that he cannot be safely so detained; or
- (c) that by reason of his state of health or of his mental or bodily condition it is inadvisable so to detain him;

and the certificate shall be produced to the court before which the person is brought.

Association with adults, during detention in police stations.

6. It shall be the duty of the Commissioner of Police to make arrangements for preventing, so far as practicable, a child or young person while being detained, from associating with an adult, other than a relative, charged with an offence.

Remand or committal to custody in place of detention.

7. (1) A court on remanding or committing for trial a child or young person who is not released on bail, shall, instead of committing him to prison, commit him to custody in a place of detention provided under this Ordinance and named in the commitment, to be there detained for the period for which he is remanded or until he is thence delivered in due course of law :

Provided that in the case of a young person it shall not be obligatory on the court so to commit him if the court certifies that he is of so unruly a character that he cannot be safely so committed, or that he is of so depraved a character that he is not a fit person to be so detained.

(2) A commitment under this section may be varied or, in the case of a young person who proves to be of so unruly a character that he cannot be safely detained in such custody or to be of so depraved a character that he is not a fit person to be so detained, revoked by any court acting in or for the place in or for which the court which made the order acted, and if it is revoked the young person may be committed to prison.

8. (a) Where a child or young person is brought before a juvenile court for any offence it shall be the duty of the court as soon as possible to explain to him in simple language the substance of the alleged offence. Procedure
in juvenile
court.

(b) Where a child is brought before a juvenile court for any offence other than homicide the case shall be finally disposed of in such court, and it shall not be necessary to ask the parent whether he consents that the child shall be dealt with in the juvenile court.

(c) Where a young person is brought before a juvenile court for an offence triable by the Supreme Court other than homicide and the court becomes satisfied at any time during the hearing of the case that it is expedient to deal with it summarily, the court shall put to the young person the following or a similar question, telling him that he may consult his parent or guardian if present in court before replying—

“Do you wish to be tried by this court or by the Supreme Court?”

and the court shall explain to the young person and to his parent or guardian if present in court the meaning of being so tried and the place where the trial would be held.

(d) After explaining the substance of the alleged offence the court shall ask the child or the young person (except in cases where the young person does not wish to be tried in the juvenile court) whether he admits the offence.

(e) If the child or young person does not admit the offence the court shall then hear the evidence of the witnesses in support thereof. At the close of the evidence in chief of each such witness the magistrate shall ask the child or young person, or, if he see fit, the child's parent or guardian, whether he wishes to put any questions to the witness.

If the child or young person instead of asking questions wishes to make a statement he shall be allowed to do so. It shall be the duty of the court to put to the witnesses such

questions as appear to be necessary. The court may put to the child or young person such questions as may be necessary to explain anything in the statement of the child or young person.

(f) If it appears to the court that a prima facie case is made out, the evidence of any witnesses for the defence shall be heard, and the child or young person shall be allowed to give evidence or to make any statement.

(g) If the child or young person admits the offence or the court is satisfied that it is proved, he shall then be asked if he desires to say anything in extenuation or mitigation of the penalty or otherwise. Before deciding how to deal with him the court shall obtain such information as to his general conduct, home surroundings, school record, and medical history, as may enable it to deal with the case in the best interests of the child or young person, and may put to him any question arising out of such information. For the purpose of obtaining such information or for special medical examination or observation the court may from time to time remand the child or young person on bail or to a place of detention.

(h) If the child or young person admits the offence or the court is satisfied that it is proved, and the court decides that a remand is necessary for purposes of enquiry or observation, the court may cause an entry to be made in the court register that the charge is proved and that the child or young person has been remanded. The court before which a child or young person so remanded is brought may without further proof of the commission of the offence make any order in respect of the child or young person which could have been made by the court which so remanded the child or young person.

**Probation
officers.**

9. (1) The Governor may by notice in the Gazette appoint a fit and proper person or persons of either sex and either by name or as holding any public office for the time being to be a probation officer or officers for any area, and may from time to time appoint a deputy probation officer for such area to act in the absence or during the illness or incapacity of the probation officer, and may appoint an assistant probation officer to perform under the direction of the probation officer all or any of the duties of a probation officer in any portion of such area.

A probation officer when acting under a probation order shall be subject to the control of the courts for the area for which he is appointed.

(2) Where a child or young person is charged with any offence other than homicide and the court is satisfied that the charge is proved, the court may make an order discharging the offender conditionally on his entering into a recognizance, with or without sureties, to be of good behaviour and to appear for sentence when called upon at any time during such period, not exceeding three years, as may be specified in the order. A recognizance entered into under this section shall, if the court so order, contain a condition that the offender be under the supervision of such person as may be named in the order during the period specified in the order and such other conditions for securing such supervision as may be specified in the order, and an order requiring the insertion of such conditions as aforesaid in the recognizance is in this Ordinance referred to as a probation order.

Probation orders.

(3) The person named in any probation order shall be—

(a) a probation officer appointed by the Governor for the area in or for which the court acts, or

(b) if the court considers it expedient on account of the place of residence of the offender, or for any other special reason, a probation officer appointed by the Governor for some other area, or

(c) if the court considers that the special circumstances of the case render it desirable, or if no person has been appointed as a probation officer, a person who has not been appointed a probation officer for any area.

Who to be named as probation officer.

(4) The person named in a probation order may at any time be relieved of his duties, and, in any such case or in case of the death of the person so named, another person may be substituted by the court before which the offender is bound by his recognizance to appear for conviction or sentence.

(5) It shall be the duty of a probation officer, subject to the directions of the court—

(a) to visit or receive reports from the person under supervision at such reasonable intervals as may be specified in the probation order or, subject thereto, as the probation officer may think fit;

Duties of probation officers.

(b) to see that he observes the conditions of his recognizance;

(c) to report to the court as to his behaviour;

(d) to advise, assist, and befriend him, and, when necessary, to endeavour to find him suitable employment.

Power to
vary
conditions
of release.

(6) The court before which any person is bound by his recognizance under this Ordinance to appear for conviction or sentence may, upon the application of the probation officer, and after notice to the offender, vary the conditions of the recognizance and may, on being satisfied that the conduct of that person has been such as to make it unnecessary that he should remain longer under supervision, discharge the recognizance.

Provision
in case of
offender
failing to
observe
conditions
of release.

(7) (a) If the court before which an offender is bound by his recognizance to appear for conviction or sentence, or any court, is satisfied by information on oath that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension, or may, if it thinks fit, instead of issuing a warrant in the first instance, issue a summons to the offender and his sureties (if any) requiring him or them to attend at such court and at such time as may be specified in the summons.

(b) The offender, when apprehended, shall, if not brought forthwith before the court before which he is bound by his recognizance to appear for conviction or sentence, be brought before a court.

(c) The court before which an offender on apprehension is brought, or before which he appears in pursuance of such summons as aforesaid, may, if it is not the court before which he is bound by his recognizance to appear for conviction or sentence, remand him to custody or on bail until he can be brought before the last-mentioned court.

(d) A court, before which a person is bound by his recognizance to appear for conviction and sentence, on being satisfied that he has failed to observe any condition of his recognizance, may forthwith, without any further proof of his guilt, deal with him as for the original offence.

(8) Where an order under this section is made by a court the order shall, for the purpose of re-vesting or restoring stolen property and of enabling the court to make orders as to the restitution or delivery of property to the owner and as to the payment of money upon or in connexion with such restitution or delivery, have the like effect as a conviction.

10. Where a child or young person is charged with any offence, the court may in its discretion require the attendance of his parent or guardian and may make such orders as are necessary for the purpose.

Attendance
at court of
parent of
child or
young
person charged
with an
offence, &c.

11. (1) Where a child or young person is charged before any court with any offence for the commission of which a fine, damages or costs may be imposed, and the court is of opinion that the case would be best met by the imposition of a fine, damages, or costs, whether with or without any other punishment, the court may, in any case, and shall if the offender is a child, order that the fine, damages, or costs awarded be paid by the parent or guardian of the child or young person instead of by the child or young person, unless the court is satisfied that the parent or guardian cannot be found or that he has not conduced to the commission of the offence by neglecting to exercise due care of the child or young person.

Power to
order
parent to
pay fine,
&c., in-
stead of
child or
young person

(2) Where a child or young person is charged with any offence, the court may order his parent or guardian to give security for his good behaviour.

(3) Where a court thinks that a charge against a child or young person is proved, the court may make an order on the parent or guardian under this section for the payment of damages or costs or requiring him to give security for good behaviour, without proceeding to the conviction of the child or young person.

(4) An order under this section may be made against a parent or guardian who, having been required to attend, has failed to do so, but, save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.

(5) Any sums imposed and ordered to be paid by a parent or guardian under this section, or on forfeiture of any such security as aforesaid, may be recovered from him by distress or imprisonment in like manner as if the order had been made on the conviction of the parent or guardian of the offence with which the child or young person was charged.

(6) A parent or guardian may appeal against an order under this section to the Supreme Court.

Restric-
tions on
punishment
of children
and young
persons.

12. (1) No child shall be sentenced to imprisonment or to detention in a detention camp.

(2) No young person shall be sentenced to imprisonment if he can be suitably dealt with in any other way whether by probation, fine, corporal punishment, committal to a place of detention, reformatory or industrial school, or otherwise.

(3) A young person sentenced to imprisonment shall not be allowed to associate with adult prisoners.

Detention
in the case
of certain
crimes
committed
by children
or young
persons.

13. Notwithstanding anything in this Ordinance to the contrary, where a child or young person is convicted of an attempt to murder, or of manslaughter, or of wounding with intent to do grievous bodily harm, the court may sentence the offender to be detained for such period as may be specified in the sentence; and where such a sentence is passed the child or young person shall, during that period, notwithstanding anything in the other provisions of this Ordinance, be liable to be detained in such place and on such conditions as the Governor may direct, and whilst so detained shall be deemed to be in legal custody.

Committing
child or
young
person to
place of
detention.

14. Where a child or young person is convicted of an offence punishable, in the case of an adult, with imprisonment, or would, if he were an adult, be liable to be imprisoned in default of payment of any fine, damage, or costs, and the court considers that none of the other methods in which the case may legally be dealt with is suitable, the court may order that he be committed to custody in a place of detention for a period not exceeding six months.

15. (1) Any authorized person may bring before a juvenile court any person apparently under the age of fourteen years who—

Children
liable to be
committed
to care of
relative, &c.

- (a) is found begging or receiving alms (whether or not there is any pretence of singing, playing, performing, offering anything for sale, or otherwise), or being in any street, premises, or place for the purpose of so begging or receiving alms; or
- (b) is found wandering and not having any home or settled place of abode, or visible means of subsistence, or is found wandering and having no parent or guardian, or a parent or guardian who does not exercise proper guardianship; or
- (c) is found destitute, not being an orphan and having both parents or his surviving parent, or in the case of an illegitimate child his mother, undergoing imprisonment; or
- (d) is under the care of a parent or guardian who, by reason of criminal or drunken habits, is unfit to have the care of the child; or
- (e) is the daughter, whether legitimate or illegitimate, of a father who has been convicted of an offence under section 148 of the Penal Code in respect of any of his daughters, whether legitimate or illegitimate; or
- (f) frequents the company of any reputed thief, or common or reputed prostitute; or
- (g) is being persistently ill-treated or neglected by his parent; or
- (h) is lodging or residing in a house or the part of a house used by any prostitute for the purpose of prostitution, or is otherwise living in circumstances calculated to cause, encourage, or favour the seduction or prostitution of the child,

and the court before which a person is brought as coming within one of those descriptions, if satisfied on enquiry of that fact, may order the child to be taken out of the custody, charge, or care of any person, and to be committed to the care of a relative of the child or some other fit person or institution named by the court (such relative or other person or institution being willing to undertake such care), until the child attains the age of eighteen years, or for any shorter

Power to
extend period
of custody in
case of female
child.

period, and may in addition to such order make an order that the child be placed under the supervision of a probation officer, and the court may of its own motion, or on the application of any person, from time to time, by order renew, vary, or revoke any such order :

Provided that the court may at any time on the application of the person or institution to whose care any female child is committed under this section, and with the consent of such child, extend the period for which she was so committed until she attains the age of twenty-one years :

Provided further that a child shall not be treated as coming within the description contained in paragraph (f) if the only common or reputed prostitute whose company the child frequents is the mother of the child, and she exercises proper guardianship and due care to protect the child from contamination.

(2) For the purposes of this section the Governor may by notice in the Gazette appoint any person or class of persons to be an authorized person.

(3) Every order made under this section shall be in writing, and any such order may be made by the court in the absence of the child ; and the consent of any person or institution to undertake the care of the child in pursuance of any such order shall be proved in such manner as the court may think sufficient to bind that person or institution.

(4) (i) Any person or institution to whose care a child is committed under this section shall, whilst the order is in force, have the like control over him as the parent, and shall be responsible for his maintenance, and he shall continue in the care of such person or institution, notwithstanding that he is claimed by his parent or any other person, and if any person—

(a) knowingly assists or induces, directly or indirectly, a person in respect of whom an order has been made under this section to escape from the person or institution to whose care he is so committed ; or

(b) knowingly harbours, conceals, or prevents from returning to such person or institution, a person in respect of whom an order has been made under this section who has so escaped, or knowingly assists in so doing ;

he shall be liable to a fine not exceeding fifty pounds, or to imprisonment for a term not exceeding three months.

(ii) Any court having power so to commit a child shall have power to make orders on the parent or other person liable to maintain the child to contribute to his maintenance during such period as aforesaid such sums as the court shall think fit, and may from time to time vary such orders.

(iii) Any such order may be made on the complaint or application of the person or institution to whose care the child is for the time being committed, and either at the time when the order for the committal of the child to his care is made, or subsequently, and the sums contributed by the parent or such other person shall be paid to such person or institution as the court may name, and be applied for the maintenance of the child.

(iv) Where any parent or other person has been ordered under this section to contribute to the maintenance of a child, he shall give notice of any change of address to the Commissioner of Police, and if he fails to do so without reasonable excuse, he shall be liable to a fine not exceeding twenty pounds.

(5) The Governor may at any time in his discretion discharge a child or young person from the care of any person or institution to whose care he is committed in pursuance of this section, either absolutely or on such conditions as the Governor approves, and may, if he thinks fit, make rules in relation to children so committed to the care of any person or institution, and to the duties of and remuneration of such persons or institutions with respect to such children.

16. The Governor, in any case where it appears to him to be for the benefit of a child or young person who has been committed to the care of any person or institution in pursuance of section 15, may empower such person to procure the emigration of the child or young person, but, except with such authority, no person to whose care a child is so committed shall procure or allow his emigration. Emigration

17. (1) Where a child or young person charged with any offence is tried by any court, and the court is satisfied of his guilt, the court shall take into consideration the manner in which, under the provisions of this or any other Ordinance or otherwise enabling the court to deal with the case, the case should be dealt with, namely, whether— Methods of dealing with children and young persons charged with offences.

(a) by dismissing the charge; or

(b) by discharging the offender on his entering into a recognizance: or

- (c) by so discharging the offender and placing him under the supervision of a probation officer; or
- (d) by committing the offender to the care of a relative or other fit person; or
- (e) by sending the offender to an industrial school; or
- (f) by sending the offender to a reformatory school; or
- (g) by ordering the offender to be whipped; or
- (h) by ordering the offender to pay a fine, damages, or costs; or
- (i) by ordering the parent or guardian of the offender to pay a fine, damages, or costs; or
- (j) by ordering the parent or guardian of the offender to give security for his good behaviour; or
- (k) by committing the offender to custody in a place of detention provided under this Ordinance; or
- (l) where the offender is a young person, by sentencing him to imprisonment; or
- (m) by dealing with the case in any other manner in which it may be legally dealt with.

(2) Nothing in this section shall be construed as authorizing the court to deal with any case in any manner in which it could not deal with the case apart from this section :

Provided that whenever a child or young person is convicted of an offence for which, but for the provisions of this Ordinance a sentence of imprisonment would have been passed, the court by which such child or young person is convicted may, instead of passing such sentence of imprisonment, direct that he be sent to an industrial school or reformatory school for a period which shall not be less than three or more than seven years.

**Provision
of places of
detention.**

18. (1) It shall be the duty of the Commissioner of Police to provide such places of detention for each district as may be required for the purposes of this Ordinance, but nothing shall prevent the same place of detention being provided for two or more districts.

(2) If more than one place of detention is provided for in any district the Commissioner of Police may determine that any such place shall be used for some only of the purposes for which places of detention are required to be provided and another place for the other purposes.

(3) It shall be lawful for the authority or persons responsible for the management of any institution other than a prison whether supported out of public funds or by voluntary contributions, but subject in the case of an institution supported out of public funds to the consent of the Governor, to agree with the Commissioner of Police for the use of the institution or any part thereof as a place of detention on such terms as may be agreed upon between them and the Commissioner of Police.

(4) In selecting the place of detention to which a child or young person is to be committed the court or officer of police shall have regard, where practicable, to the religious persuasion of the child or young person.

19. (1) The order or judgment in pursuance of which a child or young person is committed to custody in a place of detention provided under this Ordinance shall be delivered with the child or young person to the person in charge of the place of detention and shall be a sufficient authority for his detention in that place in accordance with the tenor thereof.

Provisions
as to
custody of
children
and young
persons in
places of
detention.

(2) A child or young person whilst so detained and whilst being conveyed to and from the place of detention shall be deemed to be in legal custody and if he escapes may be apprehended without warrant and brought back to the place of detention in which he was detained.

(3) The Governor shall cause places of detention provided under this Ordinance to be inspected, and may make rules as to the places to be used as places of detention, and as to their inspection, and as to the classification, treatment, employment, and control of children and young persons detained in custody in a place of detention provided under this Ordinance, and for the children and young persons whilst so detained being visited from time to time by persons appointed in accordance with those rules.

20. The Governor may at any time order any child or young person :—

Power to
discharge
child or young
person.

(a) To be discharged from an industrial school or a reformatory school.

(b) To be removed from one industrial school or reformatory school to another or from an industrial school to a reformatory school or from a reformatory school to an industrial school: Provided that the whole period of his detention shall not be increased by such removal.

(c) To be released from an industrial school or reformatory school on condition that such child or young person shall live under the charge of any trustworthy and respectable person named in the order of release willing to receive and take charge of him and to keep such child or young person employed at some trade, occupation or calling.

Expenses of maintenance of child or young person.

21. The expenses incurred by the Commissioner of Police in respect of any place of detention provided by the authority, including the expenses of the maintenance of any child or young person detained therein, whether detained on apprehension or committed to custody on remand or commitment for trial or in lieu of imprisonment or in default of payment of a fine, damages, or costs, shall be defrayed out of moneys voted for the purpose by the Legislative Council.

Presumption and determination of age.

22. Where a person, whether charged with an offence or not, is brought before any court otherwise than for the purpose of giving evidence, and it appears to the court that he is a child or young person, the court shall make due enquiry as to the age of that person, and for that purpose shall take such evidence as may be forthcoming at the hearing of the case, but an order or judgment of the court shall not be invalidated by any subsequent proof that the age of that person has not been correctly stated to the court, and the age presumed or declared by the court to be the age of the person so brought before it shall, for the purposes of this Ordinance, be deemed to be the true age of that person, and, where it appears to the court that the person so brought before it is of the age of sixteen years or upwards, that person shall for the purposes of this Ordinance be deemed not to be a child or young person.

Power to make rules.

23. The Governor in Council may make rules for carrying this Ordinance into effect, and in particular for prescribing such matters incidental to the appointment, resignation, and removal of probation officers, and the performance of their

duties, the reports to be made by them, and the payment of their remuneration or out-of-pocket expenses, as may appear to be necessary.

24. Save in so far as other provision is expressly made in this Ordinance, nothing in this Ordinance shall be deemed to affect any other law relating to children or young persons. Saving.

25. (1) The provisions of sections 18, 19 and 20 of this Ordinance shall not come into force until the Legislative Council by resolution has declared that the provisions of the said sections shall as from a date to be specified in the said resolution be in force either in the whole Colony or in any area or areas in the Colony. Suspended operation of certain sections of the Ordinance.

(2) Until the issue of such proclamation as aforesaid the provisions of sections 5, 6, 7, 8, 12, 14 and 17 of this Ordinance shall be read as if reference therein to a place of detention provided under this Ordinance, detention, a place of detention, an industrial school or a reformatory school, as the case may be, were reference to a detention camp established under the Detention Camps Ordinance, 1925, and the provisions of the proviso to sub-section (2) of section 17 shall not come into operation until industrial schools or reformatory schools have been established under this Ordinance. No. 25 of 1925.

ORDINANCE No. XVI of 1933

Assented to in His Majesty's name this fifth day of May, 1933.

J. BYRNE,
Governor.

Date of assent.

[5TH MAY, 1933.]

An Ordinance to Authorize the Raising of Loans to Enable the East African Currency Board to Provide Funds to Meet Further Redemptions of Currency.

Date of commencement.
Cap. 44.

5th May, 1933

WHEREAS it is provided by section 3, sub-section (2), of the Currency Notes Ordinance that the amount required to enable the East African Currency Board to pay to the bearers of East African currency notes the amounts named therein shall be a charge on the moneys and securities in the hands of the Board and, failing them, on the general revenues of the Colony.

AND WHEREAS it is expedient to make provision for the discharge of this liability on the general revenues of the Colony.

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

Short title.

1. This Ordinance may be cited as “ the Currency Loan Ordinance, 1933.”

Interpretation.

2. In this Ordinance—

“ Board ” means the East African Currency Board as instituted by the Secretary of State.

“ Crown Agents ” means the Crown Agents for the Colonies.

“ Regulations ” means the Regulations defining the constitution, duties and powers of the Board made by the Secretary of State on the 11th July, 1932, and published in the Gazette on the 13th September, 1932, and any Regulation which may hereafter be made in amendment or replacement of the same.

1933

Currency Loan

No. XVI

3. It shall be lawful for the Governor to authorize the Crown Agents to raise from time to time loans in London in the form of bonds or in such other form or forms as they may determine, so that the nominal amount of such loans outstanding at any one time shall not exceed six hundred and fifty thousand pounds sterling.

Authority to
raise loans.

4. The loans shall carry such rates of interest and be for such terms not exceeding ten years as the Governor or the Crown Agents on his behalf may deem to be expedient.

Terms of
loans.

5. The proceeds of any such loans after deducting the expenses of raising them shall be paid by the Crown Agents to the Board and shall form part of the assets of the Board to be employed by them in accordance with the Regulations.

Application
of proceeds.

6. The interest due on loans outstanding from time to time and the sums required for their repayment shall be a charge on the general revenues and assets of the Colony.

Liability for
interest and
repayment
charges.

ORDINANCE No. XVII of 1933

Assented to in His Majesty's name this fifth day of May, 1933.

J. BYRNE,
Governor.

Date of assent.

[5TH MAY, 1933.]

An Ordinance relating to the Age of Majority.

Date of
commencement.

5th May, 1933

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

Short title.

1. This Ordinance may be cited as " the Age of Majority Ordinance, 1933."

Interpretation.

2. In this Ordinance " European " means a person of European origin or descent and includes an American who is not of origin or descent other than European.

Age of
majority for
Europeans.

3. Subject to the provisions of section 6 of this Ordinance, the minority of all European males and females shall cease and determine within the Colony at the age of twenty-one years, and notwithstanding anything contained in the Indian Succession Act, 1865, as applied to the Colony, every European male or female of or arriving at that age shall be of the age of majority as fully, freely and effectually to all intents and purposes in the law, as he or she may or might have been by the law of England.

Age of
majority for
persons other
than
Europeans.

4. Subject to the provisions of section 6 of this Ordinance, the minority of all non-native males and females other than Europeans shall cease and determine within the Colony at the age of eighteen years, and every such male and female of or arriving at that age shall be of the age of majority :

Provided that every minor of whose person or property or both a guardian, other than a guardian for a suit within the meaning of Order XXIX of the Civil Procedure Rules, 1927, has been or shall be appointed or declared by any court before the minor has attained the age of eighteen years, and every minor of whose property the superintendence has been or shall be assumed by any court before the minor has attained that age shall, notwithstanding anything contained in the

1933

Age of Majority

No. XVII

Indian Succession Act, 1865, as applied to the Colony, or in any other enactment, be deemed to have attained his majority when he shall have completed his age of twenty-one years and not before.

5. In computing the age of any person, the day on which he was born is to be included as a whole day, and he shall be deemed to have attained the age of eighteen years or twenty-one years, as the case may be, at the beginning of the eighteenth or twenty-first anniversary of that day.

Computation
of age.

6. Nothing in this Ordinance shall affect—

Savings.

- (a) the capacity of any person in the following matters, namely, marriage, dower, divorce and adoption;
- (b) the religion and religious rites and usages of any class of persons in the Colony; or
- (c) the capacity of any person who, before this Ordinance comes into force, has attained majority under the law applicable to him.

7. This Ordinance shall not apply to natives.

Saving for
natives.

8. The Indian Majority Act, 1875, shall cease to apply to the Colony.

Repeal.

ORDINANCE No. XVIII of 1933

Assented to in His Majesty's name this fifth day of
May, 1933.

J. BYRNE,
Governor.

Date of assent.

[5TH MAY, 1933.]

Amended 6
Ord. 23/41
59/48

An Ordinance to Provide for the Recovery of Fines Imposed on Natives, Somalis or Swahilis for the Theft of Stock or Produce by Levy on the Property of the Offender or his Family, Sub-Tribe or Tribe and to Make Persons Liable to Account for the Possession of Stock or Produce in certain cases.

Date of commencement.

5th May, 1933

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

Short title.

1. This Ordinance may be cited as "the Stock and Produce Theft (Levy of Fines) Ordinance, 1933."

Interpretation.

2. In this Ordinance—

"farm" includes also a plantation, orchard, and a market or nursery garden;

"proclaimed district" means any area to which sections 10 and 11, or either of them, of this Ordinance may from time to time be applied by the Governor in Council by proclamation;

"sell" includes barter or exchange;

"produce" means agricultural produce and includes ostrich feathers;

"stock" means the male, female or young of any animal mentioned in section 255 of the Penal Code, and includes poultry; and further includes the meat, hide, skin or any part of any such animal or bird.

"theft" includes every offence punishable under Division V of the Penal Code and every attempt to commit any such offence.

No. 10 of 1930

Procl. 104/33
f. 25

3. Whenever any native, Somali or Swahili is sentenced to pay a fine on conviction of theft of stock or produce, the court passing sentence may, unless the fine is paid within the time limited by the court for such payment, issue a warrant for the levy of the fine by distress and sale of any movable property of the offender or of the offender's family, sub-tribe or tribe or of any member of the offender's family, sub-tribe or tribe :

Warrant for
levy of fine
by distress.

Provided that in any case in which it has been proved that the stock or produce in respect of which theft has been committed has been found in a village or place other than the village or place in which the offender ordinarily resides, then on the conviction of the offender the court may levy the fine or part thereof on the inhabitants of the village or place wherein such stock has been found.

(3) - Added by Ord. 57/42
4. Whenever a warrant shall have been issued under section 3 and no or insufficient movable property of the offender shall be found to satisfy the fine, the Provincial Commissioner of the Province in which the family, sub-tribe or tribe of the offender is resident may endorse the warrant to such extent as he may deem fit for execution against the movable property—

Effect of
warrant for
levy of fine by
distress.

- (a) of any member or members of the offender's family ;
- (b) of any inhabitant or inhabitants of the village or place wherein stolen stock or produce has been found, in accordance with the proviso to section 3 ;
- (c) of any member or members of the sub-tribe to which the offender belongs ;
- (d) of any member or members of the tribe to which the offender belongs ;

and a warrant so endorsed shall be executed in accordance with the endorsement thereon.

5. A warrant shall not be executed against any property other than the movable property of the offender unless and until it shall have been endorsed in accordance with the provisions of section 4.

Warrant not to
be executed
unless
endorsed.

6. A Provincial Commissioner shall, before endorsing a warrant, satisfy himself that the circumstances of or in connexion with the offence of which the offender has been convicted are such as to justify the levying of the fine or the balance of the fine, as the case may be, by the distress and

Preliminaries
before endors-
ing a warrant.

sale of the property of the persons against whom the warrant is issued by the court; and may, if he thinks fit, call upon the head of the family or the headman of the village, sub-tribe or tribe, as the case may be, to show cause why the warrant should not be endorsed or may hold such other inquiry as he may think proper.

Rewards.

7. A court may award to any person or persons giving information which has led to a conviction under this Ordinance any sum or sums not exceeding altogether fifteen pounds, provided that any such sum or sums shall not exceed one-half of the fine paid.

Offender residing with tribe other than his own.

8. Whenever any native, Somali or Swahili ordinarily and voluntarily resides within a village of any sub-tribe or tribe of different origin, such person shall be deemed to be a member of such sub-tribe or tribe for the purposes of this Ordinance.

Liability to account for possession of produce in certain cases.

9. (1) If any person is found in possession of produce on any farm or in the immediate vicinity thereof under circumstances which may reasonably lead to the belief that such produce has been stolen, such person shall be deemed to have stolen the same and shall, unless he proves affirmatively (the onus being on him) that the possession was lawful, be liable to the penalties prescribed for theft.

Power to arrest persons conveying produce suspected to be stolen.

(2) It shall be lawful for the owner or manager of any farm to apprehend and detain, without a warrant, any person found in possession of any produce upon such farm or in the immediate vicinity thereof which such owner or manager may have reasonable cause to suspect to have been stolen or unlawfully obtained from such farm:

Provided that any person apprehended under this subsection shall, with all practicable speed, be either handed over to a police officer or brought before a magistrate to be dealt with according to law.

Liability to account for possession of stock in certain cases.

10. (1) If any stock is found in the possession or on the premises of any person in a proclaimed district in circumstances which may reasonably lead to the belief that such stock has been stolen, such person shall be deemed to have stolen the same and shall, unless he proves affirmatively (the onus being on him) that the possession was lawful, be liable to the penalties prescribed for theft.

(2) Added by Ord. 23/41, p. 95

1933

Stock and Produce Theft

No. XVIII

11. It shall not be lawful for any person to sell or deliver any stock or produce in a proclaimed district between sunset and sunrise, and any person so doing and any person buying or taking delivery of any stock or produce which is sold in contravention of this section shall be liable to a fine not exceeding five pounds or to imprisonment for a period not exceeding six months or to both such fine and imprisonment :

Restriction on sale of stock and produce by persons during night-time.

Provided that this section shall not apply to the registered holder of agricultural land within the proclaimed district under grant or lease from the Crown or to his duly authorized agent in respect of stock or produce raised on such land or to the purchaser thereof.

12. All offences under this Ordinance shall be cognizable to the police.

Offences cognizable to police.

13. The Stock and Produce Theft Ordinance (Chapter 79 of the Revised Edition) as amended by the Stock and Produce Theft (Amendment) Ordinance, 1928, is hereby repealed :

Repeal.

No. 10 of 1928.

Provided that such repeal shall not affect the validity of any proclamation already issued by the Governor in Council and still in force at the date of the coming into operation of this Ordinance with regard to proclaimed districts under section 2 of the Stock and Produce Theft (Amendment) Ordinance, 1928.

ORDINANCE No. XIX of 1933

Assented to in His Majesty's name this fifth day of May, 1933.

J. BYRNE,
Governor.

Date of assent.

[5TH MAY, 1933.]

An Ordinance to Amend the Native Authority Ordinance.

Date of commencement.

5th May, 1933

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

Short title.

1. This Ordinance may be cited as " the Native Authority (Amendment) Ordinance, 1933," and shall be read as one with the Native Authority Ordinance (Chapter 129 of the Revised Edition), hereinafter referred to as " the Principal Ordinance."

Amendment of section 30 of the Principal Ordinance. No. 16 of 1928.

2. Section 30 of the Principal Ordinance, as amended by section 7 of the Native Authority (Amendment) Ordinance, 1928, is hereby further amended by adding the following proviso at the end of sub-section (1) thereof :—

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

ORDINANCE No. XX of 1933

Assented to in His Majesty's name this eighteenth day of May, 1933.

Amended by
Ord. 44/38
 J. BYRNE,

Governor.

[18TH MAY, 1933.] Date of assent.

**An Ordinance to Regulate and Control the Use of
 Shops in Rural Areas.**

BY NOTICE. *18 Aug. 1933.*

Date of
 commencement.

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

1. This Ordinance may be cited as "the Shops in Rural Areas Ordinance, 1933," and shall come into operation on such date as the Governor may, by notice in the Gazette, appoint.

Short title
 and date of
 operation.

S.N. 414/33

2. In this Ordinance—

Definitions.

"alienated land" means land granted, conveyed, or leased in accordance with any law in force at the time of such alienation governing the grant, conveyance, or lease of land, and includes land transferred, subdivided, sub-let, or assigned, and land held in fee simple, but does not include any interest in land held on a certificate of title issued under the Land Titles Ordinance;

Cap. 143.

"municipality" means the area placed under the jurisdiction of a Municipal Council or Municipal Board;

"occupier" means and includes the owner or lessee or any other person having a legal right to occupy alienated land, and shall include any manager or agent of such occupier;

"rural area" means an area which is not within the area of a municipality, a township or a trading centre;

"shop" means a building or part of a building in which retail trade is carried on;

"township" means any township established by or under the Townships Ordinance, 1930;

No. 63 of 1930.

"trading centre" means any trading centre declared under the Trading Centres Ordinance, 1932;

No. 10 of 1932.

"Licensing officer" means the District Commissioner of each district and any other person appointed by the Governor to issue licences under this Ordinance.

Prohibition of
use of shop
without a
licence.

3. (1) ~~No person shall on any alienated land in a rural area use or permit the use of any shop unless such shop is licensed under this Ordinance by a licensing officer of the district in which such shop is situated.~~

(2) Before issuing a licence under this section, the licensing officer shall take the opinion of the District Council or Committee, if any, within whose local area such shop is situated.

(3) Every licence under this section shall, unless revoked under the provisions of ~~section 6~~ hereof, be in force until the 31st day of December in the year in which it is issued, and shall then expire.

(4) For every licence issued under this section and for every renewal thereof there shall be paid the sum specified in the Schedule to this Ordinance.

(5) Every licence issued under this section shall be kept in the shop in respect of which it is issued and shall at all ~~reasonable times be open to inspection by any authorized person.~~

Production
of licence on
demand.

4. The owner or occupier of alienated land on which a shop to which this Ordinance applies is situated and the person in control or management of such shop shall at all reasonable times, on demand made by a District Officer or European police officer, produce the licence for such shop, and any person who fails, neglects, or refuses to produce such licence when so called upon to do so shall be guilty of an offence against this Ordinance.

Penalty.

5. (1) Every person shall be guilty of an offence against this Ordinance who—

(a) being the owner or occupier of alienated land in a rural area uses or permits the use of any building on such land as a shop without having a valid licence in respect of such shop; or

(b) manages or controls any shop, whether on his own behalf or on behalf of another person without having a valid licence in respect of such shop; or

(c) added by Ord. 44/38

(2) Every person who commits an offence against this Ordinance shall be liable for a first offence to a fine not exceeding five pounds or to imprisonment for a term not exceeding one month or to both such fine and such imprisonment, and for a second or subsequent offence to a fine not exceeding twenty-five pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

6. (1) A licensing officer may revoke the licence of any shop if he is satisfied— Power to
revoke a
licence.

- (i) that the shop is so conducted as to be dangerous to the peace and good order of the area in which it is situated; or
- (ii) that the person managing or controlling the shop has been convicted of an offence against this Ordinance or of any other law in force in the area in which the shop is situated; or
- (iii) that the continuance of the licence would be contrary to the public interest:

Provided that before revoking any such licence a licensing officer shall obtain the consent of the District Council or Committee within whose area such shop is situated to such revocation: And provided further that no licence shall be revoked until the District Council or Committee (as the case may be) and the licensing officer have given the owner or occupier of the land on which such shop is situated an opportunity of being heard.

(2) Any person aggrieved by the revocation of a licence under sub-section (1) of this section may appeal against the licensing officer's decision to the court of the magistrate within whose jurisdiction the shop is situated, and, in the event of the appellant satisfying the court that the licence was revoked on insufficient grounds the court may cancel such revocation.

(3) If the magistrate refuses to cancel such revocation, the appellant may appeal to the Supreme Court against the order of the magistrate, and the decision of the Supreme Court shall be final.

7. The provisions of this Ordinance shall be in addition to and not in derogation of the provisions of the Crown Lands Ordinance, 1902, the Crown Lands Ordinance, and the Public Provisions of
other enact-
ments not
abrogated.
Cap. 140.

No. 32 of 1928. Health (Division of Lands) Ordinance, 1928, and any amendment thereof, and nothing in this Ordinance contained shall be deemed to permit any subdivision, assignment or sub-lease of any alienated land or the erection of any building thereon save in accordance with the provisions of the said Ordinances.

Existing
endorsements
of titles.
Cap. 140.

8. Where under the provisions of the Crown Lands Ordinance, 1902, or the Crown Lands Ordinance, titles to alienated land have been endorsed with permission to use a building on the said land as a shop subject to the annual payment of the sum of seventy-two shillings, no such payment shall after the commencement of this Ordinance be due from any occupier who is in possession of a valid licence under this Ordinance in respect of such shop.

9. Power to make Rule - Rd 44/38.

SCHEDULE.

LICENCE FEES.

	<i>Sh. cts.</i>
For each shop situated within four miles of the boundary of a municipality, township or trading centre, per year or part thereof ...	40 00
For any other shop, per year or part thereof ...	10 00

ORDINANCE No. XXI of 1933

Assented to in His Majesty's name this eighteenth day of May, 1933.

J. BYRNE,
Governor.

18th MAY, 1933.] Date of assent.

An Ordinance to Make Provision for the Expulsion from Certain Areas of the Colony of Persons whose Presence Therein is Deemed to be Undesirable.

18th May, 1933

Date of commencement.

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

1. This Ordinance may be cited as " the Expulsion from Short title.
Proclaimed Areas Ordinance, 1933."

2. In this Ordinance:—

Interpretation.

" Board " means the Board established for any proclaimed area under section 4 of this Ordinance;

" proclaimed area " means an area to which this Ordinance has been applied by proclamation of the Governor;

" expulsion order " means an order made under section 5 of this Ordinance.

3. This Ordinance shall apply to such areas of the Application.
Colony as the Governor by proclamation may from time to time declare.

4. (i) For every proclaimed area the Governor shall Appointment
of Board
for a
proclaimed
area.
appoint a Board, which shall consist of the Provincial Commissioner of the Province in which such area is situated, who shall be the Chairman of the Board, and such persons unconnected with the public service as the Governor may appoint, who shall, whenever possible, be persons resident in or connected with such area.

(ii) If the Provincial Commissioner is prevented from Provincial
Commissioner
to depute
District
Commissioner
to act as
Chairman.
attending any meeting of the Board he may depute the District Commissioner of the district in which the proclaimed area is situated to attend such meeting and in that case the District Commissioner shall be Chairman of the Board during the absence of the Provincial Commissioner.

(iii) The Chairman and three members of the Board shall constitute a quorum.

Procedure when
District
Commissioner
deems a person
to be
undesirable.

5. (i) If complaint is made to the District Commissioner of a proclaimed area or if he has reason to believe that the presence within such proclaimed area of any person, other than a native of such proclaimed area, is undesirable, he may notify such person of the grounds on which it is considered that his presence is undesirable, and shall in such notification inform him of the place at which and the date on which his case will be investigated by the Board (which date shall not be less than seven days after the service upon him of such notification) and that he may appear personally before the Board or may in writing show cause why he should not be ordered to leave and to continue to absent himself from such proclaimed area, and that if he does not appear personally or submit grounds of excuse in writing the Board may proceed to a decision in his absence.

(ii) The Board shall have the powers of the Supreme Court to summon witnesses and to call for the production of books, plans and documents, and to examine witnesses and parties concerned on oath. All summonses for the attendance of witnesses or other persons, or the production of documents, may be in such form as the Board may determine and shall be signed by the Chairman, and oaths may be administered by any member of the Board.

(iii) The Board after considering the case against such person and any representations made by him, may, if it is satisfied that the presence of such person within the proclaimed area is undesirable, by order declare that such person shall, within a time to be limited by such order, remove himself from such proclaimed area, and continue to absent himself from such area or any other proclaimed area within the same Province so long as such order shall remain in force.

(iv) Any person against whom an expulsion order has been made by the Board may, within seven days of the making of such order, appeal against such order in writing to the Governor in Council, whose decision shall be final: Provided that, notwithstanding such appeal, such person shall remove himself from such proclaimed area within the time limited in the order referred to in the last preceding sub-section.

- 6.** An expulsion order may be expressed to be in force for a time to be limited therein or for an unlimited time. Duration of expulsion order.
- 7.** If a person against whom an expulsion order from a proclaimed area has been made wilfully neglects or refuses to leave such area within the time limited by the said order, or while the expulsion order is still in force enters or attempts to enter such area or any other proclaimed area within the same Province without the written consent of the Board, which consent may be given subject to any terms as to security for good behaviour or otherwise as to the Board may seem good, such person shall be liable to imprisonment for a term not exceeding six months.
- 8.** If a person against whom an expulsion order has been made has been sentenced to a term of imprisonment such sentence of imprisonment shall be carried out before the expulsion order is carried into effect. Sentence of imprisonment to be served before expulsion order is enforced.
- 9.** The expenses of expulsion from a proclaimed area may be defrayed from the public revenues of the Colony. Expenses of expulsion.
- 10.** In any prosecution for an offence against this Ordinance the production of an expulsion order purporting to be signed by the Chairman on behalf of the Board shall be conclusive evidence that the same is valid and lawfully made. Evidence.
- 11.** No action shall be brought by any person against whom an expulsion order has been made with reference to anything bona fide done or omitted to be done in the execution or purported execution of that order or of the provisions of this Ordinance. Indemnity.
- 12.** No court of law in the Colony shall have any jurisdiction to review, quash, reverse or otherwise interfere with any proceeding, act or order had, done or made under this Ordinance. Restriction of jurisdiction of courts of law.
- 13.** The Governor may make Rules for the better carrying out of the provisions of this Ordinance. Rules.
- 14.** This Ordinance shall continue in force for one year from the date of its coming into operation, and shall then expire: Provided that the Governor may, by proclamation, with the approval of the Legislative Council, declare that this Ordinance shall remain in force until a date to be fixed in such proclamation. Duration of Ordinance.

ORDINANCE No. XXII of 1933

Assented to in His Majesty's name this twentieth day of May, 1933.

J. BYRNE,
Governor.

Date of assent.

[20TH MAY, 1933.]

An Ordinance to Make Special Provision for Mining in Proclaimed Areas.

Date of commencement.

1st July, 1933

BY NOTICE.

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

Short title.

1. This Ordinance may be cited as "the Mining in Proclaimed Areas Ordinance, 1933," and shall come into operation upon such date as the Governor may by notice in the Gazette appoint.

Application to proclaimed areas.

2. This Ordinance shall apply to such areas of the Colony as the Governor by proclamation may declare to be proclaimed areas for the purpose of this Ordinance.

Fee for exclusive prospecting licences in proclaimed areas.
No. 1 of 1931.

3. No exclusive prospecting licence shall be granted over land within a proclaimed area unless the applicant has paid, in addition to the registration fee and conveyancing fee prescribed by section 18 of the Mining Ordinance, 1931, a fee according to the schedule hereto.

Fees for alluvial prospecting licences in proclaimed areas.
No. 1 of 1931.
No. 52 of 1932.

4. Where under the provisions of sub-section (1) of section 20 of the Mining Ordinance, 1931, as amended by the Mining (Amendment) (No. 2) Ordinance, 1932, the Commissioner of Mines consents to alluvial mining in existing rivers within a proclaimed area by the holder of an exclusive prospecting licence, such holder shall, in addition to any fee which may be imposed under section 8 of the Mining (Amendment) (No. 2) Ordinance, 1932, pay for such consent a fee of such sum as the Commissioner of Mines may determine, not exceeding in any case fifty pounds per running mile of river frontage.

Saving clause.
No. 1 of 1931.

5. Save as provided in the preceding sections of this Ordinance, all the provisions of the Mining Ordinance, 1931, and of all Ordinances amending the same, shall apply to mining in a proclaimed area.

1933

Mining in Proclaimed Areas

No. XXII

6. This Ordinance shall remain in force for three years from the date of its coming into operation, and shall then expire: Provided that the Governor may, by proclamation, with the approval of the Legislative Council declare that this Ordinance shall remain in force until a date to be fixed in such proclamation.

Duration of Ordinance.

SCHEDULE.

FEES FOR EXCLUSIVE PROSPECTING LICENCES IN
PROCLAIMED AREAS.*Per Sq. Mile Per Annum.*

	£	s.	c.
For the first 8 sq. miles ...	3	0	00
For the next 92 sq. miles ...	2	0	00
For the next 200 sq. miles ...	1	10	00
For the next 300 sq. miles ...	1	0	00
For each additional sq. mile in excess of 600 sq. miles ...	10	00	

ORDINANCE No. XXIII of 1933

Assented to in His Majesty's name this twentieth day of May, 1933.

J. BYRNE,
Governor.

Date of assent. [20TH MAY, 1933.]

An Ordinance to Make Provision for the Adoption of Infants.

Date of commencement. 20th May, 1933

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

Short title. 1. This Ordinance may be cited as “ the Adoption of Children Ordinance, 1933.”

Interpretation. 2. In this Ordinance “ the Court ” shall mean the Supreme Court of Kenya.

Power to make adoption orders. 3. (1) Upon an application in the prescribed manner by any person desirous of being authorized to adopt an infant who has never been married, the Court may, subject to the provisions of this Ordinance, make an order (in this Ordinance referred to as “ an adoption order ”) authorizing the applicant to adopt that infant.

Adopter, adopted child defined. (2) A person so authorized to adopt the infant and an infant authorized to be adopted are in this Ordinance referred to as an “ adopter ” and an “ adopted child ” respectively, and “ infant ” means a person under the age of twenty-one.

Joint adoption by spouses only. (3) Where an application for an adoption order is made by two spouses jointly, the Court may make the order authorizing the two spouses jointly to adopt, but save as aforesaid no adoption order shall be made authorizing more than one person to adopt an infant.

Restrictions on making adoption orders. 4. (1) An adoption order shall not be made in any case where—

- (a) the applicant is under the age of twenty-five years, or
- (b) the applicant is less than twenty-one years older than the infant in respect of whom the application is made :

Provided that, where the applicant and the infant are within the prohibited degrees of consanguinity, it shall be lawful for the Court, if it thinks fit, to make the order notwithstanding that the applicant is less than twenty-one years older than the infant.

(2) Subject to the provisions of section 13, an adoption order shall not be made in any case where the sole applicant is a male and the infant in respect of whom the application is made is a female unless the Court is satisfied that there are special circumstances which justify as an exceptional measure the making of an adoption order.

Sole applicant
male and
infant female.

(3) An adoption order shall not be made except with the consent of every person or body who is a parent or guardian of the infant in respect of whom the application is made or who has the actual custody of the infant or who is liable to contribute to the support of the infant :

Consents
required.

Provided that the Court may dispense with any consent required by this sub-section if satisfied that the person whose consent is to be dispensed with has abandoned or deserted the infant or cannot be found or is incapable of giving such consent or, being a person liable to contribute to the support of the infant, either has persistently neglected or refused to contribute to such support or is a person whose consent ought, in the opinion of the Court and in all the circumstances of the case, to be dispensed with.

Power of
Court to
dispense with
consent.

(4) An adoption order shall not be made upon the application of one of two spouses without the consent of the other of them :

Application
by one of two
spouses.

Provided that the Court may dispense with any consent required by this sub-section if satisfied that the person whose consent is to be dispensed with cannot be found or is incapable of giving such consent or that the spouses have separated and are living apart and that the separation is likely to be permanent.

(5) An adoption order shall not be made in favour of any applicant who is not resident and domiciled in the Colony or in respect of any infant who is not a British subject.

Applicant
not resident or
domiciled in
the Colony. X

Matters with respect to which Court to be satisfied. Consent.

5. The Court before making an adoption order shall be satisfied—

(a) that every person whose consent is necessary under this Ordinance and whose consent is not dispensed with has consented to and understands the nature and effect of the adoption order for which application is made, and in particular in the case of any parent understands that the effect of the adoption order will be permanently to deprive him or her of his or her parental rights; and

Welfare of infant.

(b) that the order if made will be for the welfare of the infant due consideration being for this purpose given to the wishes of the infant, having regard to the age and understanding of the infant; and

No consideration for adoption.

(c) that the applicant has not received or agreed to receive, and that no person has made or given, agreed to make or give to the applicant, any payment or other reward in consideration of the adoption except such as the court may sanction.

Terms and conditions of order.

6. The Court in an adoption order may impose such terms and conditions as the Court may think fit and in particular may require the adopter by bond or otherwise to make for the adopted child such provision (if any) as in the opinion of the Court is just and expedient.

Effect of adoption order.

7. (1) Upon an adoption order being made, all rights, duties, obligations and liabilities of the parent or parents, guardian or guardians of the adopted child, in relation to the future custody, maintenance and education of the adopted child, including all rights to appoint a guardian or to consent or give notice of dissent to marriage shall be extinguished, and all rights, duties, obligations and liabilities shall vest in and be exercisable by and enforceable against the adopter as though the adopted child was a child born to the adopter in lawful wedlock, and in respect of the same matters and in respect of the liability of a child to maintain its parents the adopted child shall stand to the adopter exclusively in the position of a child born to the adopter in lawful wedlock:

Adopted child in position of lawful child of adopter.

Provided that, in any case where two spouses are the adopters, such spouses shall, in respect of the matters aforesaid and for the purpose of the jurisdiction of any court to

make orders as to the custody and maintenance of and right of access to children, stand to each other and to the adopted child in the same relation as they would have stood if they had been the lawful father and mother of the adopted child, and the adopted child shall stand to them respectively in the same relation as a child would have stood to a lawful father and mother respectively.

(2) An adoption order shall not deprive the adopted child of any right to or interest in property to which, but for the order, the child would have been entitled under any intestacy or disposition, whether occurring or made before or after the making of the adoption order, or confer on the adopted child any right to or interest in property as a child of the adopter, and the expressions "child", "children" and "issue" where used in any disposition whether made before or after the making of an adoption order, shall not, unless the contrary intention appears, include an adopted child or children or the issue of an adopted child.

Effect of
order on
proprietary
rights.

(3) For the purposes of this section "disposition" means an assurance of any interest in property by any instrument whether *inter vivos* or by will including codicil.

Disposition
defined.

8. (1) Upon any application for an adoption order, the Court may postpone the determination of the application and may make an interim order (which shall not be an adoption order for the purposes of this Ordinance) giving the custody of the infant to the applicant for a period not exceeding two years by way of a probationary period upon such terms as regards provision for the maintenance and education and supervision of the welfare of the infant and otherwise as the Court may think fit.

Power to make
interim
orders.

(2) All such consents as are required to an adoption shall be necessary to an interim order but subject to a like power on the part of the Court to dispense with any such consent

Consents
necessary for
interim order.

9. An adoption order or an interim order may be made in respect of an infant who has already been the subject of an adoption order, and, upon any application for such further adoption order, the adopter or adopters under the adoption order last previously made shall, if living, be deemed to be the parent or parents of the infant for all the purposes of this Ordinance.

Power to make
subsequent
order in
respect of
infant already
subject to
an order.

Rules to be
made by the
Court.

S.N. 493/33

1. 4. 33

Appointment
of guardian
ad litem for
purpose of
applications
under the
Ordinance.

10. The Court may make Rules for directing the manner in which applications to the Court are to be made.

Such Rules may provide for application for adoption orders being heard and determined otherwise than in open Court.

11. For the purpose of any application under this Ordinance and subject to any Rules made thereunder, the Court shall appoint some person or body to act as guardian *ad litem* of the infant upon the hearing of the application with the duty of safeguarding the interests of the infant before the Court, and where the body so appointed is a local authority the Court may authorize the authority to incur any necessary expenditure, and may direct out of which fund or rate such expenditure is to be defrayed, but nothing in this section shall be deemed to authorize the Court to appoint a local authority to act as a guardian *ad litem* of an infant except with the consent of that authority :

Provided that the provisions of this section shall not apply to applications made under section 13 of this Ordinance.

Restriction on
payments.

12. It shall not be lawful for any adopter or for any parent or guardian except with the sanction of the Court to receive any payment or other reward in consideration of the adoption of any infant under this Ordinance or for any person to make or give or agree to make or give to any adopter or to any parent or guardian any such payment or reward.

Provision as
to existing
de facto
adoptions.

13. Where at the date of the commencement of this Ordinance any infant is in the custody of, and being brought up, maintained and educated by any person or two spouses jointly as his, her or their own child under any *de facto* adoption, and has for a period of not less than two years before such commencement been in such custody, and been so brought up, maintained and educated, the Court may, upon the application of such person or spouses, and notwithstanding that the applicant is a male and the infant a female, make an adoption order authorizing him, her or them to adopt the infant without requiring the consent of any parent or guardian of the infant to be obtained upon being satisfied that in all the circumstances of the case it is just and equitable and for the welfare of the infant that no such consent should be required and that an adoption order should be made.

14. (1) The Registrar General shall establish and maintain a register to be called the Adopted Children Register, in which shall be made such entries as may be directed to be made therein by adoption orders, but no other entries.

Adopted
Children
Register.

(2) Every adoption order shall contain a direction to the Registrar General to make in the Adopted Children Register an entry recording the adoption in the form set out in the Schedule hereto.

Direction in
adoption order
to Registrar
General.

(3) If upon any application for an adoption order there is proved to the satisfaction of the Court :—

(a) the date of the birth of the infant; and

(b) the identity of the infant with a child to which any entry or entries in the Register of Births relates;

the adoption order shall contain a further direction to the Registrar General to cause such birth, entry or entries in the Register of Births to be marked with the word " Adopted ", and to include in the entry in the adoption register recording the adoption the date stated in the order of the adopted child's birth in the manner indicated in the Schedule hereto.

(4) The Court shall cause every adoption order to be communicated in the prescribed manner to the Registrar General, and upon receipt of such communication the Registrar General shall cause compliance to be made with the directions contained in such order in regard both to marking any entry in the Register of Births with the word " Adopted ", and in regard to making the appropriate entry in the Adopted Children Register.

Adoption order
to be
communicated
to Registrar
General.

(5) A certified copy of any entry in the Adopted Children Register if purporting to be sealed or stamped with the seal of the Registrar General's Office shall, without any further or other proof of such entry :—

Certified copy
of entry in
register
evidence of
adoption.

(a) where the entry does not contain any record of the date of the birth of the adopted child, be received as evidence of the adoption to which the same relates; and

(b) where the entry contains a record of the date of the birth of the adopted child, shall be received not only as evidence of the adoption to which the same relates but also as evidence of the date of the birth of the adopted child to which the same relates in all respects as though the same were a certified copy of an entry in the Register of Births.

Certified copy
of entry as
evidence of
date of birth.

Index of
register.

(6) The Registrar General shall cause an index of the Adopted Children Register to be made and kept in the Registrar General's Office, and every person shall be entitled to search such index and to have a certified copy of any entry in the Adopted Children Register upon payment of such fee as may be prescribed.

Registers and
books to be
kept and
entries to be
made by
Registrar
General.

(7) The Registrar General shall, in addition to the Adopted Children Register and the index thereof, keep such other registers and books, and make such entries therein as may be necessary to record and make traceable the connexion between any entry in the Register of Births which has been marked "Adopted" pursuant to this Ordinance and any corresponding entry in the Adopted Children Register, but such last mentioned registers and books shall not be, nor shall any index thereof be open to public inspection or search, nor except under an order of the Court shall the Registrar General furnish any person with any information contained in or with any copy or extract from any such registers or books.

Power of
Governor in
Council to
make
regulations.

15. The Governor in Council may make regulations for any matter, save the matter to be prescribed by the Court under section 10, which is by this Ordinance required to be prescribed.

1933

Adoption of Children

No. XXIII

SCHEDULE

1	2	3	4	5	6	7	8
No. of Entry	Date of Entry	Name of Adopted Child. (Enter name as stated in Adoption Order)	Sex of adopted Child. (Enter Sex as stated in Adoption Order)	Name and Sur-name, Address and Occupation of Adopter or Adopters. (Enter name, address and Occupation as stated in Adoption Order)	Date of Birth of Child. (Enter date of birth (if any) directed by the Adoption Order to be entered, but otherwise no entry)	Date of Adoption Order and Description of Court by which made. (Entry to be made as appearing in the Adoption Order)	Signature of Officer deputed by Registrar General to attest the entry

ORDINANCE No. XXIV of 1933

Assented to in His Majesty's name this twenty-sixth day of June, 1933.

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

[26TH JUNE, 1933.] Date of assent.

An Ordinance to Amend the Customs Tariff Ordinance, 1930.

26th June, 1933

Date of commencement.

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

1. This Ordinance may be cited as "the Customs Tariff (Amendment) Ordinance, 1933," and shall be read as one with the Customs Tariff Ordinance, 1930, hereinafter referred to as "the Principal Ordinance".

Short title.

No. 1 of 1930.

2. The Schedule to the Principal Ordinance is hereby amended by the deletion of items 14, 37, 38, 40, 49 (e), 49 (f), 59, 66 (a), 72, 104, 118, and by the addition in their respective numerical positions of the following :—

Amendment of the Schedule to the Principal Ordinance.

Item	Article	Duty
14	Ghee, and ghee substitutes	20 cents per pound (plus a suspended duty of 15 cents per pound).
37	Battery cloth and baize, bolting cloth, gauze, matting, sieving and screening for use in connexion with machinery, brattice-cloth, filter-cloth, filter pulp and mill silk	Free.
38	Clothing, apparel, and blankets, n.e.e., second-hand (reconditioned or otherwise) for sale ..	<i>Ad valorem</i> 30 per cent.
38A	Apparel and blankets—	
	(i) Blankets, cotton	25 cents each or 20 per cent <i>ad valorem</i> , whichever is higher.
	(ii) Boots and shoes made principally of rubber and canvas	40 cents per pair or 20 per cent <i>ad valorem</i> , whichever is higher.
	(iii) Cardigans, jerseys and pullovers	30 cents each or 20 per cent <i>ad valorem</i> , whichever is higher.

Item	Article	Duty
	(iv) Shirts	30 cents each or 20 per cent <i>ad valorem</i> , whichever is higher.
	(v) Singlets	20 cents each or 20 per cent <i>ad valorem</i> , whichever is higher.
	(vi) Socks and stockings	15 cents per pair or 20 per cent <i>ad valorem</i> , whichever is higher.
40	Piece goods—	
	(a) Cotton, grey and unbleached, including cloths having a drawn thread effect by the omission of warp threads or with the addition of coloured yarn to form a heading or with coloured yarn in the selvedge	9 cents per square yard or 20 per cent <i>ad valorem</i> , whichever is higher.
	(b) Other (including scarves, shukas, chadders, khangas and the like) made of cotton or admixtures of cotton and other material not elsewhere specified	10 cents per square yard or 20 per cent <i>ad valorem</i> , whichever is higher.
	(c) Made of artificial silk or admixtures of artificial silk and other material	15 cents per square yard or 20 per cent <i>ad valorem</i> , whichever is higher.
49(e)	Bicycles and tricycles, n.e.e.	Sh. 8 each, or 20 per cent <i>ad valorem</i> , whichever is higher.
49(f)	Parts and accessories of bicycles and tricycles (not including rubber tyres or tubes when imported separately)	<i>Ad valorem</i> 20 per cent.
49(g)	Rickshaws and carriages, not including baby carriages, and parts and accessories thereof (not including rubber tyres or tubes when imported separately)	<i>Ad valorem</i> 20 per cent.
49(h)	Other wheeled vehicles, n.e.e., and parts and accessories thereof (not including rubber tyres and tubes imported separately)	<i>Ad valorem</i> 15 per cent.
59	Metal signs or name plates bearing any commercial advertisement or the name and qualifications or professional attainments of the importer; metal licence plates and badges imported by or on behalf of a municipality or other public body	Free.
66(a)	Pipes, piping, tubes and fittings (metal)—	
	(a) For gas, steam, drainage, water supply, sewerage, irrigation, or in manufacturing or industrial plant, not including down-pipes or guttering, but including meters, culverts, cocks and taps not capable of use as fittings for domestic conveniences, grids, manhole covers and fittings	Free.
72	Telegraphic and telephonic materials, equipment and instruments imported for use by a public utility company for the construction, working and maintenance of telegraph or telephone lines, or for the transmission or reception of wireless telegraphy or telephony, but not including stationery, or electric batteries suitable for use in motor vehicles	Free.

1933

Customs Tariff

No. XXIV

Item	Article	Duty
104	Soap, soap powders and extracts.. ..	Sh. 5 per 100 lb. or 20 per cent <i>ad valorem</i> , whichever is greater.
118	Sulphate of copper, arsenate and arsenite of copper, arsenate of lead, cyanogas, naphthaline, animal dips, calcium carbide, whale oil soap and fish oil soap, insect sprays and other substances for the prevention or destruction of pests and for the prevention and cure of diseases in animals, plants and trees	Free.
170A	Umbrellas and parasols, not including paper parasols	40 cents each or 20 per cent <i>ad valorem</i> , whichever is higher.

ORDINANCE No. XXV of 1933

Assented to in His Majesty's name this first day of July, 1933.

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

[1ST JULY, 1933.] Date of assent.

An Ordinance to make Provision for Raising a Loan of Three Hundred Thousand Pounds Sterling for Certain Public Purposes.

1st July, 1933.

Date of commencement.

WHEREAS it is expedient to raise a loan of three hundred thousand pounds sterling for the purposes specified in the Schedule hereto :

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

1. This Ordinance may be cited as "the Specific Loan Ordinance, 1933". Short title.
2. The Governor is hereby authorized to issue debentures or stock or both under the provisions of the General Loan and Inscribed Stock Ordinance to an amount sufficient to produce as nearly as may be the sum of three hundred thousand pounds sterling, and such further sum as may be necessary to defray the expenses of issue. Authority to Governor to borrow by sale of debentures or inscribed stock.
Cap. 46.
3. The money to be borrowed under the authority of this Ordinance shall be appropriated and applied to the purposes specified in the Schedule hereto. Application of loan.
4. Contribution to the sinking fund as contemplated by sections 14 and 28 of the General Loan and Inscribed Stock Ordinance shall commence in respect of any stock or debentures issued under this Ordinance not later than three years after the date from which the interest on such stock or debentures shall commence to run. Commencement of contribution to Sinking Fund.
Cap. 46.
5. Pending the issue of the whole or any portion of the loan hereby authorized, the Governor may, if necessary, raise instalments of the money as required by the issue of Treasury Bills under the Colonial Treasury Bills Ordinance. Power to issue Treasury Bills.
Cap. 49.

SCHEDULE.

1. Land and Agricultural Bank	£260,000
2. Loans to Local Authorities	15,734
3. Such further items as the Governor may, with the approval of the Legislative Council signified by resolution, and of the Secretary of State, determine ...	24,266
Total ...	<u>£300,000</u>

ORDINANCE No. XXVI of 1933

Assented to in His Majesty's name this twelfth day of August, 1933.

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

[12TH AUGUST, 1933.] Date of assent.

An Ordinance to Declare the Law of Partnership.

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 Partnership Ordinance, 1933," and shall come into operation on such date as the Governor by notice in the Gazette shall determine. Short title and commencement.

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

"business" includes every trade, occupation or profession;

"Court" means the Supreme Court of Kenya.

NATURE OF PARTNERSHIP.

3. (1) Partnership is the relation which subsists between persons carrying on a business in common with a view of profit. Definition of partnership.

(2) But the relation between members of any company or association which is—

(a) registered as a company under the Companies Ordinance or any other Ordinance for the time being in force and relating to the registration of joint stock companies; or Cap. 93.

(b) formed or incorporated by or in pursuance of any other Ordinance or of any Order in Council, or Act of the Imperial Parliament, or Letters Patent, or Royal Charter,

not a partnership within the meaning of this Ordinance.

4. In determining whether a partnership does or does not exist, regard shall be had to the following rules:— Rules for determining existence of partnership.

(1) Joint tenancy, tenancy in common, joint property, common property, or part ownership, does not of itself create a partnership as to anything so held or owned, whether the tenants or owners do or do not share any profits made by the use thereof.

Sharing gross
returns.

(2) The sharing of gross returns does not of itself create a partnership, whether the persons sharing such returns have or have not a joint or common right or interest in any property from which, or from the use of which, the returns are derived.

Effect of
sharing
profits, etc

(3) The receipt by a person of a share of the profits of a business is prima facie evidence that he is a partner in the business, but the receipt of such a share, or of a payment contingent on or varying with the profits of a business, does not of itself make him a partner in the business; and in particular—

(a) the receipt by a person of a debt or other liquidated amount by instalments or otherwise, out of the accruing profits of a business, does not of itself make him a partner in the business or liable as such;

(b) a contract for the remuneration of a servant or agent of a person engaged in a business by a share of the profits of the business does not of itself make the servant or agent a partner in the business or liable as such;

(c) a person being the widow or child of a deceased partner and receiving by way of annuity a portion of the profits made in the business in which the deceased person was a partner, is not, by reason only of such receipt, a partner in the business or liable as such;

(d) the advance of money by way of loan to a person engaged, or about to engage, in any business on a contract with that person that the lender shall receive a rate of interest varying with the profits, or shall receive a share of the profits arising from carrying on the business, does not of itself make the lender a partner with the person or persons carrying on the business or liable as such: Provided that the contract is in writing, and signed by or on behalf of all the parties thereto;

(e) a person receiving, by way of annuity or otherwise, a portion of the profits of a business in consideration of the sale by him of the good will of the business, is not, by reason only of such receipt, a partner in the business or liable as such.

5. In the event of any person to whom money has been advanced by way of loan upon such a contract as is mentioned in the last preceding section, or of any buyer of a goodwill in consideration of a share of the profits of the business, being adjudged a bankrupt, entering into an arrangement to pay his creditors less than twenty shillings in the pound, or dying in insolvent circumstances, the lender of the loan shall not be entitled to recover anything in respect of his loan, and the seller of the goodwill shall not be entitled to recover anything in respect of the share of profits contracted for, until the claims of the other creditors of the borrower or buyer for valuable consideration in money or money's worth have been satisfied.

Postponement of rights of persons lending or selling in consideration of share of profits in case of bankruptcy.

6. Persons who have entered into partnership with one another are, for the purposes of this Ordinance, called collectively a firm, and the name under which their business is carried on is called the firm-name.

Meaning of "firm."

RELATIONS OF PARTNERS TO PERSONS DEALING WITH THEM.

7. Every partner is an agent of the firm and his other partners for the purpose of the business of the partnership; and the acts of every partner who does any act for carrying on in the usual way business of the kind carried on by the firm of which he is a member, bind the firm and his partners, unless the partner so acting has in fact no authority to act for the firm in the particular matter, and the person with whom he is dealing either knows that he has no authority, or does not know or believe him to be a partner.

Power of partner to bind the firm.

8. An act or instrument relating to the business of the firm, and done or executed in the firm-name, or in any other manner showing an intention to bind the firm, by any person thereto authorized, whether a partner or not, is binding on the firm and all the partners: Provided that this section shall not affect any general rule of law relating to the execution of deeds or negotiable instruments.

Partners bound by acts on behalf of firm.

9. Where one partner pledges the credit of the firm for a purpose apparently not connected with the firm's ordinary course of business, the firm is not bound, unless such partner is in fact specially authorized by the other partners; but this section does not affect any personal liability incurred by an individual partner.

Partners using credit of firm for private purposes.

Effect of
notice that
firm will not
be bound by
acts of
partner.

10. If it has been agreed between the partners that any restriction shall be placed on the power of any one or more of them to bind the firm, no act done in contravention of the agreement is binding on the firm with respect to persons having notice of the agreement.

Liability of
partners.

11. Every partner in a firm is liable jointly with the other partners for all debts and obligations of the firm incurred while he is a partner, but a person who is admitted as a partner into an existing firm does not thereby become liable to the creditors of such firm for anything done before he became a partner: and after his death his estate is also severally liable in a due course of administration for such debts and obligations, so far as they remain unsatisfied, but subject to the prior payment of his separate debts.

Minor partner
not personally
liable but his
share is.

12. A person who is under the age of majority according to the law to which he is subject may be admitted to the benefits of partnership but cannot be made personally liable for any obligation of the firm; but the share of such minor in the property of the firm is liable for the obligation of the firm.

Liability of
minor partner
on attaining
majority.

13. A person who has been admitted to the benefits of partnership under the age of majority becomes, on attaining that age, liable for all obligations incurred by the partnership since he was so admitted, unless he gives public notice within a reasonable time, of his repudiation of the partnership.

Liability of
the firm for
wrongs of
partners.

14. Where, by any wrongful act or omission of any partner acting in the ordinary course of the business of the firm, or with the authority of his co-partners, loss or injury is caused to any person not being a partner in the firm, or any penalty is incurred, the firm is liable therefor to the same extent as the partner so acting or omitting to act.

Misapplication
of money or
property
received for
or in custody
of the firm.

15. In the following cases, namely:—

(1) Where one partner, acting within the scope of his apparent authority, receives the money or property of a third person, and misapplies it; and

(2) Where a firm in the course of its business receives money or property of a third person, and the money or property so received is misapplied by one or more of the partners while it is in the custody of the firm,

the firm is liable to make good the loss.

16. Every partner is liable jointly with his co-partners and also severally for everything for which the firm, while he is a partner therein, becomes liable under either of the two last preceding sections.

Liability for wrongs joint and several.

17. If a partner, being a trustee, improperly employs trust property in the business or on the account of the partnership, no other partner is liable for the trust property to the persons beneficially interested therein :

Improper employment of trust property for partnership purposes.

Provided as follows :—

(1) This section shall not affect any liability incurred by any partner by reason of his having notice of a breach of trust ; and

(2) Nothing in this section shall prevent trust money from being followed and recovered from the firm if still in its possession or under its control.

18. (1) Every one who by words spoken or written or by conduct represents himself, or who knowingly suffers himself to be represented, as a partner in a particular firm, is liable as a partner to anyone who has, on the faith of any such representation, given credit to the firm, whether the representation has or has not been made or communicated to the person so giving credit by or with the knowledge of the apparent partner making the representation or suffering it to be made.

Persons liable by "holding out."

(2) Provided that where, after a partner's death, the partnership business is continued in the old firm-name, the continued use of that name or of the deceased partner's name as part thereof shall not of itself make his executors or administrators estate or effects liable for any partnership debts contracted after his death.

19. An admission or representation made by any partner concerning the partnership affairs, and in the ordinary course of its business, is evidence against the firm.

Admissions and representations of partners.

20. Notice to any partner who habitually acts in the partnership business of any matter relating to partnership affairs operates as notice to the firm, except in the case of a fraud on the firm committed by or with the consent of that partner.

Notice to acting partner to be notice to the firm.

21. (1) A person who is admitted as a partner into an existing firm does not thereby become liable to the creditors of the firm for anything done before he became a partner.

Liabilities of incoming and outgoing partners.

(2) A partner who retires from a firm does not thereby cease to be liable for partnership debts or obligations incurred before his retirement.

Novation.

(3) A retiring partner may be discharged from any existing liabilities by an agreement to that effect between himself and the members of the firm as newly constituted and the creditors, and this agreement may be either express or inferred as a fact from the course of dealing between the creditors and the firm as newly constituted.

Revocation of continuing guaranty by change in firm.

22. A continuing guaranty or cautionary obligation given either to a firm or to a third person in respect of the transactions of a firm is, in the absence of agreement to the contrary, revoked as to future transactions by any change in the constitution of the firm to which, or of the firm in respect of the transactions of which, the guaranty or obligation was given.

RELATIONS OF PARTNERS TO ONE ANOTHER.

Variation by consent of terms of partnership.

23. The mutual rights and duties of partners, whether ascertained by agreement or defined by this Ordinance, may be varied by the consent of all the partners, and such consent may be either expressed or inferred from a course of dealing.

Partnership property.

24. (1) All property and rights and interests in property originally brought into the partnership stock or acquired, whether by purchase or otherwise, on account of the firm, or for the purposes and in the course of the partnership business, are called in this Ordinance "partnership property," and must be held and applied by the partners exclusively for the purposes of the partnership and in accordance with the partnership agreement.

(2) Provided that the legal estate or interest in any land which belongs to the partnership shall devolve according to the nature and tenure thereof and the general rules of law applicable thereto, but in trust, so far as necessary, for the persons beneficially interested in the land under this section.

(2) Where co-owners of an estate or interest in any land, not being itself partnership property, are partners as to profits made by the use of that land or estate, and purchase other land or estate out of the profits to be used in like manner, the land or estate so purchased belongs to them, in the absence

of an agreement to the contrary, not as partners but as co-owners for the same respective estates and interests as are held by them in the land or estate first mentioned at the date of the purchase.

25. Unless the contrary intention appears, property bought with money belonging to the firm is deemed to have been bought on account of the firm.

Property bought with partnership money.

26. Where land or any interest therein has become partnership property, it shall, unless the contrary intention appears, be treated as between the partners (including the representatives of a deceased partner) and also as between the heirs of a deceased partner and his executors or administrators, as personal and not real estate.

Conversion into personal estate of land held as partnership property.

27. (1) Execution of a decree shall not issue against any partnership property except on a judgment against the firm.

Procedure against partnership property for a partner's separate judgment debt.

(2) The Court may, on the application by summons of any judgment creditor of a partner, make an order charging that partner's interest in the partnership property and profits with payment of the amount of the judgment debt and interest thereon, and may by the same or a subsequent order appoint a receiver of that partner's share of profits (whether already declared or accruing), and of any other money which may be coming to him in respect of the partnership, and direct all accounts and inquiries, and give all other orders and directions which might have been directed or given if the charge had been made in favour of the judgment creditor by the partner, or which the circumstances of the case may require.

(3) The other partner or partners shall be at liberty at any time to redeem the interest charged, or, in case of a sale being directed, to purchase the same.

28. The interests of partners in the partnership property and their rights and duties in relation to the partnership shall be determined, subject to any agreement express or implied between the partners, by the following rules :—

Rules as to interests and duties of partners subject to special agreement.

(1) All the partners are entitled to share equally in the capital and profits of the business and must contribute equally towards the losses whether of capital or otherwise sustained by the firm.

(2) The firm must indemnify every partner in respect of payments made and personal liabilities incurred by him—

(a) in the ordinary and proper conduct of the business of the firm; or

(b) in or about anything necessarily done for the preservation of the business or property of the firm.

(3) A partner making, for the purpose of the partnership, any actual payment or advance beyond the amount of capital which he has agreed to subscribe, is entitled to interest at the rate of six per centum per annum from the date of the payment or advance.

(4) A partner is not entitled, before the ascertainment of profits, to interest on the capital subscribed by him.

(5) Every partner may take part in the management of the partnership business.

(6) No partner shall be entitled to remuneration for acting in the partnership business.

(7) No person may be introduced as a partner without the consent of all existing partners.

(8) Any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the partners, but no change may be made in the nature of the partnership business without the consent of all existing partners.

(9) The partnership books are to be kept at the place of business of the partnership (or the principal place, if there is more than one) and every partner may, at all reasonable times, have access to and inspect and copy any of them.

Expulsion of partner.

29. No majority of the partners can expel any partner unless a power to do so has been conferred by express agreement between the partners.

Retirement from partnership at will.

30. (1) Where no fixed term has been agreed upon for the duration of the partnership, any partner may determine the partnership at any time on giving reasonable notice of his intention so to do to all the other partners.

(2) Where the partnership has originally been constituted by deed, a notice in writing, signed by the partner giving it, shall be sufficient for this purpose.

31. (1) Where a partnership entered into for a fixed term is continued after the term has expired, and without any express new agreement, the rights and duties of the partners remain the same as they were at the expiration of the term, so far as is consistent with the incidents of a partnership at will.

Where partnership for a term is continued over, continuance on old terms presumed.

(2) A continuance of the business by the partners or such of them as habitually acted therein during the term without any settlement or liquidation of the partnership affairs, is presumed to be a continuance of the partnership.

32. Partners are bound to render true accounts and full information of all things affecting the partnership to any partner or his legal representatives.

Duty of partners to render accounts, etc.

33. (1) Every partner must account to the firm for any benefit derived by him without the consent of the other partners from any transaction concerning the partnership, or from any use by him of the partnership property, name, or business connexion.

Accountability of partners for private profits.

(2) This section applies also to transactions undertaken after a partnership has been dissolved by the death of a partner, and before the affairs thereof have been completely wound up, either by any surviving partner or by the representatives of the deceased partner.

34. If a partner without the consent of the other partners carries on any business of the same nature as and competing with that of the firm, he must account for and pay over to the firm all profits made by him in that business.

Duty of partner not to compete with firm.

35. (1) An assignment by any partner of his share in the partnership, either absolute or by way of mortgage or redeemable charge, does not, as against the other partners, entitle the assignee, during the continuance of the partnership, to interfere in the management or administration of the partnership business or affairs, or to require any accounts of the partnership transactions, or to inspect the partnership books, but entitles the assignee only to receive the share of profits to which the assigning partner would otherwise be entitled, and the assignee must accept the account of profits agreed to by the partners.

Rights of assignee of share in partnership

(2) In case of a dissolution of the partnership, whether as respects all the partners or as respects the assigning partner, the assignee is entitled to receive the share of the

partnership assets to which the assigning partner is entitled as between himself and the other partners, and, for the purpose of ascertaining that share, to an account as from the date of the dissolution.

DISSOLUTION OF PARTNERSHIP AND ITS CONSEQUENCES.

Dissolution by
expiration or
notice.

36. Subject to any agreement between the partners, a partnership is dissolved :—

(1) If entered into for a fixed term, by the expiration of that term.

(2) If entered into for a single adventure or undertaking, by the termination of that adventure or undertaking.

(3) If entered into for an undefined time, by any partner giving notice to the other or others of his intention to dissolve the partnership.

In the last mentioned case the partnership is dissolved as from the date mentioned in the notice as the date of dissolution, or, if no date is so mentioned, as from the date of the communication of the notice.

Dissolution
by bankruptcy,
death, or
charge.

37. (1) Subject to any agreement between the partners, every partnership is dissolved as regards all the partners by the death or bankruptcy of any partner.

(2) A partnership may, at the option of the other partners, be dissolved if any partner suffers his share of the partnership property to be charged under this Ordinance for his separate debt.

Dissolution by
illegality of
partnership.

38. A partnership is in every case dissolved by the happening of any event which makes it unlawful for the business of the firm to be carried on or for the members of the firm to carry it on in partnership.

Dissolution by
the Court.

39. On the application by a partner, the Court may decree a dissolution of the partnership in any of the following cases :—

For lunacy.

(1) When a partner is adjudged a lunatic, or is shown to the satisfaction of the Court to be of permanently unsound mind, in either of which cases the application may be made as well on behalf of that partner by his guardian *ad litem* or next friend or person having title to intervene as by any other partner.

(2) When a partner, other than the partner suing, becomes in any other way permanently incapable of performing his part of the partnership contract. **For incapacity.**

(3) When a partner, other than the partner suing, has been guilty of such conduct as, in the opinion of the Court, regard being had to the nature of the business, is calculated to prejudicially affect the carrying on of the business. **For misconduct.**

(4) When a partner, other than the partner suing, wilfully or persistently commits a breach of the partnership agreement, or otherwise so conducts himself in matters relating to the partnership business that it is not reasonably practicable for the other partner or partners to carry on the business in partnership with him. **For breach of partnership agreement.**

(5) When the business of the partnership can only be carried on at a loss. **For losses.**

(6) Whenever in any case circumstances have arisen which, in the opinion of the Court, render it just and equitable that the partnership be dissolved. **For any cause.**

40. (1) Where a person deals with a firm after a change in its constitution he is entitled to treat all apparent members of the old firm as still being members of the firm until he has notice of the change. **Rights of persons dealing with firm against apparent members of firm.**

(2) An advertisement in the Gazette shall be notice as to persons who had not dealings with the firm before the date of the dissolution or change so advertised.

(3) The estate of a partner who dies or who becomes bankrupt or of a partner who, not having been known to the person dealing with the firm to be a partner, retires from the firm, is not liable for partnership debts contracted after the date of the death, bankruptcy, or retirement respectively.

41. On the dissolution of a partnership or retirement of a partner, any partner may publicly notify the same and may require the other partner or partners to concur for that purpose in all necessary or proper acts, if any, which cannot be done without his or their concurrence. **Rights of partners to notify dissolution.**

42. After the dissolution of a partnership the authority for each partner to bind the firm, and the other rights and obligations of the partners, continue notwithstanding the dissolution so far as may be necessary to wind up the affairs of the partnership, and to complete transactions begun but unfinished at the time of the dissolution, but not otherwise : **Continuing authority of partners for purposes of winding up.**

Provided that the firm is in no case bound by the acts of a partner who has become bankrupt; but this proviso does not affect the liability of any person who has, after the bankruptcy, represented himself or knowingly suffered himself to be represented as a partner of the bankrupt.

Rights of partners as to application of partnership property.

43. On the dissolution of a partnership every partner is entitled, as against the other partners in the firm, and all persons claiming through them in respect of their interests as partners, to have the property of the partnership applied in payment of the debts and liabilities of the firm, and to have the surplus assets after such payment applied in payment of what may be due to the partners respectively after deducting what may be due from them as partners to the firm; and for that purpose any partner or his representatives may, on the termination of the partnership, apply to the Court to wind up the business and affairs of the firm.

Apportionment of premium where partnership prematurely dissolved.

44. Where one partner has paid a premium to another on entering into a partnership for a fixed term and the partnership is dissolved before the expiration of that term otherwise than by the death of a partner, the Court may order the repayment of the premium, or of such part thereof as it thinks just, having regard to the terms of the partnership contract and to the length of time during which the partnership has continued; unless—

(1) the dissolution is, in the judgment of the Court, wholly or chiefly due to the misconduct of the partner who paid the premium; or

(2) the partnership has been dissolved by an agreement containing no provision for a return of any part of the premium.

Rights where partnership dissolved for fraud or misrepresentation.

45. Where a partnership contract is rescinded on the ground of the fraud or misrepresentation of one of the parties thereto, the party entitled to rescind is, without prejudice to any other right, entitled—

(1) to a lien on, or right of retention of, the surplus of the partnership assets, after satisfying the partnership liabilities, for any sum of money paid by him for the purchase of a share in the partnership and for any capital contributed by him; and is

(2) to stand in the place of the creditors of the firm for any payments made by him in respect of the partnership liabilities; and

(3) to be indemnified by the person guilty of the fraud or making the representation against all the debts and liabilities of the firm.

46. (1) Where any member of a firm has died or otherwise ceased to be a partner, and the surviving or continuing partners carry on the business of the firm with its capital or assets without any final settlement of accounts as between the firm and the outgoing partner or his estate, then, in the absence of any agreement to the contrary, the outgoing partner or his estate is entitled at the option of himself or his representatives to such share of the profits made since the dissolution as the Court may find to be attributable to the use of his share of the partnership assets, or to interest at the rate of eight per centum per annum on the amount of his share of the partnership assets.

Right of outgoing partner in certain cases to share profits made after dissolution.

(2) Provided that where, by the partnership contract, an option is given to surviving or continuing partners to purchase the interest of a deceased or outgoing partner, and that option is duly exercised, the estate of the deceased partner, or the outgoing partner or his estate, as the case may be, is not entitled to any further or other share of profits; but if any partner assuming to act in exercise of the option does not in all material respects comply with the terms thereof, he is liable to account under the foregoing provisions of this section.

47. Subject to any agreement between the parties, the amount due from surviving or continuing partners to an outgoing partner or the representatives of a deceased partner in respect of the outgoing or deceased partner's share is a debt accruing at the date of the dissolution or death.

Retiring or deceased partner's share to be a debt.

48. In settling accounts between the partners after a dissolution of partnership, the following rules shall, subject to any agreement, be observed:—

Rule for distribution of assets on final settlement of accounts.

(1) Losses, including losses and deficiencies of capital, shall be paid first out of profits, next out of capital, and lastly, if necessary, by the partners individually in the proportion in which they were entitled to share profits.

(2) The assets of the firm, including the sums, if any, contributed by the partners to make up losses or deficiencies of capital, shall be applied in the following manner and order :—

- (a) In paying the debts and liabilities of the firm to persons who are not partners therein.
- (b) In paying to each partner rateably what is due from the firm to him for advances as distinguished from capital.
- (c) In paying to each partner rateably what is due from the firm to him in respect of capital.
- (d) The ultimate residue, if any, shall be divided among the partners in the proportion in which profits are divisible.

Existing rules
applicable to
partnership.

49. The Rules of Equity and Common Law applicable to partnerships in England shall be deemed to apply to partnerships in the Colony, except in so far as they are inconsistent with the provisions of this Ordinance.

Repeal.

50. Chapter XI of the Indian Contract Act (Act IX of 1872) as applied to the Colony, is hereby repealed.

ORDINANCE No. XXVII of 1933

Assented to in His Majesty's name this twelfth day of August, 1933.

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

[12TH AUGUST, 1933.] **Date of assent.**

An Ordinance to Establish Limited Partnerships.

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 Limited Partnerships Ordinance, 1933," and shall come into operation on such date as the Governor by notice in the Gazette shall determine. **Short title and commencement.**

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

"firm," "firm-name" and "business" have the same meanings as in the Partnership Ordinance, 1933; **No. 26 of 1933.**

"general partner" means any partner who is not a limited partner as defined by this Ordinance;

"registrar of companies" means the officer appointed for the registration of companies under the Companies Ordinance; **Cap. 93.**

"Court" means the Supreme Court of Kenya.

3. (1) Limited partnerships may be formed in the manner and subject to the conditions by this Ordinance provided. **Definition and constitution of limited partnership.**

(2) A limited partnership shall not consist in any case of more than twenty persons, and must consist of one or more persons called general partners, who shall be liable for all debts and obligations of the firm, and one or more persons to be called limited partners, who shall at the time of entering into such partnership contribute thereto a sum or sums as capital or property valued at a stated amount, and who shall not be liable for the debts or obligations of the firm beyond the amount so contributed.

(3) A limited partner shall not during the continuance of the partnership, either directly or indirectly draw out or receive back any part of his contribution, and if he does so draw out or receive back any such part, shall be liable for the debts and obligations of the firm up to the amount so drawn out or received back.

(4) A body corporate may be a limited partner.

Registration
of limited
partnership
required.

4. Every limited partnership must be registered as such in accordance with the provisions of this Ordinance, or in default thereof it shall be deemed to be a general partnership, and every limited partner shall be deemed to be a general partner.

Modifications
of general law
in case of
limited
partnerships.

5. (1) A limited partner shall not take part in the management of the partnership business, and shall not have power to bind the firm :

Provided that a limited partner may by himself or his agent at any time inspect the books of the firm and examine into the state and prospects of the partnership business, and may advise with the partners thereon.

If a limited partner takes part in the management of the partnership business he shall be liable for all debts and obligations of the firm incurred while he so takes part in the management as though he were a general partner.

(2) A limited partnership shall not unless specifically provided in the partnership agreement be dissolved by the death or bankruptcy of a limited partner, and the lunacy of a limited partner shall not be a ground for dissolution of the partnership by the Court unless the lunatic's share cannot be otherwise ascertained and realized.

(3) In the event of the dissolution of a limited partnership, its affairs shall be wound up by the general partners unless the Court otherwise orders.

(4) Subject to any agreement expressed or implied between the partners—

- (a) any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the general partners.
- (b) a limited partner may, with the consent of the general partners, assign his share in the partnership, and upon such an assignment the assignee shall become a limited partner with all the rights of the assignor.
- (c) the other partners shall not be entitled to dissolve the partnership by reason of any limited partner suffering his share to be charged for his separate debt.
- (d) a person may be introduced as a partner without the consent of the existing limited partners.

(e) a limited partner shall not be entitled to dissolve the partnership by notice.

6. Subject to the provisions of this Ordinance, the Partnership Ordinance, 1933, and rules of equity and of common law applicable to partnerships, except so far as they are inconsistent with the express provisions of the last-mentioned Ordinance, shall apply to limited partnerships.

Law as to private partnership to apply subject to this Ordinance. No. 26 of 1933.

7. The registration of a limited partnership shall be effected by sending by registered post or delivering to the registrar of companies a statement signed by the partners containing the following particulars:—

Manner and particulars of registration.

- (a) the firm name;
- (b) the general nature of the business;
- (c) the principal place of business;
- (d) the full name of each of the partners;
- (e) the term, if any, for which the partnership is entered into, and the date of its commencement;
- (f) a statement that the partnership is limited, and the description of every limited partner as such;
- (g) the sum contributed by each limited partner, and whether paid in cash or how otherwise.

8. (1) If during the continuance of a limited partnership any change is made or occurs in—

Registration of changes in partnerships

- (a) the firm name;
- (b) the general nature of the business;
- (c) the principal place of business;
- (d) the partners or the name of any partner;
- (e) the term or character of the partnership;
- (f) the sum contributed by any limited partner;
- (g) the liability of any partner by reason of his becoming a limited instead of a general partner or a general instead of a limited partner,

a statement, signed by the firm, specifying the nature of the change shall within seven days be sent by post or delivered to the registrar of companies.

(2) If default is made in compliance with the requirements of this section, each of the general partners shall upon conviction before a magistrate be liable to a fine not exceeding one pound for each day during which the default continues.

Advertisement in Gazette of statement of general partner becoming a limited partner and of assignment of share of limited partner.

9. Notice of any arrangement or transaction under which any person will cease to be a general partner in any firm, and will become a limited partner in that firm, or under which the share of a limited partner in a firm will be assigned to any person, shall be forthwith advertised in the Gazette, and until notice of the arrangement or transaction is so advertised the arrangement or transaction shall, for the purposes of this Ordinance, be deemed to be of no effect.

Ad valorem stamp duty on contributions by limited partners.

10. The statement of the amount contributed by a limited partner, and a statement of any increase in that amount, sent to the registrar of companies for registration under this Ordinance, shall be charged with an *ad valorem* stamp duty of five shillings for every one hundred pounds, and any fraction of one hundred pounds over any multiple of one hundred pounds, of the amount so contributed, or of the increase of that amount, as the case may be; and, in default of payment of stamp duty thereon as herein required, the duty with interest thereon at the rate of eight per centum per annum from the date of delivery of such statement shall be a joint and several debt to His Majesty, recoverable from the partners, or any of them, in the said statements named, or, in the case of an increase, from all or any of the said partners whose discontinuance in the firm shall not, before the date of delivery of such statement of increase, have been duly notified to the registrar of companies.

Making false returns to be an offence.

11. Any person who makes, signs, sends or delivers for the purpose of registration under this Ordinance any false statement known by him to be false, is guilty of an offence and is liable to imprisonment for a term not exceeding two years.

Registrar to file statement and issue certificate of registration.

12. On receiving any statement made in pursuance of this Ordinance, the registrar of companies shall cause the same to be filed, and he shall send by registered post to the firm from whom such statement shall have been received a certificate of the registration thereof.

Register and index to be kept.

13. The registrar of companies shall keep at his office, in proper books to be provided for the purpose, a register and an index of all the limited partnerships registered as aforesaid, and of all the statements registered in relation to such partnerships.

14. (1) Any person may inspect the statements filed by the registrar of companies, and there shall be paid for each such inspection such fees as may be prescribed by the Governor in Council, not exceeding five shillings for each inspection; and any person may require a certificate of the registration of a limited partnership, or a copy of or extract from any registered statement, to be certified by the registrar of companies, and there shall be paid for such certificate of registration, certified copy, or extract such fees as the Governor in Council may prescribe, not exceeding five shillings for the certificate of registration, and not exceeding fifty cents for each folio of one hundred words.

Inspection of
statements
registered.

(2) A certificate of registration, or a copy of or extract from any statement registered under this Ordinance, if duly certified to be a true copy under the hand of the registrar of companies (whom it shall not be necessary to prove to be the registrar of companies) shall, in all legal proceedings, civil or criminal, and in all cases whatsoever, be received in evidence.

15. The Governor in Council may make Rules concerning any of the following matters :—

Power to make
rules.

- (a) The fees to be paid to the registrar of companies under this Ordinance, so that they do not exceed in the case of the original registration of a limited partnership the sum of two pounds, and in any other case the sum of five shillings.
- (b) The duties or additional duties to be performed by the registrar of companies for the purposes of this Ordinance.
- (c) The performance by deputy registrars of companies and other officers of acts by this Ordinance required to be done by the registrar of companies.
- (d) The forms to be used for the purposes of this Ordinance.
- (e) Generally the conduct and regulation of registration under this Ordinance and any matters incidental thereto.

The Companies Ordinance, 1933

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ORDINANCE No. XXVIII of 1933

Assented to in His Majesty's name the sixth day of September, 1933.

H. M.-M. MOORE,

Acting Governor.

[6TH SEPTEMBER, 1933.] Date of assent.

**An Ordinance to Regulate Trading Companies
and other Associations.**

By Notice. 11 Jan. 1934

Date of
commencement.

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

PART I.

PRELIMINARY.

1. This Ordinance may be cited as "the Companies Ordinance, 1933," and shall come into operation upon such date as the Governor may by notice in the Gazette appoint.

Short title
and com-
mencement

Interpretation.

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

Interpreta-
tion.

"annual return" means the return required to be made, in the case of a company having a share capital, under section 108, and, in the case of a company not having a share capital, under section 109, of this Ordinance;

"articles" means the articles of association of a company, as originally framed or as altered by special resolution, including, so far as they apply to the company, the regulations contained in Table A in the First Schedule annexed to the Indian Companies Act, 1882, as applied to the Colony, or in the First Schedule annexed to the Companies Ordinance, or in Table A in the First Schedule to this Ordinance;

Cap. 93.

"book and paper" and "book or paper" include accounts, deeds, writings and documents;

"company" means a company formed and registered under this Ordinance or an existing company;

"existing company" means a company formed and registered under the Indian Companies Act, 1882, as applied to the Colony, or under the Companies Ordinance;

Cap. 93.

“the court” used in relation to a company means the court having jurisdiction under this Ordinance;

“debenture” includes debenture stock, bonds and any other securities of a company whether constituting a charge on the assets of the company or not;

“director” includes any person occupying the position of director by whatever name called;

“document” includes summons, notice, order, and other legal process, and registers;

“general rules” means rules made under section 286 of this Ordinance, and includes forms;

“insurance company” means a company which carries on the business of insurance either solely or in common with any other business or businesses;

“memorandum” means the memorandum of association of a company as originally framed or as altered in pursuance of any enactment;

“prescribed” means, as respects the provisions of this Ordinance relating to the winding-up of companies, prescribed by rules made by the Supreme Court, and, as respects the other provisions of this Ordinance, prescribed by the Governor in Council;

“prospectus” means any prospectus, notice, circular, advertisement, or other invitation, offering to the public for subscription or purchase any shares or debentures of a company;

“the registrar” means the registrar or any assistant registrar performing under this Ordinance the duty of registration of companies;

“share” means share in the share capital of a company, and includes stock except where a distinction between stock and shares is expressed or implied;

“Table A” means Table A in the First Schedule to this Ordinance.

(2) A person shall not be deemed to be within the meaning of any provision in this Ordinance a person in accordance with whose directions or instructions the directors of a company

are accustomed to act, by reason only that the directors of the company act on advice given by him in a professional capacity.

PART II.

INCORPORATION OF COMPANIES AND MATTERS INCIDENTAL THERETO.

Memorandum of Association.

3. (1) Any seven or more persons, or, where the company to be formed will be a private company, any two or more persons, associated for any lawful purpose may, by subscribing their names to a memorandum of association and otherwise complying with the requirements of this Ordinance in respect of registration, form an incorporated company, with or without limited liability.

Mode of
forming,
incorporated
company.

(2) Such a company may be either—

- (a) a company having the liability of its members limited by the memorandum to the amount, if any, unpaid on the shares respectively held by them (in this Ordinance termed “a company limited by shares”); or
- (b) a company having the liability of its members limited by the memorandum to such amount as the members may respectively thereby undertake to contribute to the assets of the company in the event of its being wound up (in this Ordinance termed “a company limited by guarantee”); or
- (c) a company not having any limit on the liability of its members (in this Ordinance termed “an unlimited company”).

4. (1) The memorandum of every company must state—

- (a) the name of the company, with “Limited” as the last word of the name in the case of a company limited by shares or by guarantee;
- (b) the place in which the registered office of the company is to be situate;
- (c) the objects of the company.

Requirements
with respect
to memo-
randum.

(2) The memorandum of a company limited by shares or by guarantee must also state that the liability of its members is limited.

(3) The memorandum of a company limited by guarantee must also state that each member undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year after he ceases to be a member, for payment of the debts and liabilities of the company contracted before he ceases to be a member, and of the costs, charges, and expenses of winding up, and for adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding a specified amount.

(4) In the case of a company having a share capital—

(a) the memorandum must also, unless the company is an unlimited company, state the amount of share capital with which the company proposes to be registered and the division thereof into shares of a fixed amount;

(b) no subscriber of the memorandum may take less than one share;

(c) each subscriber must write opposite to his name the number of shares he takes.

Signature of
memorandum.

5. The memorandum must be signed by each subscriber in the presence of at least one witness who must attest the signature.

Restriction on
alteration of
memorandum.

6. A company may not alter the conditions contained in its memorandum except in the cases, in the mode and to the extent for which express provision is made in this Ordinance.

Cases and
mode in
which and
extent to
which objects
of company
may be
altered.

7. (1) Subject to the provisions of this section, a company may, by special resolution, alter the provisions of its memorandum with respect to the objects of the company, so far as may be required to enable it—

(a) to carry on its business more economically or more efficiently; or

(b) to attain its main purpose by new or improved means; or

(c) to enlarge or change the local area of its operations; or

(d) to carry on some business which under existing circumstances may conveniently or advantageously be combined with the business of the company; or

(e) to restrict or abandon any of the objects specified in the memorandum; or

(f) to sell or dispose of the whole or any part of the undertaking of the company; or

(g) to amalgamate with any other company or body of persons.

(2) The alteration shall not take effect until, and except in so far as, it is confirmed on petition by the court.

(3) Before confirming the alteration the court must be satisfied—

(a) that sufficient notice has been given to every holder of debentures of the company, and to any persons or class of persons whose interests will, in the opinion of the court, be affected by the alteration; and

(b) that, with respect to every creditor who in the opinion of the court is entitled to object and who signifies his objection in manner directed by the court, either his consent to the alteration has been obtained or his debt or claim has been discharged or has determined, or has been secured to the satisfaction of the court :

Provided that the court may, in the case of any person or class, for special reasons, dispense with the notice required by this section.

(4) The court may make an order confirming the alteration either wholly or in part, and on such terms and conditions as it thinks fit.

(5) The court shall, in exercising its discretion under this section, have regard to the rights and interests of the members of the company or of any class of them, as well as to the rights and interests of the creditors, and may, if it thinks fit, adjourn the proceedings in order that an arrangement may be made to the satisfaction of the court for the purchase of the interests of dissentient members, and may give such directions and make such orders as it may think expedient for facilitating or carrying into effect any such arrangement :

Provided that no part of the capital of the company shall be expended in any such purchase.

(6) A certified copy of the order confirming the alteration, together with a printed copy of the memorandum as altered, shall, within fifteen days from the date of the order, be delivered by the company to the registrar, and he shall register the copy so delivered and shall certify the registration under

his hand, and the certificate shall be conclusive evidence that all the requirements of this Ordinance with respect to the alteration and the confirmation thereof have been complied with, and thenceforth the memorandum as so altered shall be the memorandum of the company.

The court may by order at any time extend the time for the delivery of documents to the registrar under this section for such period as the court may think proper.

(7) If a company makes default in delivering to the registrar any document required by this section to be delivered to him, the company shall be liable to a fine not exceeding ten pounds for every day during which the default continues.

Articles of Association.

Articles
prescribing
regulations for
companies.

8. There may in the case of a company limited by shares, and there shall in the case of a company limited by guarantee or unlimited, be registered with the memorandum articles of association signed by the subscribers to the memorandum and prescribing regulations for the company.

Regulations
required in
case of
unlimited
company or
company
limited by
guarantee.

9. (1) In the case of an unlimited company the articles, if the company has a share capital, must state the amount of share capital with which the company proposes to be registered.

(2) In the case of an unlimited company or a company limited by guarantee, the articles, if the company has not a share capital, must state the number of members with which the company proposes to be registered.

(3) Where a company not having a share capital has increased the number of its members beyond the registered number, it shall, within fifteen days after the increase was resolved on or took place, give to the registrar notice of the increase, and the registrar shall record the increase.

If default is made in complying with this sub-section, the company and every officer of the company who is in default shall be liable to a default fine.

Adoption and
application of
Table A.

10. (1) Articles of association may adopt all or any of the regulations contained in Table A.

(2) In the case of a company limited by shares and registered after the commencement of this Ordinance, if articles are not registered, or, if articles are registered, in so far as the articles do not exclude or modify the regulations contained in

Table A, those regulations shall, so far as applicable, be the regulations of the company in the same manner and to the same extent as if they were contained in duly registered articles

11. Articles must—

Printing and signature of articles.

- (a) be printed;
- (b) be divided into paragraphs numbered consecutively;
- (c) be signed by each subscriber to the memorandum of association in the presence of at least one witness who must attest the signature and add his occupation and address.

12. (1) Subject to the provisions of this Ordinance and to the conditions contained in its memorandum, a company may by special resolution alter or add to its articles.

Alteration of articles by special resolution.

(2) Any alteration or addition so made to the articles shall, subject to the provisions of this Ordinance, be as valid as if originally contained therein, and be subject in like manner to alteration by special resolution.

Form of Memorandum and Articles.

13. The form of—

Statutory forms of memorandum and articles.

- (a) the memorandum of association of a company limited by shares;
- (b) the memorandum and articles of association of a company limited by guarantee and not having a share capital;
- (c) the memorandum and articles of association of a company limited by guarantee and having a share capital;
- (d) the memorandum and articles of association of an unlimited company having a share capital,

shall be respectively in accordance with the forms set out in Tables B, C, D and E in the First Schedule to this Ordinance, or as near thereto as circumstances admit.

Registration.

14. The memorandum and the articles, if any, shall be delivered to the registrar and he shall retain and register them.

Registration of memorandum and articles.

Effect of
registration.

15. (1) On the registration of the memorandum of a company the registrar shall certify under his hand that the company is incorporated and, in the case of a limited company, that the company is limited.

(2) From the date of incorporation mentioned in the certificate of incorporation, the subscribers to the memorandum, together with such other persons as may from time to time become members of the company, shall be a body corporate by the name contained in the memorandum, capable forthwith of exercising all the functions of an incorporated company, with power to hold land and having perpetual succession and a common seal, but with such liability on the part of the members to contribute to the assets of the company in the event of its being wound up as is mentioned in this Ordinance.

Conclusiveness
of certificate
of incor-
poration.

16. (1) A certificate of incorporation given by the registrar in respect of any association shall be conclusive evidence that all the requirements of this Ordinance in respect of registration and of matters precedent and incidental thereto have been complied with, and that the association is a company authorized to be registered and duly registered under this Ordinance.

(2) A statutory declaration by an advocate of the Supreme Court engaged in the formation of the company, or by a person named in the articles as a director or secretary of the company, of compliance with all or any of the said requirements shall be produced to the registrar, and the registrar may accept such a declaration as sufficient evidence of compliance.

Registration
of unlimited
company as
limited.

17. (1) Subject to the provisions of this section, a company registered as unlimited may register under this Ordinance as limited, or a company already registered as a limited company may re-register under this Ordinance, but the registration of an unlimited company as a limited company shall not affect the rights or liabilities of the company in respect of any debt or obligation incurred, or any contract entered into, by, to, with, or on behalf of the company before the registration, and those rights or liabilities may be enforced in manner provided by Part X of this Ordinance in the case of a company registered in pursuance of that Part.

(2) On registration in pursuance of this section the registrar shall close the former registration of the company, and may dispense with the delivery to him of copies of any documents with copies of which he was furnished on the occasion

of the original registration of the company, but, save as aforesaid, the registration shall take place in the same manner and shall have effect as if it were the first registration of the company under this Ordinance.

Provisions with Respect to Names of Companies.

18. (1) No company shall be registered by a name which—

Restriction on registration of companies by certain names.

(a) is identical with that by which a company in existence is already registered, or so nearly resembles that name as to be calculated to deceive, except where the company in existence is in the course of being dissolved and signifies its consent in such manner as the registrar requires; or

(b) contains the words "Chamber of Commerce," unless the company is a company which is to be registered under a licence granted in pursuance of the next following section of this Ordinance without the addition of the word "Limited" to its name; or

(c) contains the words "Building Society".

(2) Except with the consent of the Governor in Council, no company shall be registered by a name which—

(a) contains the words "Royal" or "Imperial" or in the opinion of the registrar suggests, or is calculated to suggest, the patronage of His Majesty or of any member of the Royal Family, or connexion with His Majesty's Government or any department thereof; or

(b) contains the words "Municipal" or "Chartered" or in the opinion of the registrar suggests, or is calculated to suggest, connexion with any municipality or other local authority or with any society or body incorporated by Royal Charter; or

(c) contains the word "Co-operative".

19. (1) Where it is proved to the satisfaction of the Governor in Council that an association about to be formed as a limited company is to be formed for promoting commerce, art, science, religion, charity or any other useful or social object, and intends to apply its profits, if any, or other income in promoting its objects, and to prohibit the payment of any dividend to its members, the Governor in Council may by

Power to dispense with "Limited" in name of charitable and other companies.

licence under the hand of the Colonial Secretary direct that the association may be registered as a company with limited liability, without the addition of the word "Limited" to its name, and the association may be registered accordingly.

(2) A licence by the Governor in Council under this section may be granted on such conditions and subject to such regulations as the Governor in Council thinks fit, and those conditions and regulations shall be binding on the association, and shall, if the Governor in Council so directs, be inserted in the memorandum and articles, or in one of those documents.

(3) The association shall on registration enjoy all the privileges of limited companies, and be subject to all their obligations, except those of using the word "Limited" as any part of its name, and of publishing its name, and of sending lists of members to the registrar.

(4) A licence under this section may at any time be revoked by the Governor in Council, and upon revocation the registrar shall enter the word "Limited" at the end of the name of the association upon the register and the association shall cease to enjoy the exemptions and privileges granted by this section :

Provided that, before a licence is so revoked, the Governor in Council shall give to the association notice in writing of the intention to revoke, and shall afford the association an opportunity of being heard in opposition to the revocation.

(5) Where the name of the association contains the words "Chamber of Commerce" the notice to be given as aforesaid shall include a statement of the effect of the provisions of sub-section (3) of the next following section of this Ordinance.

Change of
name.

20. (1) A company may, by special resolution and with the approval of the registrar signified in writing, change its name.

(2) If a company, through inadvertence or otherwise, is, without such consent as is mentioned in paragraph (a) of sub-section (1) of section 18 of this Ordinance, registered by a name which is identical with that by which a company in existence is previously registered, or which so nearly resembles that name as to be calculated to deceive, the first-mentioned company may change its name with the sanction of the registrar.

(3) Where a licence granted in pursuance of the last foregoing section of this Ordinance to a company the name of which contains the words "Chamber of Commerce" is revoked, the company shall, within a period of six weeks from the date of the revocation or such longer period as the Governor in Council may think fit to allow, change its name to a name which does not contain those words.

If a company makes default in complying with the requirements of this sub-section, it shall be liable to a fine not exceeding fifty pounds for every day during which the default continues.

(4) Where a company changes its name, the registrar shall enter the new name on the register in place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case.

(5) The change of name shall not affect any rights or obligations of the company, or render defective any legal proceedings by or against the company, and any legal proceedings that might have been continued or commenced against it by its former name may be continued or commenced against it by its new name.

General Provisions with respect to Memorandum and Articles.

21. (1) Subject to the provisions of this Ordinance the memorandum and articles shall, when registered, bind the company and the members thereof to the same extent as if they respectively had been signed and sealed by each member, and contained covenants on the part of each member to observe all the provisions of the memorandum and of the articles.

Effect of memorandum and articles.

(2) All money payable by any member to the company under the memorandum or articles shall be a debt due from him to the company.

22. (1) In the case of a company limited by guarantee and not having a share capital, and registered after the first day of April, 1922, every provision in the memorandum or articles or any resolution of the company purporting to give any person a right to participate in the divisible profits of the company otherwise than as a member shall be void.

Provision as to memorandum and articles of companies limited by guarantee.

(2) For the purpose of the provisions of this Ordinance relating to the memorandum of a company limited by guarantee and of this section, every provision in the memorandum or articles, or in any resolution, of a company limited by guarantee and registered on or after the date aforesaid, purporting to divide the undertaking of the company into shares or interests shall be treated as a provision for a share capital, notwithstanding that the nominal amount or number of the shares or interests is not specified thereby.

Alterations in memorandum or articles increasing liability to contribute to share capital not to bind existing members without consent.

23. Notwithstanding anything in the memorandum or articles of a company, no member of the company shall be bound by an alteration made in the memorandum or articles after the date on which he became a member, if and so far as the alteration requires him to take or subscribe for more shares than the number held by him at the date on which the alteration is made, or in any way increases his liability as at that date to contribute to the share capital of, or otherwise to pay money to, the company :

Provided that this section shall not apply in any case where the member agrees in writing, either before or after the alteration is made, to be bound thereby.

Copies of memorandum and articles to be given to members.

24. (1) A company shall, on being so required by any member, send to him a copy of the memorandum and of the articles, if any, subject to payment of one shilling or such less sum as the company may prescribe.

(2) If a company makes default in complying with this section, the company and every officer of the company who is in default shall be liable for each offence to a fine not exceeding one pound.

Issued copies of memorandum to embody alterations.

25. (1) Where an alteration is made in the memorandum of a company, every copy of the memorandum issued after the date of the alteration shall be in accordance with the alteration.

(2) If, where any such alteration has been made, the company at any time after the date of the alteration issues any copies of the memorandum which are not in accordance with the alteration, it shall be liable to a fine not exceeding one pound for each copy so issued, and every officer of the company who is in default shall be liable to the like penalty.

Membership of Company.

26. (1) The subscribers to the memorandum of a company shall be deemed to have agreed to become members of the company, and on its registration shall be entered as members in its register of members.

Definition of member.

(2) Every other person who agrees to become a member of a company, and whose name is entered in its register of members, shall be a member of the company.

Private Companies.

27. (1) For the purposes of this Ordinance, the expression "private company" means a company which by its articles—

Meaning of "private company."

- (a) restricts the right to transfer its shares; and
- (b) limits the number of its members to fifty, not including persons who are in the employment of the company and persons who, having been formerly in the employment of the company, were while in that employment, and have continued after the determination of that employment to be, members of the company; and
- (c) prohibits any invitation to the public to subscribe for any shares or debentures of the company.

(2) Where two or more persons hold one or more shares in a company jointly, they shall, for the purposes of this section, be treated as a single member.

28. (1) If a company, being a private company, alters its articles in such manner that they no longer include the provisions which, under the last foregoing section of this Ordinance, are required to be included in the articles of a company in order to constitute it a private company, the company shall, as on the date of the alteration, cease to be a private company and shall, within a period of fourteen days after the said date, deliver to the registrar for registration a prospectus or a statement in lieu of prospectus in the form and containing the particulars set out in the Second Schedule to this Ordinance.

Circumstances in which company ceases to be, or to enjoy privileges of, a private company.

(2) If default is made in complying with sub-section (1) of this section, the company and every officer of the company who is in default shall be liable to a default fine of fifty pounds.

(3) Where the articles of a company include the provisions aforesaid but default is made in complying with any of those provisions, the company shall cease to be entitled to the privileges and exemptions conferred on private companies under the provisions contained in section 29, sub-section (3) of section 110, sub-section (1) of section 130 and paragraph (d) of section 167 of this Ordinance, and thereupon the said provisions shall apply to the company as if it were not a private company :

Provided that the court, on being satisfied that the failure to comply with the conditions was accidental or due to inadvertence or to some other sufficient cause, or that on other grounds it is just and equitable to grant relief may, on the application of the company or any other person interested and on such terms and conditions as seem to the court just and expedient, order that the company be relieved from such consequences as aforesaid.

Reduction of Number of Members below Legal Minimum.

Prohibition of carrying on business with fewer than seven or, in the case of a private company two members.

29. If at any time the number of members of a company is reduced, in the case of a private company, below two, or, in the case of any other company, below seven, and it carries on business for more than six months while the number is so reduced, every person who is a member of the company during the time that it so carries on business after those six months and is cognisant of the fact that it is carrying on business with fewer than two members, or seven members, as the case may be, shall be severally liable for the payment of the whole debts of the company contracted during that time, and may be severally sued therefor.

Contracts, etc.

Form of contracts.

30. (1) Contracts on behalf of a company may be made as follows—

- (a) a contract which if made between private persons would be by law required to be in writing, signed by the parties to be charged therewith, may be made on behalf of the company in writing signed by any person acting under its authority, express or implied ;
- (b) a contract which if made between private persons would by law be valid although made by parol only, and not reduced into writing, may be made by parol on behalf of the company by any person acting under its authority, express or implied.

(2) A contract made according to this section shall be effectual in law, and shall bind the company and its successors and all other parties thereto.

(3) A contract made according to this section may be varied or discharged in the same manner in which it is authorized by this section to be made.

31. A bill of exchange or promissory note shall be deemed to have been made, accepted, or endorsed on behalf of a company if made, accepted, or endorsed in the name of, or by or on behalf or on account of, the company by any person acting under its authority express or implied.

Bills of
exchange and
promissory
notes.

32. (1) A company may, by writing under its common seal, empower any person, either generally or in respect of any specified matters, as its attorney, to execute deeds on its behalf in any place not situate in the Colony.

Execution of
deeds abroad

(2) A deed signed by such an attorney on behalf of the company and under his seal shall bind the company and have the same effect as if it were under its common seal.

33. (1) A company whose objects require or comprise the transaction of business beyond the limits of the Colony may, if authorized by its articles, have for use in any territory, district or place not situate in the Colony, an official seal, which shall be a facsimile of the common seal of the company, with the addition on its face of the name of every territory, district or place where it is to be used.

Power for
company to
have official
seal for use
abroad.

(2) A deed or other document to which an official seal is duly affixed shall bind the company as if it had been sealed with the common seal of the company.

(3) A company having an official seal for use in any such territory, district or place may, by writing under its common seal, authorize any person appointed for the purpose in that territory, district or place, to affix the official seal to any deed or other document to which the company is party in that territory, district or place.

(4) The authority of any such agent shall, as between the company and any person dealing with the agent, continue during the period, if any, mentioned in the instrument conferring the authority, or if no period is there mentioned, then until notice of the revocation or determination of the agent's authority has been given to the person dealing with him.

(5) The person affixing any such official seal shall, by writing under his hand, certify on the deed or other instrument to which the seal is affixed, the date on which and the place at which it is affixed.

Authentication of Documents.

Authentication
of documents.

34. A document or proceeding requiring authentication by a company may be signed by a director, secretary, or other authorized officer of the company, and need not be under its common seal.

PART III.

SHARE CAPITAL AND DEBENTURES.

Prospectus.

Dating and
registration
of prospectus.

35. (1) A prospectus issued by or on behalf of a company or in relation to an intended company shall be dated, and that date shall, unless the contrary is proved, be taken as the date of publication of the prospectus.

(2) A copy of every such prospectus, signed by every person who is named therein as a director or proposed director of the company, or by his agent authorized in writing, shall be delivered to the registrar for registration on or before the date of its publication, and no such prospectus shall be issued until a copy thereof has been so delivered for registration.

(3) The registrar shall not register any prospectus unless it is dated, and the copy thereof signed, in manner required by this section.

(4) Every prospectus shall state on the face of it that a copy has been delivered for registration as required by this section.

(5) If a prospectus is issued without a copy thereof being so delivered, the company, and every person who is knowingly a party to the issue of the prospectus, shall be liable to a fine not exceeding five pounds for every day from the date of the issue of the prospectus until a copy thereof is so delivered.

35A. Inserted by Ord. 51/49

Specific
requirements
as to par-
ticulars in
prospectus.

36. (1) Every prospectus issued by or on behalf of a company, or by or on behalf of any person who is or has been engaged or interested in the formation of the company, must state the matters specified in Part I of the Third Schedule to this Ordinance and set out the reports specified in Part II of

that Schedule, and the said Parts I and II shall have effect subject to the provisions contained in Part III of the said Schedule.

(2) A condition requiring or binding an applicant for shares in or debentures of a company to waive compliance with any requirement of this section, or purporting to affect him with notice of any contract, document, or matter not specifically referred to in the prospectus, shall be void.

(3) It shall not be lawful to issue any form of application for shares in or debentures of a company unless the form is issued with a prospectus which complies with the requirements of this section :

Provided that this sub-section shall not apply if it is shown that the form of application was issued either—

- (a) in connexion with a bona fide invitation to a person to enter into an underwriting agreement with respect to the shares or debentures ; or
- (b) in relation to shares or debentures which were not offered to the public.

If any person acts in contravention of the provisions of this sub-section, he shall be liable to a fine not exceeding five hundred pounds.

(4) In the event of non-compliance with or contravention of any of the requirements of this section, a director or other person responsible for the prospectus shall not incur any liability by reason of the non-compliance or contravention, if—

- (a) as regards any matter not disclosed, he proves that he was not cognisant thereof ; or
- (b) he proves that the non-compliance or contravention arose from an honest mistake of fact on his part ; or
- (c) the non-compliance or contravention was in respect of matters which in the opinion of the court dealing with the case were immaterial or was otherwise such as ought, in the opinion of that court, having regard to all the circumstances of the case, reasonably to be excused :

Provided that, in the event of failure to include in a prospectus a statement with respect to the matters specified in paragraph 15 of Part I of the Third Schedule to this Ordinance, no director or other person shall incur any liability in respect of the failure unless it be proved that he had knowledge of the matters not disclosed.

(5) This section shall not apply to the issue to existing members or debenture holders of a company of a prospectus or form of application relating to shares in or debentures of the company, whether an applicant for shares or debentures will or will not have the right to renounce in favour of other persons, but subject as aforesaid, this section shall apply to a prospectus or a form of application whether issued on or with reference to the formation of a company or subsequently.

(6) Nothing in this section shall limit or diminish any liability which any person may incur under the general law or this Ordinance apart from this section.

Restriction on alteration of terms mentioned in prospectus or statement in lieu of prospectus.

37. (1) A company limited by shares or a company limited by guarantee and having a share capital shall not previously to the statutory meeting vary the terms of a contract referred to in the prospectus, or statement in lieu of prospectus, except subject to the approval of the statutory meeting.

(2) This section shall not apply to a private company.

Liability for statements in prospectus.

38. (1) Where a prospectus invites persons to subscribe for shares in or debentures of a company—

- (a) every person who is a director of the company at the time of the issue of the prospectus; and
- (b) every person who has authorized himself to be named and is named in the prospectus as a director or as having agreed to become a director either immediately or after an interval of time; and
- (c) every person being a promoter of the company; and
- (d) every person who has authorized the issue of the prospectus,

shall be liable to pay compensation to all persons who subscribe for any shares or debentures on the faith of the prospectus for the loss or damage they may have sustained by reason of any untrue statement therein, or in any report or memorandum appearing on the face thereof, or by reference incorporated therein or issued therewith, unless it is proved—

- (i) That having consented to become a director of the company he withdrew his consent before the issue of the prospectus, and that it was issued without his authority or consent; or

- (ii) that the prospectus was issued without his knowledge or consent, and that on becoming aware of its issue he forthwith gave reasonable public notice that it was issued without his knowledge or consent ; or
- (iii) that after the issue of the prospectus and before allotment thereunder, he, on becoming aware of any untrue statement therein, withdrew his consent thereto, and gave reasonable public notice of the withdrawal, and of the reason therefor ; or
- (iv) that—
 - (a) as regards every untrue statement not purporting to be made on the authority of an expert or of a public official document or statement, he had reasonable ground to believe, and did up to the time of the allotment of the shares or debentures, as the case may be, believe, that the statement was true ; and
 - (b) as regards every untrue statement purporting to be a statement by an expert or contained in what purports to be a copy of or extract from a report or valuation of an expert, it fairly represented the statement, or was a correct and fair copy of or extract from the report or valuation ; and
 - (c) as regards every untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, it was a correct and fair representation of the statement or copy of or extract from the document :

Provided that a person shall be liable to pay compensation as aforesaid if it is proved that he had no reasonable ground to believe that the person making any such statement, report or valuation as is mentioned in paragraph (iv) (b) of this subsection was competent to make it.

(2) Where the prospectus contains the name of a person as a director of the company, or as having agreed to become a director thereof, and he has not consented to become a director, or has withdrawn his consent before the issue of the prospectus, and has not authorized or consented to the issue thereof, the directors of the company, except any without

whose knowledge or consent the prospectus was issued, and any other person who authorized the issue thereof, shall be liable to indemnify the person named as aforesaid against all damages, costs, and expenses to which he may be made liable by reason of his name having been inserted in the prospectus, or in defending himself against any action or legal proceedings brought against him in respect thereof.

(3) Every person who, by reason of his being a director or named as a director or as having agreed to become a director, or of his having authorized the issue of the prospectus, becomes liable to make any payment under this section may recover contribution, as in cases of contract, from any other person who, if sued separately, would have been liable to make the same payment, unless the person who has become so liable was, and that other person was not, guilty of fraudulent misrepresentation.

(4) For the purposes of this section—

the expression “promoter” means a promoter who was a party to the preparation of the prospectus, or of the portion thereof containing the untrue statement, but does not include any person by reason of his acting in a professional capacity for persons engaged in procuring the formation of the company;

the expression “expert” includes engineer, valuer, accountant, and any other person whose profession gives authority to a statement made by him.

Document
containing
offer of
debentures
for sale to be
deemed
prospectus.

39. (1) Where a company allots or agrees to allot any shares in or debentures of the company with a view to all or any of those shares or debentures being offered for sale to the public, any document by which the offer for sale to the public is made shall for all purposes be deemed to be a prospectus issued by the company, and all enactments and rules of law as to the contents of prospectuses and to liability in respect of statements in and omissions from prospectuses, or otherwise relating to prospectuses, shall apply and have effect accordingly, as if the shares or debentures had been offered to the public for subscription and as if persons accepting the offer in respect of any shares or debentures were subscribers for those shares or debentures, but without prejudice to the liability, if any, of the persons by whom the offer is made, in respect of mis-statements contained in the document or otherwise in respect thereof.

(2) For the purposes of this Ordinance, it shall, unless the contrary is proved, be evidence that an allotment of, or an agreement to allot, shares or debentures was made with a view to the shares or debentures being offered for sale to the public if it is shown—

- (a) that an offer of the shares or debentures or of any of them for sale to the public was made within six months after the allotment or agreement to allot; or
- (b) that at the date when the offer was made the whole consideration to be received by the company in respect of the shares or debentures had not been so received.

(3) Section 35 of this Ordinance as applied by this section shall have effect as though the persons making the offer were persons named in a prospectus as directors of a company, and section 36 of this Ordinance as applied by this section shall have effect as if it required a prospectus to state in addition to the matters required by that section to be stated in a prospectus—

- (a) the nett amount of the consideration received or to be received by the company in respect of the shares or debentures to which the offer relates; and
- (b) the place and time at which the contract under which the said shares or debentures have been or are to be allotted may be inspected.

(4) Where a person making an offer to which this section relates is a company or a firm, it shall be sufficient if the document aforesaid is signed on behalf of the company or firm by two directors of the company or not less than half of the partners, as the case may be, and any such director or partner may sign by his agent authorized in writing.

Allotment.

40. (1) No allotment shall be made of any share capital of a company offered to the public for subscription unless the amount stated in the prospectus as the minimum amount which, in the opinion of the directors, must be raised by the issue of share capital in order to provide for the matters specified in paragraph 5 in Part I of the Third Schedule to this Ordinance has been subscribed, and the sum payable on application for the amount so stated has been paid to and received by the company.

Prohibition of allotment unless minimum subscription received.

For the purposes of this sub-section, a sum shall be deemed to have been paid to and received by the company if a cheque for that sum has been received in good faith by the company and the directors of the company have no reason for suspecting that the cheque will not be paid.

(2) The amount so stated in the prospectus shall be reckoned exclusively of any amount payable otherwise than in cash and is in this Ordinance referred to as "the minimum subscription."

(3) The amount payable on application on each share shall not be less than five per cent of the nominal amount of the share.

(4) If the conditions aforesaid have not been complied with on the expiration of one hundred and twenty days after the first issue of the prospectus all money received from applicants for shares shall be forthwith repaid to them without interest, and, if any such money is not so repaid within one hundred and thirty days after the issue of the prospectus, the directors of the company shall be jointly and severally liable to repay that money with interest at the rate of five per cent per annum from the expiration of the one hundred and thirtieth day :

Provided that a director shall not be liable if he proves that the default in the repayment of the money was not due to any misconduct or negligence on his part.

(5) Any condition requiring or binding any applicant for shares to waive compliance with any requirement of this section shall be void.

(6) This section, except sub-section (3) thereof, shall not apply to any allotment of shares subsequent to the first allotment of shares offered to the public for subscription.

Prohibition of allotment in certain cases unless statement in lieu of prospectus delivered to registrar.

41. (1) A company having a share capital which does not issue a prospectus on or with reference to its formation, or which has issued such a prospectus but has not proceeded to allot any of the shares offered to the public for subscription, shall not allot any of its shares or debentures unless at least three days before the first allotment of either shares or debentures there has been delivered to the registrar for registration

a statement in lieu of prospectus, signed by every person who is named therein as a director or a proposed director of the company or by his agent authorized in writing, in the form and containing the particulars set out in the Fourth Schedule to this Ordinance.

(2) This section shall not apply to a private company.

(3) If a company acts in contravention of this section, the company and every director of the company who knowingly authorizes or permits the contravention shall be liable to a fine not exceeding one hundred pounds.

42. (1) An allotment made by a company to an applicant in contravention of the provisions of the two last foregoing sections of this Ordinance, shall be voidable at the instance of the applicant within one month after the holding of the statutory meeting of the company and not later, or, in any case where the company is not required to hold a statutory meeting, or where the allotment is made after the holding of the statutory meeting, within one month after the date of the allotment, and not later, and shall be so voidable notwithstanding that the company is in course of being wound up.

Effect of
irregular
allotment.

(2) If any director of a company knowingly contravenes, or permits or authorizes the contravention of, any of the provisions of the said sections with respect to allotment, he shall be liable to compensate the company and the allottee respectively for any loss, damages, or costs which the company or the allottee may have sustained or incurred thereby :

Provided that proceedings to recover any such loss, damages, or costs shall not be commenced after the expiration of two years from the date of the allotment.

43. (1) Whenever a company limited by shares or a company limited by guarantee and having a share capital makes any allotment of its shares, the company shall within sixty days thereafter deliver to the registrar for registration—

Return as to
allotments.

(a) a return of the allotments, stating the number and nominal amount of the shares comprised in the allotment, the names, addresses, and descriptions of the allottees, and the amount, if any, paid or due and payable on each share; and

(b) in the case of shares allotted as fully or partly paid up otherwise than in cash, a contract in writing constituting the title of the allottee to the allotment together with any contract of sale, or for services

or other consideration in respect of which that allotment was made, such contracts being duly stamped, and a return stating the number and nominal amount of shares so allotted, the extent to which they are to be treated as paid up, and the consideration for which they have been allotted.

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(2) Where such a contract as above mentioned is not reduced to writing, the company shall within sixty days after the allotment deliver to the registrar for registration the prescribed particulars of the contract stamped with the same stamp duty as would have been payable if the contract had been reduced to writing, and those particulars shall be deemed to be an instrument within the meaning of the Stamp Ordinance, and the registrar may, as a condition of filing the particulars, require that the duty payable thereon be adjudicated under section 33 of that Ordinance.

(3) If default is made in complying with this section, every director, manager, secretary or other officer of the company, who is knowingly a party to the default, shall be liable to a fine not exceeding fifty pounds for every day during which the default continues :

Provided that, in case of default in delivering to the registrar within sixty days after the allotment any document required to be delivered by this section, the company, or any person liable for the default, may apply to the court for relief, and the court, if satisfied that the omission to deliver the document was accidental or due to inadvertence or that it is just and equitable to grant relief, may make an order extending the time for the delivery of the document for such period as the court may think proper.

Commissions and Discounts.

Power to pay certain commissions, and prohibition of payment of all other commissions, discounts, etc.

44. (1) It shall be lawful for a company to pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares in the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company if—

(a) the payment of the commission is authorized by the articles; and

(b) the commission paid or agreed to be paid does not exceed ten per cent of the price at which the shares are issued or the amount or rate authorized by the articles, whichever is the less; and

(c) the amount or rate per cent of the commission paid or agreed to be paid is—

(i) in the case of shares offered to the public for subscription, disclosed in the prospectus; or

(ii) in the case of shares not offered to the public for subscription, disclosed in the statement in lieu of prospectus, or in a statement in the prescribed form signed in like manner as a statement in lieu of prospectus and delivered before the payment of the commission to the registrar for registration, and, where a circular or notice, not being a prospectus, inviting subscription for the shares is issued, also disclosed in that circular or notice; and

(d) the number of shares which persons have agreed for a commission to subscribe absolutely is disclosed in manner aforesaid.

(2) Save as aforesaid, no company shall apply any of its shares or capital money either directly or indirectly in payment of any commission, discount or allowance, to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares of the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company. whether the shares or money be so applied by being added to the purchase money of any property acquired by the company or to the contract price of any work to be executed for the company, or the money be paid out of the nominal purchase money or contract price, or otherwise.

(3) Nothing in this section shall affect the power of any company to pay such brokerage as it has heretofore been lawful for a company to pay.

(4) A vendor to, promoter of or other person who receives payment in money or shares from, a company shall have and shall be deemed always to have had power to apply any part of the money or shares so received in payment of any commission, the payment of which, if made directly by the company, would have been legal under this section.

(5) If default is made in complying with the provisions of this section relating to the delivery to the registrar of the statement in the prescribed form, the company and every officer of the company who is in default shall be liable to a fine not exceeding twenty-five pounds.

Statement in
balance sheet
as to com-
missions and
discounts.

45. (1) Where a company has paid any sums by way of commission in respect of any shares or debentures, or allowed any sums by way of discount in respect of any debentures, the total amount so paid or allowed, or so much thereof as has not been written off, shall be stated in every balance sheet of the company until the whole amount thereof has been written off.

(2) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine.

Prohibition of
provision of
financial
assistance by
company for
purchase of its
own shares.

46. (1) Subject as provided in this section, it shall not be lawful for a company to give, whether directly or indirectly, and whether by means of a loan, guarantee, the provision of security or otherwise, any financial assistance for the purpose of or in connexion with a purchase made or to be made by any person of any shares in the company :

Provided that nothing in this section shall be taken to prohibit—

- (a) where the lending of money is part of the ordinary business of a company, the lending of money by the company in the ordinary course of its business ;
- (b) the provision by a company, in accordance with any scheme for the time being in force, of money for the purchase by trustees of fully-paid shares in the company to be held by or for the benefit of employees of the company, including any director holding a salaried employment or office in the company ;
- (c) the making by a company of loans to persons, other than directors, bona fide in the employment of the company with a view to enabling those persons to purchase fully-paid shares in the company to be held by themselves by way of beneficial ownership.

(2) The aggregate amount of any outstanding loans made under the authority of provisos (b) and (c) to sub-section (1) of this section shall be shown as a separate item in every balance sheet of the company.

(3) If a company acts in contravention of this section, the company and every officer of the company who is in default shall be liable to a fine not exceeding one hundred pounds.

Issue of Redeemable Preference Shares and Shares at Discount.

47. (1) Subject to the provisions of this section, a company limited by shares may, if so authorized by its articles, issue preference shares which are, or at the option of the company are to be liable, to be redeemed :

Power to issue redeemable preference shares.

Provided that—

- (a) no such shares shall be redeemed except out of profits of the company which would otherwise be available for dividend or out of the proceeds of a fresh issue of shares made for the purposes of the redemption ;
- (b) no such shares shall be redeemed unless they are fully paid ;
- (c) where any such shares are redeemed otherwise than out of the proceeds of a fresh issue, there shall out of profits which would otherwise have been available for dividend be transferred to a reserve fund, to be called "the capital redemption reserve fund", a sum equal to the amount applied in redeeming the shares, and the provisions of this Ordinance relating to the reduction of the share capital of a company shall, except as provided in this section, apply as if the capital redemption reserve fund were paid-up share capital of the company ;
- (d) where any such shares are redeemed out of the proceeds of a fresh issue, the premium, if any, payable on redemption, must have been provided for out of the profits of the company before the shares are redeemed.

(2) There shall be included in every balance sheet of a company which has issued redeemable preference shares a statement specifying what part of the issued capital of the company consists of such shares and the date on or before which those shares are, or are to be liable, to be redeemed.

If a company fails to comply with the provisions of this sub-section, the company and every officer of the company who is in default shall be liable to a fine not exceeding one hundred pounds.

(3) Subject to the provisions of this section, the redemption of preference shares thereunder may be effected on such terms and in such manner as may be provided by the articles of the company.

(4) Where in pursuance of this section a company has redeemed or is about to redeem any preference shares, it shall have power to issue shares up to the nominal amount of the shares redeemed or to be redeemed as if those shares had never been issued, and accordingly the share capital of the company shall not for the purposes of any enactments relating to stamp duty be deemed to be increased by the issue of shares in pursuance of this sub-section :

Provided that, where new shares are issued before the redemption of the old shares, the new shares shall not, so far as relates to stamp duty, be deemed to have been issued in pursuance of this sub-section unless the old shares are redeemed within one month after the issue of the new shares.

(5) Where new shares have been issued in pursuance of the last foregoing sub-section, the capital redemption reserve fund may, notwithstanding anything in this section, be applied by the company, up to an amount equal to the nominal amount of the shares so issued, in paying up unissued shares of the company to be issued to members of the company as fully paid bonus shares.

Power to
issue shares at
a discount.

48. (1) Subject as provided in this section, it shall be lawful for a company to issue at a discount shares in the company of a class already issued :

Provided that—

- (a) the issue of the shares at a discount must be authorized by resolution passed in general meeting of the company, and must be sanctioned by the court ;
- (b) the resolution must specify the maximum rate of discount at which the shares are to be issued ;
- (c) not less than one year must at the date of issue have elapsed since the date on which the company was entitled to commence business ;
- (d) the shares to be issued at a discount must be issued within one month after the date on which the issue is sanctioned by the court or within such extended time as the court may allow.

(2) Where a company has passed a resolution authorizing the issue of shares at a discount, it may apply to the court for an order sanctioning the issue, and on any such application the court, if, having regard to all the circumstances of the case, it thinks proper so to do, may make an order sanctioning the issue on such terms and conditions as it thinks fit.

(3) Every prospectus relating to the issue of the shares and every balance sheet issued by the company subsequently to the issue of the shares must contain particulars of the discount allowed on the issue of the shares or of so much of that discount as has not been written off at the date of the issue of the document in question.

If default is made in complying with this sub-section, the company and every officer of the company who is in default shall be liable to a default fine.

Miscellaneous Provisions as to Share Capital.

- 49.** A company, if so authorized by its articles, may do any one or more of the following things—
- (a) make arrangements on the issue of shares for a difference between the share holders in the amounts and times of payment of calls on their shares;
 - (b) accept from any member the whole or a part of the amount remaining unpaid on any shares held by him, although no part of that amount has been called up;
 - (c) pay dividend in proportion to the amount paid up on each share where a larger amount is paid up on some shares than on others.

Power of company to arrange for different amounts being paid on shares.

- 50.** A limited company may by special resolution determine that any portion of its share capital which has not been already called up shall not be capable of being called up, except in the event and for the purposes of the company being wound up, and thereupon that portion of its share capital shall not be capable of being called up except in the event and for the purposes aforesaid.

Reserve liability of limited company.

- 51.** (1) A company limited by shares or a company limited by guarantee and having a share capital, if so authorized by its articles, may alter the conditions of its memorandum as follows, that is to say, it may—
- (a) increase its share capital by new shares of such amount as it thinks expedient;

Power of company limited by shares to alter its share capital

- (b) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares ;
- (c) convert all or any of its paid-up shares into stock, and reconvert that stock into paid-up shares of any denomination ;
- (d) subdivide its shares, or any of them, into shares of smaller amount than is fixed by the memorandum, so, however, that in the subdivision the proportion between the amount paid and the amount, if any, unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is derived ;
- (e) cancel shares which, at the date of the passing of the resolution in that behalf, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled.

(2) The powers conferred by this section must be exercised by the company in general meeting.

(3) A cancellation of shares in pursuance of this section shall not be deemed to be a reduction of share capital within the meaning of this Ordinance.

Notice to
registrar of
consolidation
of share
capital,
conversion of
shares into
stock, etc.

52. (1) If a company having a share capital has—

- (a) consolidated and divided its share capital into shares of larger amount than its existing shares ; or
- (b) converted any shares into stock ; or
- (c) re-converted stock into shares ; or
- (d) subdivided its shares or any of them ; or
- (e) redeemed any redeemable preference shares ; or
- (f) cancelled any shares, otherwise than in connexion with a reduction of share capital under section 56 of this Ordinance,

it shall within one month after so doing give notice thereof to the registrar specifying, as the case may be, the shares consolidated, divided, converted, subdivided, redeemed or cancelled or the stock re-converted.

(2) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine.

53. (1) Where a company having a share capital, whether its shares have or have not been converted into stock, has increased its share capital beyond the registered capital, it shall within thirty days after the passing of the resolution authorizing the increase, give to the registrar notice of the increase, and the registrar shall record the increase.

Notice of
increase of
share
capital.

(2) The notice to be given as aforesaid shall include such particulars as may be prescribed with respect to the classes of shares affected and the conditions subject to which the new shares have been or are to be issued, and there shall be forwarded to the registrar together with the notice a printed copy of the resolution authorizing the increase.

(3) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine.

54. An unlimited company having a share capital may, by its resolution for registration as a limited company in pursuance of this Ordinance, do either or both of the following things, namely:—

Power of
unlimited
company to
provide for
reserve share
capital on re-
registration.

- (a) increase the nominal amount of its share capital by increasing the nominal amount of each of its shares, but subject to the condition that no part of the increased capital shall be capable of being called up except in the event and for the purposes of the company being wound up;
- (b) provide that a specified portion of its uncalled share capital shall not be capable of being called up except in the event and for the purposes of the company being wound up.

55. (1) Where any shares of a company are issued for the purpose of raising money to defray the expenses of the construction of any works or buildings or the provision of any plant which cannot be made profitable for a lengthened period, the company may pay interest on so much of that share capital as is for the time being paid up for the period and subject to the conditions and restrictions in this section mentioned, and may charge the sum so paid by way of interest to capital as part of the cost of construction of the work or building, or the provision of plant:

Power of
company to
pay interest
out of capital
in certain
cases.

~~Provided that—~~

- (a) no such payment shall be made unless it is authorized by the articles or by special resolution;
 - (b) no such payment, whether authorized by the articles or by special resolution, shall be made without the previous sanction of the Governor in Council;
 - (c) before sanctioning any such payment the Governor in Council may, at the expense of the company, appoint a person to inquire and report to him as to the circumstances of the case, and may, before making the appointment, require the company to give security for the payment of the costs of the inquiry;
 - (d) the payment shall be made only for such period as may be determined by the Governor in Council, and that period shall in no case extend beyond the close of the half year next after the half year during which the works or buildings have been actually completed or the plant provided;
 - (e) the rate of interest shall in no case exceed four per cent per annum or such other rate as the Governor in Council may for the time being by notice in the Gazette prescribe;
 - (f) the payment of the interest shall not operate as a reduction of the amount paid up on the shares in respect of which it is paid;
 - (g) the accounts of the company shall show the share capital on which, and the rate at which, interest has been paid out of capital during the period to which the accounts relate.
- (2) If default is made in complying with proviso (g) to sub-section (1) of this section, the company and every officer of the company who is in default shall be liable to a fine not exceeding fifty pounds.

Reduction of Share Capital.

Special
resolution for
reduction of
share capital.

56. (1) Subject to confirmation by the court, a company limited by shares or a company limited by guarantee and having a share capital may, if so authorized by its articles, by

special resolution reduce its share capital in any way, and in particular, without prejudice to the generality of the foregoing power, may—

- (a) extinguish or reduce the liability on any of its shares in respect of share capital not paid up; or
- (b) either with or without extinguishing or reducing liability on any of its shares, cancel any paid-up share capital which is lost or unrepresented by available assets; or
- (c) either with or without extinguishing or reducing liability on any of its shares, pay off any paid-up share capital which is in excess of the wants of the company,

and may, if and so far as is necessary, alter its memorandum by reducing the amount of its share capital and of its shares accordingly.

(2) A special resolution under this section is in this Ordinance referred to as “a resolution for reducing share capital”.

57. (1) Where a company has passed a resolution for reducing share capital, it may apply by petition to the court for an order confirming the reduction.

Application to court for confirming order, objections by creditors, and settlement of list of objecting creditors.

(2) Where the proposed reduction of share capital involves either diminution of liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, and in any other case if the court so directs, the following provisions shall have effect, subject nevertheless to the next following sub-section—

- (a) every creditor of the company who at the date fixed by the court is entitled to any debt or claim which, if that date were the commencement of the winding up of the company, would be admissible in proof against the company, shall be entitled to object to the reduction;
- (b) the court shall settle a list of creditors so entitled to object, and for that purpose shall ascertain, as far as possible without requiring an application from any creditor, the names of those creditors and the nature

and amount of their debts or claims, and may publish notices fixing a day or days within which creditors not entered on the list are to claim to be so entered or are to be excluded from the right of objecting to the reduction;

(c) where a creditor entered on the list whose debt or claim is not discharged or has not determined does not consent to the reduction, the court may, if it thinks fit, dispense with the consent of that creditor, on the company securing payment of his debt or claim by appropriating, as the court may direct, the following amount—

(i) if the company admits the full amount of the debt or claim, or, though not admitting it, is willing to provide for it, then the full amount of the debt or claim;

(ii) if the company does not admit and is not willing to provide for the full amount of the debt or claim, or if the amount is contingent or not ascertained, then an amount fixed by the court after the like inquiry and adjudication as if the company were being wound up by the court.

(3) Where a proposed reduction of share capital involves either the diminution of any liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, the court may, if having regard to any special circumstances of the case it thinks proper so to do, direct that subsection (2) of this section shall not apply as regards any class or any classes of creditors.

Order
confirming
reduction
and powers
of court on
making such
order.

58. (1) The court, if satisfied, with respect to every creditor of the company who under the last foregoing section is entitled to object to the reduction, that either his consent to the reduction has been obtained or his debt or claim has been discharged or has determined, or has been secured, may make an order confirming the reduction on such terms and conditions as it thinks fit.

(2) Where the court makes any such order, it may—

(a) if for any special reason it thinks proper so to do, make an order directing that the company shall, during such period, commencing on or at any time after the date of the order, as is specified in the order, add to its name as the last words thereof the words “and reduced”; and

- (b) make an order requiring the company to publish as the court directs the reasons for reduction or such other information in regard thereto as the court may think expedient with a view to giving proper information to the public, and, if the court thinks fit, the causes which led to the reduction.

(3) Where a company is ordered to add to its name the words "and reduced", those words shall, until the expiration of the period specified in the order, be deemed to be part of the name of the company.

59. (1) The registrar, on production to him of an order of the court confirming the reduction of the share capital of a company, and the delivery to him of a copy of the order and of a minute approved by the court, showing with respect to the share capital of the company, as altered by the order, the amount of the share capital, the number of shares into which it is to be divided, and the amount of each share, and the amount, if any, at the date of the registration deemed to be paid up on each share, shall register the order and minute.

Registration
of order and
minute of
reduction.

(2) On the registration of the order and minute, and not before, the resolution for reducing share capital as confirmed by the order so registered shall take effect.

(3) Notice of the registration shall be published in such manner as the court may direct.

(4) The registrar shall certify under his hand the registration of the order and minute, and his certificate shall be conclusive evidence that all the requirements of this Ordinance with respect to reduction of share capital have been complied with, and that the share capital of the company is such as is stated in the minute.

(5) The minute when registered shall be deemed to be substituted for the corresponding part of the memorandum, and shall be valid and alterable as if it had been originally contained therein.

(6) The substitution of any such minute as aforesaid for part of the memorandum of the company shall be deemed to be an alteration of the memorandum within the meaning of section 25 of this Ordinance.

60. (1) In the case of a reduction of share capital, a member of the company, past or present, shall not be liable in respect of any share to any call or contribution exceeding in amount the difference, if any, between the amount of the share

Liability of
members in
respect of
reduced
shares.

as fixed by the minute and the amount paid, or the reduced amount, if any, which is to be deemed to have been paid, on the share, as the case may be :

Provided that, if any creditor, entitled in respect of any debt or claim to object to the reduction of share capital, is, by reason of his ignorance of the proceedings for reduction, or of their nature and effect with respect to his claim, not entered on the list of creditors, and, after the reduction, the company is unable, within the meaning of the provisions of this Ordinance with respect to winding up by the court, to pay the amount of his debt or claim, then—

- (a) every person who was a member of the company at the date of the registration of the order for reduction and minute, shall be liable to contribute for the payment of that debt or claim an amount not exceeding the amount which he would have been liable to contribute if the company had commenced to be wound up on the day before the said date ; and
- (b) if the company is wound up, the court, on the application of any such creditor and proof of his ignorance as aforesaid, may, if it thinks fit, settle accordingly a list of persons so liable to contribute, and make and enforce calls and orders on the contributories settled on the list, as if they were ordinary contributories in a winding up.

(2) Nothing in this section shall affect the rights of the contributories among themselves.

Penalty on concealment of name of creditor.

61. If any director, manager, secretary, or other officer of the company—

- (a) wilfully conceals the name of any creditor entitled to object to the reduction ; or
- (b) wilfully misrepresents the nature or amount of the debt or claim of any creditor ; or
- (c) aids, abets, or is privy to any such concealment or misrepresentation as aforesaid,

he shall be guilty of a misdemeanour.

Variation of Shareholders' Rights.

62. (1) If in the case of a company, the share capital of which is divided into different classes of shares, provision is made by the memorandum or articles for authorizing the variation of the rights attached to any class of shares in the company, subject to the consent of any specified proportion of the holders of the issued shares of that class or the sanction of a resolution passed at a separate meeting of the holders of those shares, and in pursuance of the said provision the rights attached to any such class of shares are at any time varied, the holders of not less in the aggregate than fifteen per cent of the issued shares of that class, being persons who did not consent to or vote in favour of the resolution for the variation, may apply to the court to have the variation cancelled, and, where any such application is made, the variation shall not have effect unless and until it is confirmed by the court.

Rights of
holders of
special classes
of shares.

(2) An application under this section must be made within fourteen days after the date on which the consent was given or the resolution was passed, as the case may be, and may be made on behalf of the shareholders entitled to make the application by such one or more of their number as they may appoint in writing for the purpose.

(3) On any such application, the court, after hearing the applicant and any other persons who apply to the court to be heard and appear to the court to be interested in the application, may, if it is satisfied, having regard to all the circumstances of the case, that the variation would unfairly prejudice the shareholders of the class represented by the applicant, disallow the variation, and shall, if not so satisfied, confirm the variation.

(4) The decision of the court on any such application shall be final.

(5) The company shall within thirty days after the making of an order by the court on any such application forward a certified copy of the order to the registrar, and, if default is made in complying with this provision, the company and every officer of the company who is in default shall be liable to a default fine.

(6) The expression "variation" in this section includes abrogation and the expression "varied" shall be construed accordingly.

*Transfer of Shares and Debentures, Evidence
of Title, etc.*

Nature of
shares.

63. (1) The shares or other interest of any member in a company shall be movable property, transferable in manner provided by the articles of the company.

(2) Each share in a company having a share capital shall be distinguished by its appropriate number.

Transfer not
to be regis-
tered except
on production
of instrument
of transfer.

64. Notwithstanding anything in the articles of a company, it shall not be lawful for the company to register a transfer of shares in or debentures of the company unless a proper instrument of transfer has been delivered to the company :

Provided that nothing in this section shall prejudice any power of the company to register as shareholder or debenture-holder any person to whom the right to any shares in or debentures of the company has been transmitted by operation of law.

Transfer by
personal
representative.

65. A transfer of the share or other interest of a deceased member of a company made by his legal representative shall, although the legal representative is not himself a member of the company, be as valid as if he had been such a member at the time of the execution of the instrument of transfer.

Registration
of transfer at
request of
transferor.

66. On the application of the transferor of any share or interest in a company, the company shall enter in its register of members the name of the transferee in the same manner and subject to the same conditions as if the application for the entry were made by the transferee.

Notice of
refusal to
register
transfer.

67. (1) If a company refuses to register a transfer of any shares or debentures, the company shall, within two months after the date on which the transfer was lodged with the company, send to the transferee notice of the refusal.

(2) If default is made in complying with this section, the company and every director, manager, secretary or other officer of the company who is knowingly a party to the default shall be liable to a fine not exceeding five pounds for every day during which the default continues.

Duties of
company
with respect
of issue of
certificates.

68. (1) Every company shall, within three months after the allotment of any of its shares, debentures, or debenture stock, and within three months after the date on which a transfer of any such shares, debentures or debenture stock is

lodged with the company, complete and have ready for delivery the certificates of all shares, the debentures and the certificates of all debenture stock allotted or transferred, unless the conditions of issue of the shares, debentures or debenture stock otherwise provide.

The expression "transfer" for the purpose of this subsection means a transfer duly stamped and otherwise valid, and does not include such a transfer as the company is for any reason entitled to refuse to register and does not register.

(2) If default is made in complying with this section, the company and every director, manager, secretary or other officer of the company who is knowingly a party to the default shall be liable to a fine not exceeding five pounds for every day during which the default continues.

(3) If any company on whom a notice has been served requiring the company to make good any default in complying with the provisions of sub-section (1) of this section fails to make good the default within ten days after the service of the notice, the court may, on the application of the person entitled to have the certificates or the debentures delivered to him, make an order directing the company and any officer of the company to make good the default within such time as may be specified in the order, and any such order may provide that all costs of and incidental to the application shall be borne by the company or by any officer of the company responsible for the default.

69. A certificate, under the common seal of the company, specifying any shares held by any member, shall be prima facie evidence of the title of the member to the shares.

Certificate to be evidence of title.

70. The production to a company of any document which is by law sufficient evidence of—

Evidence of grant of probate.

(a) probate of the will, or letters of administration of the estate, of a deceased person having been granted to some person; or

(b) the Public Trustee having undertaken administration of an estate under section 4 of the Public Trustee's Ordinance, 1925,

No. 7 of 1925.

shall be accepted by the company, notwithstanding anything in its articles, as sufficient evidence of such grant or undertaking.

Issue and
effect of share
warrants to
bearer.

71. (1) A company limited by shares, if so authorized by its articles, may, with respect to any fully paid-up shares, issue under its common seal a warrant stating that the bearer of the warrant is entitled to the shares therein specified, and may provide, by coupons or otherwise, for the payment of the future dividends on the shares included in the warrant.

(2) Such a warrant as aforesaid is in this Ordinance termed a "share warrant".

(3) A share warrant shall entitle the bearer thereof to the shares therein specified, and the shares may be transferred by delivery of the warrant.

Penalty for
personation of
shareholder.

72. If any person falsely and deceitfully personates any owner of any share or interest in any company, or of any share warrant or coupon, issued in pursuance of this Ordinance, and thereby obtains or endeavours to obtain any such share or interest or share warrant or coupon, or receives or endeavours to receive any money due to any such owner, as if the offender were the true and lawful owner, he shall be guilty of a felony, and shall on conviction thereof be liable to imprisonment for any term not exceeding seven years.

Offences in
connexion
with share
warrants.

73. (1) If any person—

- (a) with intent to defraud, forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any share warrant or coupon, or any document purporting to be a share warrant or coupon, issued in pursuance of this Ordinance; or
- (b) by means of any such forged or altered share warrant, coupon or document, purporting as aforesaid, demands or endeavours to obtain or receive any share or interest in any company under this Ordinance, or to receive any dividend or money payable in respect thereof, knowing the warrant, coupon or document to be forged or altered,

he shall be guilty of an offence and shall on conviction thereof be liable to imprisonment for life.

(2) If any person without lawful authority or excuse, proof whereof shall lie on him—

(a) engraves or makes on any plate, wood, stone or other material any share warrant or coupon purporting to be—

(i) a share warrant or coupon issued or made by any particular company in pursuance of this Ordinance; or

(ii) a blank share warrant or coupon so issued or made; or

(iii) a part of such a share warrant or coupon; or

(b) uses any such plate, wood, stone or other material for the making or printing of any such share warrant or coupon, or of any such blank share warrant or coupon, or any part thereof respectively; or

(c) knowingly has in his custody or possession any such plate, wood, stone or other material,

he shall be guilty of an offence, and shall on conviction thereof be liable to imprisonment for any term not exceeding fourteen years.

Special Provisions as to Debentures.

74. (1) Every register of holders of debentures of a company shall, except when duly closed, be open to the inspection of the registered holder of any such debentures, and of any holder of shares in the company, but subject to such reasonable restrictions as the company may in general meeting impose, so that not less than two hours in each day shall be allowed for inspection.

Right of debenture-holders and shareholders to inspect register of debenture-holders and to have copies of trust deed.

For the purposes of this sub-section, a register shall be deemed to be duly closed if closed in accordance with provisions contained in the articles or in the debentures or, in the case of debenture stock, in the stock certificates, or in the trust deed or other document securing the debenture or debenture stock, during such period or periods, not exceeding in the whole thirty days in any year, as may be therein specified.

(2) Every registered holder of debentures and every holder of shares in a company may require a copy of the register of the holders of debentures of the company or any part thereof on payment of fifty cents for every hundred words required to be copied.

(3) A copy of any trust deed for securing any issue of debentures shall be forwarded to every holder of any such debentures at his request on payment in the case of a printed trust deed of the sum of one shilling or such less sum as may be prescribed by the company, or, where the trust deed has not been printed, on payment of fifty cents for every hundred words required to be copied.

(4) If inspection is refused, or a copy is refused or not forwarded, the company and every officer of the company who is in default shall be liable to a fine not exceeding five pounds, and further shall be liable to a default fine of two pounds.

(5) Where a company is in default as aforesaid, the court may by order compel an immediate inspection of the register or direct that the copies required shall be sent to the person requiring them.

Perpetual
debentures.

75. A condition contained in any debentures or in any deed for securing any debentures, whether issued or executed before or after the commencement of this Ordinance, shall not be invalid by reason only that the debentures are thereby made irredeemable or redeemable only on the happening of a contingency however remote, or on the expiration of a period, however long, any rule of equity to the contrary notwithstanding.

Power to
re-issue
redeemed
debentures in
certain cases.

76. (1) Where either before or after the commencement of this Ordinance a company has redeemed any debentures previously issued, then—

- (a) unless any provision to the contrary, whether express or implied, is contained in the articles or in any contract entered into by the company; or
- (b) unless the company has, by passing a resolution to that effect or by some other act, manifested its intention that the debentures shall be cancelled,

the company shall have, and shall be deemed always to have had, power to re-issue the debentures, either by re-issuing the same debentures or by issuing other debentures in their place.

(2) On a re-issue of redeemed debentures the person entitled to the debentures shall have, and shall be deemed always to have had, the same priorities as if the debentures had never been redeemed.

(3) Where a company has power to re-issue debentures which have been redeemed, particulars with respect to the debentures which can be so re-issued shall be included in every balance sheet of the company.

(4) Where a company has either before or after the commencement of this Ordinance deposited any of its debentures to secure advances from time to time on current account or otherwise, the debentures shall not be deemed to have been redeemed by reason only of the account of the company having ceased to be in debit whilst the debentures remained so deposited.

(5) The re-issue of a debenture or the issue of another debenture in its place under the power by this section given to, or deemed to have been possessed by, a company, whether the re-issue or issue was made before or after the commencement of this Ordinance, shall be treated as the issue of a new debenture for the purposes of stamp duty, but it shall not be so treated for the purposes of any provision limiting the amount or number of debentures to be issued :

Provided that any person lending money on the security of a debenture re-issued under this section which appears to be duly stamped may give the debenture in evidence in any proceedings for enforcing his security without payment of the stamp duty or any penalty in respect thereof, unless he had notice or, but for his negligence, might have discovered, that the debenture was not duly stamped, but in any such case the company shall be liable to pay the proper stamp duty and penalty.

(6) Where any debentures which have been redeemed before the date of the commencement of this Ordinance are re-issued subsequently to that date, the re-issue of the debentures shall not prejudice any right or priority which any person would have had under or by virtue of any mortgage or charge created before the date of the commencement of this Ordinance, if section 127 of the Companies Ordinance had been enacted in this Ordinance instead of this section. *Cap. 93.*

77. A contract with a company to take up and pay for any debentures of the company may be enforced by a decree for specific performance.

Specific performance of contracts to subscribe for debentures.

Payment of
certain debts
out of assets
subject to
floating
charge in
priority to
claims under
the charge.

78. (1) Where either a receiver is appointed on behalf of the holders of any debentures of the company secured by a floating charge, or possession is taken by or on behalf of those debenture holders of any property comprised in or subject to the charge; then, if the company is not at the time in course of being wound up, the debts which in every winding-up are under the provisions of Part VI of this Ordinance relating to preferential payments to be paid in priority to all other debts, shall be paid out of any assets coming to the hands of the receiver or other person taking possession as aforesaid in priority to any claim for principal or interest in respect of the debentures.

(2) The periods of time mentioned in the said provisions of Part VI of this Ordinance shall be reckoned from the date of the appointment of the receiver or of possession being taken as aforesaid, as the case may be.

(3) Any payments made under this section shall be recouped as far as may be out of the assets of the company available for payment of general creditors.

PART IV.

REGISTRATION OF CHARGES.

Registration of Charges with Registrar.

Registration
of charges.

79. (1) Subject to the provisions of this Part of this Ordinance, every charge created after the fixed date by a company registered in the Colony and being a charge to which this section applies shall, so far as any security on the company's property or undertaking is conferred thereby, be void against the liquidator and any creditor of the company, unless the prescribed particulars of the charge, together with the instrument, if any, by which the charge is created or evidenced, or a copy thereof verified in the prescribed manner are delivered to or received by the registrar for registration in manner required by this Ordinance within forty-two days after date of its creation, but without prejudice to any contract or obligation for repayment of the money thereby secured, and when a charge becomes void under this section the money secured thereby shall immediately become payable.

(2) This section applies to the following charges—

- (a) a charge for the purpose of securing any issue of debentures;
- (b) a charge on uncalled share capital of the company;

- (c) a charge created or evidenced by an instrument which, if executed by an individual, would require registration as an instrument under the Chattels Transfer No. 24 of 1930. Ordinance, 1930;
- (d) a charge on immovable property, wherever situate, or any interest therein;
- (e) a charge on book debts of the company;
- (f) a floating charge on the undertaking or property of the company;
- (g) a charge on calls made but not paid;
- (h) a charge on a ship or any share in a ship;
- (i) a charge on goodwill, on a patent or a licence under a patent, on a trade mark or on a copyright or a licence under a copyright.

(3) In the case of a charge created out of the Colony comprising solely property situate outside the Colony, the delivery to and the receipt by the registrar of a copy verified in the prescribed manner of the instrument by which the charge is created or evidenced, shall have the same effect for the purposes of this section as the delivery and receipt of the instrument itself, and forty-two days after the date on which the instrument or copy could, in due course of post, and if despatched with due diligence, have been received in the Colony, shall be substituted for forty-two days after the date of the creation of the charge, as the time within which the particulars and instrument or copy are to be delivered to the registrar.

(4) Where a charge is created in the Colony but comprises property outside the Colony, the instrument creating or purporting to create the charge may be sent for registration under this section notwithstanding that further proceedings may be necessary to make the charge valid or effectual according to the law of the country in which the property is situate.

(5) ~~Where a charge comprises property situate outside the Colony and registration in the country where the property is situate is necessary to make the charge valid or effectual according to the law of that country, the delivery to and the receipt by the registrar of a copy verified in the prescribed manner of the instrument by which the charge is created or evidenced, together with a certificate in the prescribed form stating that the charge was presented for registration in the~~ *Sec 24/34*

~~country where the property is situate on the date on which it was so presented shall, for the purposes of this section, have the same effect as the delivery and receipt of the instrument itself.~~

(6) Where a negotiable instrument has been given to secure the payment of any book debts of a company the deposit of the instrument for the purpose of securing an advance to the company shall not for the purposes of this section be treated as a charge on those book debts.

(7) The holding of debentures entitling the holder to a charge on immovable property shall not for the purposes of this section be deemed to be an interest in immovable property.

(8) Where a series of debentures containing, or giving by reference to any other instrument, any charge to the benefit of which the debenture holders of that series are entitled *pari passu* is created by a company, it shall for the purposes of this section be sufficient if there are delivered to or received by the registrar within forty-two days after the execution of the deed containing the charge or, if there is no such deed, after the execution of any debentures of the series, the following particulars—

- (a) the total amount secured by the whole series; and
- (b) the dates of the resolutions authorizing the issue of the series and the date of the covering deed, if any, by which the security is created or defined; and
- (c) a general description of the property charged; and
- (d) the names of the trustees, if any, for the debenture holders,

together with the deed containing the charge or a copy thereof verified in the prescribed manner, or, if there is no such deed, one of the debentures of the series :

Provided that, where more than one issue is made of debentures in the series, there shall be sent to the registrar for entry in the register particulars of the date and amount of each issue, but an omission to do this shall not affect the validity of the debentures issued.

(9) Where any commission, allowance or discount has been paid or made either directly or indirectly by a company to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any

debentures of the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any such debentures, the particulars required to be sent for registration under this section shall include particulars as to the amount or rate per cent of the commission, discount or allowance so paid or made, but omission to do this shall not affect the validity of the debentures issued :

Provided that the deposit of any debentures as security for any debt of the company shall not for the purposes of this sub-section be treated as the issue of the debentures at a discount.

(10) In this Part of this Ordinance—

(a) the expression "charge" includes mortgage;

(b) the expression "the fixed date" means in relation to the charges specified in paragraphs (a) to (f), both inclusive, of sub-section (2) of this section, the 1st day of April, 1922, and in relation to the charges specified in paragraphs (g) to (i), both inclusive, of the said sub-section, the commencement of this Ordinance.

80. (1) It shall be the duty of a company to send to the registrar for registration the particulars of every charge created by the company and of the issues of debentures of a series, requiring registration under the last foregoing section, but registration of any such charge may be effected on the application of any person interested therein.

Duty of company to register charges created by company.

(2) Where registration is effected on the application of some person other than the company, that person shall be entitled to recover from the company the amount of any fees properly paid by him to the registrar on registration.

(3) If any company makes default in sending to the registrar for registration the particulars of any charge created by the company, or of the issues of debentures of a series, requiring registration as aforesaid, then, unless the registration has been effected on the application of some other person, the company and every director, manager, secretary or other person who is knowingly a party to the default shall be liable to a fine not exceeding fifty pounds for every day during which the default continues.

Duty of
company to
register
charges
existing on
property
acquired.

81. (1) Where after the commencement of this Ordinance a company acquires any property which is subject to a charge of any such kind as would, if it had been created by the company after the acquisition of the property, have been required to be registered under this Part of this Ordinance, the company shall cause the prescribed particulars of the charge, together with a copy (certified in the prescribed manner to be a correct copy) of the instrument, if any, by which the charge was created or is evidenced, to be delivered to the registrar for registration in manner required by this Ordinance within thirty days after the date on which the acquisition is completed :

Provided that, if the property is situate and the charge was created outside the Colony, thirty days after the date on which the copy of the instrument could in due course of post, and if despatched with due diligence, have been received in the Colony, shall be substituted for thirty days after the completion of the acquisition as the time within which the particulars and the copy of the instrument are to be delivered to the registrar.

(2) If default is made in complying with this section the company and every officer of the company who is in default shall be liable to a default fine of fifty pounds.

Register of
charges to
be kept by
registrar.

82. (1) The registrar shall keep, with respect to each company, a register in the prescribed form of all the charges requiring registration under this Part of this Ordinance, and shall, on payment of the prescribed fee, enter in the register with respect to such charges the following particulars—

- (a) in the case of a charge to the benefit of which the holders of a series of debentures are entitled, such particulars as are specified in sub-section (8) of section 79 of this Ordinance ;
- (b) in the case of any other charge—
 - (i) if the charge is a charge created by the company, the date of its creation, and if the charge was a charge existing on property acquired by the company, the date of the acquisition of the property ; and
 - (ii) the amount secured by the charge ; and
 - (iii) short particulars of the property charged ; and
 - (iv) the persons entitled to the charge.

(2) The registrar shall give a certificate under his hand of the registration of any charge registered in pursuance of this Part of this Ordinance, stating the amount thereby secured, and the certificate shall be conclusive evidence that the requirements of this Part of this Ordinance as to registration have been complied with.

(3) The register kept in pursuance of this section shall be open to inspection by any person on payment of the prescribed fee, not exceeding one shilling for each inspection.

(4) The registrar shall keep a chronological index, in the prescribed form and with the prescribed particulars, of the charges entered in the register.

83. (1) The company shall cause a copy of every certificate of registration given under the last foregoing section to be endorsed on every debenture or certificate of debenture stock which is issued by the company, and the payment of which is secured by the charge so registered :

Endorsement
of certificate
of registration
on debentures.

Provided that nothing in this sub-section shall be construed as requiring a company to cause a certificate of registration of any charge so given to be endorsed on any debenture or certificate of debenture stock issued by the company before the charge was created.

(2) If any person knowingly and wilfully authorizes or permits the delivery of any debenture or certificate of debenture stock which under the provisions of this section is required to have endorsed on it a copy of a certificate of registration without the copy being so endorsed upon it, he shall, without prejudice to any other liability, be liable to a fine not exceeding one hundred pounds.

84. The registrar may, on evidence being given to his satisfaction that the debt for which any registered charge was given has been paid or satisfied, order that a memorandum of satisfaction be entered on the register, and shall, if required, furnish the company with a copy thereof.

Entry of
satisfaction.

85. The court, on being satisfied that the omission to register a charge within the time required by this Ordinance, or that the omission or mis-statement of any particular with

Rectification
of register of
charges.

respect to any such charge or in a memorandum of satisfaction, was accidental, or due to inadvertence or to some other sufficient cause, or is not of a nature to prejudice the position of creditors or shareholders of the company, or that on other grounds it is just and equitable to grant relief, may, on the application of the company or any person interested, and on such terms and conditions as seem to the court just and expedient, order that the time for registration shall be extended, or, as the case may be, that the omission or misstatement shall be rectified, and may make such order as to the costs of the application as it thinks fit.

Registration of
enforcement
of security.

36. (1) If any person obtains an order for the appointment of a receiver or manager of the property of a company, or appoints such a receiver or manager under any powers contained in any instrument, he shall, within seven days from the date of the order or of the appointment under the said powers, give notice of the fact to the registrar, and the registrar shall, on payment of the prescribed fee, enter the fact in the register of charges.

(2) Where any person appointed receiver or manager of the property of a company under the powers contained in any instrument ceases to act as such receiver or manager, he shall, on so ceasing, give the registrar notice to that effect, and the registrar shall enter the notice in the register of charges.

(3) If any person makes default in complying with the requirements of this section, he shall be liable to a fine not exceeding five pounds for every day during which the default continues.

Provisions as to Company's Register of Charges and as to Copies of Instruments creating Charges.

Copies of
instruments
creating
charges to
be kept by
company.

87. Every company shall cause a copy of every instrument creating any charge requiring registration under this Part of this Ordinance to be kept at the registered office of the company :

Provided that, in the case of a series of uniform debentures, a copy of one debenture of the series shall be sufficient.

88. (1) Every limited company shall keep at the registered office of the company a register of charges and enter therein all charges specifically affecting property of the company and all floating charges on the undertaking or any property of the company, giving in each case a short description of the property charged, the amount of the charge, and, except in the case of securities to bearer, the names of the persons entitled thereto.

Company's
register of
charges.

(2) If any director, manager, or other officer of the company knowingly and wilfully authorizes or permits the omission of any entry required to be made in pursuance of this section, he shall be liable to a fine not exceeding fifty pounds.

89. (1) The copies of instruments creating any charge requiring registration under this Part of this Ordinance with the registrar, and the register of charges kept in pursuance of the last foregoing section, shall be open during business hours (but subject to such reasonable restrictions as the company in general meeting may impose, so that not less than two hours in each day shall be allowed for inspection) to the inspection of any creditor or member of the company without fee, and the register of charges shall also be open to the inspection of any other person on payment of such fee, not exceeding one shilling for each inspection, as the company may prescribe.

Right to
inspect copies
of instruments
creating
mortgages and
charges and
company's
register of
charges.

(2) If inspection of the said copies or register is refused, any officer of the company refusing inspection, and every director and manager of the company authorizing or knowingly and wilfully permitting the refusal, shall be liable to a fine not exceeding five pounds, and a further fine not exceeding two pounds for every day during which the refusal continues, and the court may by order compel an immediate inspection of the copies or register.

*Application of Part IV to Companies incorporated
outside the Colony.*

90. The provisions of this Part of this Ordinance shall extend to charges on property in the Colony which are created, and to charges on property in the Colony which is acquired, after the commencement of this Ordinance by a company (whether a company within the meaning of this Ordinance or not) incorporated outside the Colony which has an established place of business in the Colony.

Application of
Part IV to
charges
created, and
property sub-
ject to charge
acquired by
company
incorporated
outside the
Colony

Transitional Provision as to matters required to be registered under this Ordinance, but not under the former Ordinance.

Provision as to charges created, and charges on property acquired, by company before commencement of Ordinance.

91. (1) It shall be the duty of a company within six months after the commencement of this Ordinance to send to the registrar for registration the prescribed particulars of—

- (a) any charge created by the company before the date of the commencement of this Ordinance and remaining unsatisfied at that date, which would have been required to be registered under the provisions of paragraphs (g), (h) and (i) of sub-section (2) of section 79 of this Ordinance or under the provisions of section 90 of this Ordinance, if the charge had been created after the commencement of this Ordinance; and
- (b) any charge to which any property acquired by the company before the commencement of this Ordinance is subject and which would have been required to be registered under the provisions of section 81 of this Ordinance or under the provisions of section 90 of this Ordinance, if the property had been acquired after the commencement of this Ordinance.

(2) The registrar, on payment of the prescribed fee, shall enter the said particulars on the register kept by him in pursuance of this Part of this Ordinance.

(3) If a company fails to comply with this section, the company and every director, manager, secretary or other officer of the company, or other person who is knowingly a party to the default, shall be liable to a fine not exceeding fifty pounds for every day during which the default continues :

Provided that the failure of the company shall not prejudice any rights which any person in whose favour the charge was made may have thereunder.

(4) For the purposes of this section, the expression "company" includes a company (whether a company within the meaning of this Ordinance or not) incorporated outside the Colony which has an established place of business in the Colony.

PART V.

MANAGEMENT AND ADMINISTRATION.

Registered Office and Name.

92. (1) A company shall, as from the day on which it begins to carry on business or as from the twenty-eighth day after the date of its incorporation, whichever is the earlier, have a registered office to which all communications and notices may be addressed. Registered office of company.

(2) Notice of the situation of the registered office, and of any change therein, shall be given within twenty-eight days after the date of the incorporation of the company or of the change, as the case may be, to the registrar, who shall record the same.

The inclusion in the annual return of a company of a statement as to the address of its registered office shall not be taken to satisfy the obligation imposed by this sub-section.

(3) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine.

93. (1) Every company—

Publication of name of company.

- (a) shall paint or affix, and keep painted or affixed, its name on the outside of every office or place in which its business is carried on, in a conspicuous position, in letters easily legible, and in Roman letters;
- (b) shall have its name engraven in legible Roman letters on its seal;
- (c) shall have its name mentioned in legible Roman letters in all notices, advertisements, and other official publications of the company, and in all bills of exchange, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed by or on behalf of the company, and in all bills of parcels, invoices, receipts and letters of credit of the company.

(2) If a company does not paint or affix its name in manner directed by this Ordinance, the company and every officer of the company who is in default shall be liable to a fine not exceeding five pounds, and if a company does not keep its

name painted or affixed in manner so directed, the company and every officer of the company who is in default shall be liable to a default fine.

(3) If a company fails to comply with paragraph (b) or paragraph (c) of sub-section (1) of this section, the company shall be liable to a fine not exceeding fifty pounds.

(4) If a director, manager, or officer of a company, or any person on its behalf—

- (a) uses or authorizes the use of any seal purporting to be a seal of the company, whereon its name is not so engraven as aforesaid; or
- (b) issues or authorizes the issue of any notice, advertisement, or other official publication of the company, or signs or authorizes to be signed on behalf of the company any bill of exchange, promissory note, endorsement, cheque or order for money or goods, wherein its name is not mentioned in manner aforesaid; or
- (c) issues or authorizes the issue of any bill of parcels, invoice, receipt or letter of credit of the company, wherein its name is not mentioned in manner aforesaid,

he shall be liable to a fine not exceeding fifty pounds, and shall further be personally liable to the holder of the bill of exchange, promissory note, cheque or order for money or goods, for the amount thereof, unless it is duly paid by the company.

Statement of Amount of Paid-up Capital.

Statement
of amount
of capital
subscribed
and amount
paid up.

94. (1) Where any notice, advertisement or other official publication of a company contains a statement of the amount of the authorized capital of the company, such notice, advertisement, or other official publication shall also contain a statement in an equally prominent position and in equally conspicuous characters of the amount of the capital which has been subscribed and the amount paid up.

(2) Any company which makes default in complying with the requirements of this section and every officer who is in default shall be liable to a fine not exceeding fifty pounds.

Restrictions on Commencement of Business.

95. (1) Where a company having a share capital has issued a prospectus inviting the public to subscribe for its shares, the company shall not commence any business or exercise any borrowing powers unless—

Restrictions
on com-
mencement
of business.

- (a) shares held subject to the payment of the whole amount thereof in cash have been allotted to an amount not less in the whole than the minimum subscription; and
- (b) every director of the company has paid to the company, on each of the shares taken or contracted to be taken by him and for which he is liable to pay in cash, a proportion equal to the proportion payable on application and allotment on the shares offered for public subscription; and
- (c) there has been delivered to the registrar for registration a statutory declaration by the secretary or one of the directors, in the prescribed form, that the aforementioned conditions have been complied with.

(2) Where a company having a share capital has not issued a prospectus inviting the public to subscribe for its shares, the company shall not commence any business or exercise any borrowing powers, unless—

- (a) there has been delivered to the registrar for registration a statement in lieu of prospectus; and
- (b) every director of the company has paid to the company, on each of the shares taken or contracted to be taken by him and for which he is liable to pay in cash, a proportion equal to the proportion payable on application and allotment on the shares payable in cash; and
- (c) there has been delivered to the registrar for registration a statutory declaration by the secretary or one of the directors in the prescribed form that paragraph (b) of this sub-section has been complied with.

(3) The registrar shall, on the delivery to him of the said statutory declaration, and, in the case of a company which is required by this section to deliver a statement in lieu of prospectus, of such a statement, certify that the company is entitled to commence business, and that certificate shall be conclusive evidence that the company is so entitled.

(4) Any contract made by a company before the date at which it is entitled to commence business shall be provisional only, and shall not be binding on the company until that date, and on that date it shall become binding.

(5) Nothing in this section shall prevent the simultaneous offer for subscription or allotment of any shares and debentures or the receipt of any money payable on application for debentures.

(6) If any company commences business or exercises borrowing powers in contravention of this section, every person who is responsible for the contravention shall, without prejudice to any other liability, be liable to a fine not exceeding fifty pounds for every day during which the contravention continues.

(7) Nothing in this section shall apply to a private company or to a company registered before the 15th day of June, 1903, which does not issue a prospectus inviting the public to subscribe for its shares.

Register of Members.

Register of
members.

96. (1) Every company shall keep in one or more books a register of its members, and enter therein the following particulars—

- (a) the names and addresses, and the occupations, if any, of the members, and in the case of a company having a share capital a statement of the shares held by each member, distinguishing each share by its number, and of the amount paid or agreed to be considered as paid on the shares of each member ;
- (b) the date at which each person was entered in the register as a member ;
- (c) the date at which any person ceased to be a member :

Provided that, where the company has converted any of its shares into stock and given notice of the conversion to the registrar, the registrar shall show the amount of stock held by each member instead of the amount of shares and the particulars relating to shares specified in paragraph (a) of this sub-section.

(2) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine.

97. (1) Every company having more than fifty members shall, unless the register of members is in such a form as to constitute in itself an index, keep an index of the names of the members of the company, and shall, within fourteen days after the date on which any alteration is made in the register of members, make any necessary alteration in the index.

Index of
members of
company.

(2) The index, which may be in the form of a card index, shall in respect of each member contain a sufficient indication to enable the account of that member in the register to be readily found.

(3) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine.

98. (1) On the issue of a share warrant the company shall strike out of its register of members the name of the member then entered therein as holding the shares specified in the warrant as if he had ceased to be a member, and shall enter in the register the following particulars, namely—

Provisions as
to entries in
register in
relation to
share
warrants.

(a) the fact of the issue of the warrant;

(b) a statement of the shares included in the warrant, distinguishing each share by its number; and

(c) the date of the issue of the warrant.

(2) The bearer of a share warrant shall, subject to the articles of the company, be entitled, on surrendering it for cancellation, to have his name entered as a member in the register of members.

(3) The company shall be responsible for any loss incurred by any person by reason of the company entering in the register the name of a bearer of a share warrant in respect of the shares therein specified without the warrant being surrendered and cancelled.

(4) Until the warrant is surrendered, the particulars specified in sub-section (1) of this section shall be deemed to be the particulars required by this Ordinance to be entered in the register of members, and, on the surrender, the date of the surrender must be entered.

(5) Subject to the provisions of this Ordinance, the bearer of a share warrant may, if the articles of the company so provide, be deemed to be a member of the company within the meaning of this Ordinance, either to the full extent or for any purposes defined in the articles.

Inspection of
register of
members.

99. (1) The register of members, commencing from the date of the registration of the company, and the index of the names of members, shall be kept at the registered office of the company, and, except when the register is closed under the provisions of this Ordinance, shall during business hours (subject to such reasonable restrictions as the company in general meeting may impose, so that not less than two hours in each day be allowed for inspection) be open to the inspection of any member without charge and of any other person on payment of one shilling, or such less sum as the company may prescribe, for each inspection.

(2) Any member or other person may require a copy of the register, or of any part thereof, on payment of one shilling, or such less sum as the company may prescribe, for every hundred words or fractional part thereof required to be copied.

The company shall cause any copy so required by any person to be sent to that person within a period of ten days commencing on the day next after the day on which the requirement is received by the company.

(3) If any inspection required under this section is refused or if any copy required under this section is not sent within the proper period, the company and every officer of the company who is in default shall be liable in respect of each offence to a fine not exceeding two pounds, and further to a default fine of two pounds.

(4) In the case of any such refusal or default, the court may by order compel an immediate inspection of the register and index or direct that the copies required shall be sent to the persons requiring them.

Power to
close register.

100. A company may, on giving notice by advertisement in some newspaper circulating in the district in which the registered office of the company is situate, close the register of members for any time or times not exceeding in the whole thirty days in each year.

Power of court
to rectify
register.

101. (1) If—

- (a) the name of any person is, without sufficient cause, entered in or omitted from the register of members of a company; or
- (b) default is made or unnecessary delay takes place in entering on the register the fact of any person having ceased to be a member,

the person aggrieved, or any member of the company, or the company, may apply to the court for rectification of the register.

(2) Where an application is made under this section, the court may either refuse the application, or may order rectification of the register and payment by the company of any damages sustained by any party aggrieved.

(3) On an application under this section the court may decide any question relating to the title of any person who is a party to the application to have his name entered in or omitted from the register, whether the question arises between members or alleged members, or between members or alleged members on the one hand and the company on the other hand, and generally may decide any question necessary or expedient to be decided for rectification of the register.

(4) In the case of a company required by this Ordinance to send a list of its members to the registrar the court, when making an order for rectification of the register, shall by its order direct notice of the rectification to be given to the registrar.

102. No notice of any trust, expressed, implied or constructive, shall be entered on the register, or be receivable by the registrar. Trusts not to be entered on register.

103. The register of members shall be prima facie evidence of any matters by this Ordinance directed or authorized to be inserted therein. Register to be evidence.

Branch Register.

104. (1) A company having a share capital may, if so authorized by its articles, cause to be kept in the United Kingdom or in any part of His Majesty's dominions a branch register of members resident in the United Kingdom, or in that part of His Majesty's dominions as the case may be (in this Ordinance called a "branch register"). Power for company to keep branch register.

(2) The company shall give to the registrar notice of the situation of the office where any branch register is kept and of any change in its situation, and if it is discontinued of its discontinuance, and any such notice shall be given within one month of the opening of the office or of the change or discontinuance, as the case may be.

(3) If default is made in complying with sub-section (2) of this section, the company and every officer of the company who is in default shall be liable to a default fine.

(4) For the purposes of this section the expression "His Majesty's dominions" includes any territory which is under His Majesty's protection or in respect of which a mandate under the League of Nations has been accepted by His Majesty.

Regulations
as to branch
register.

105. (1) A branch register shall be deemed to be part of the company's register of members (in this and the next following section called "the principal register").

(2) It shall be kept in the same manner in which the principal register is by this Ordinance required to be kept, except that the advertisement before closing the register shall be inserted in some newspaper circulating in the district where the branch register is kept.

(3) The company shall transmit to its registered office in the Colony a copy of every entry in its branch register as soon as may be after the entry is made, and shall cause to be kept at its registered office, duly entered up from time to time, a duplicate of its branch register.

Every such duplicate shall, for all the purposes of this Ordinance, be deemed to be part of the principal register.

(4) Subject to the provisions of this section with respect to the duplicate register, the shares registered in a branch register shall be distinguished from the shares registered in the principal register, and no transaction with respect to any shares registered in a branch register shall, during the continuance of that registration, be registered in any other register.

(5) A company may discontinue to keep a branch register, and thereupon all entries in that register shall be transferred to the principal register.

(6) Subject to the provisions of this Ordinance, any company may, by its articles, make such provisions as it may think fit respecting the keeping of branch registers.

(7) If default is made in complying with sub-section (3) of this section, the company and every officer of the company who is in default shall be liable to a default fine.

106. An instrument of transfer of a share registered in a branch register, shall be deemed to be a transfer of property situate out of the Colony, and, unless executed in any part of the Colony shall be exempt from stamp duty chargeable in the Colony.

Stamp duties
in case of
shares
registered in
branch
registers.

107. (1) If by virtue of the law in force in the United Kingdom or in any part of His Majesty's dominions companies incorporated under that law have power to keep in the Colony branch registers of their members resident in the Colony, the Governor in Council may by order published in the Gazette direct that sections 99 and 101 of this Ordinance shall, subject to any modifications and adaptations specified in the order, apply to and in relation to any such branch registers kept in the Colony as they apply to and in relation to the registers of companies within the meaning of this Ordinance.

Provisions
as to branch
registers kept
in the United
Kingdom
and the
Dominions.

(2) For the purposes of this section, the expression "His Majesty's dominions" includes any territory which is under His Majesty's protection or in respect of which a mandate under the League of Nations has been accepted by His Majesty.

Annual Return.

108. (1) Every company having a share capital shall once at least in every year make a return containing a list of all persons who, on the fourteenth day after the first or only ordinary general meeting in the year, are members of the company, and of all persons who have ceased to be members since the date of the last return or, in the case of the first return, of the incorporation of the company.

Annual
return to be
made by
company
having a
share capital.

(2) The list must state the names, addresses and occupations of all the past and present members therein mentioned, and the number of shares held by each of the existing members at the date of the return, specifying shares transferred since the date of the last return or, in the case of the first return, of the incorporation of the company by persons who are still members and have ceased to be members respectively and the dates of registration of the transfers, and, if the names therein are not arranged in alphabetical order, must have annexed to it an index sufficient to enable the name of any person in the list to be readily found:

Provided that, where the company has converted any of its shares into stock and given notice of the conversion to the registrar, the list must state the amount of stock held

by each of the existing members instead of the amount of shares and the particulars relating to shares hereinbefore required.

(3) The return must also state the address of the registered office of the company and must contain a summary distinguishing between shares issued for cash and shares issued as fully or partly paid up otherwise than in cash, and specifying the following particulars—

- (a) the amount of the share capital of the company, and the number of the shares into which it is divided ;
- (b) the number of shares taken from the commencement of the company up to the date of the return ;
- (c) the amount called up on each share ;
- (d) the total amount of calls received ;
- (e) the total amount of calls unpaid ;
- (f) the total amount of the sums, if any, paid by way of commission in respect of any shares or debentures ;
- (g) particulars of the discount allowed on the issue of any shares issued at a discount, or of so much of that discount as has not been written off at the date on which the return is made ;
- (h) the total amount of the sums, if any, allowed by way of discount in respect of any debentures, since the date of the last return ;
- (i) the total number of shares forfeited ;
- (k) the total amount of shares for which share warrants are outstanding at the date of the return ;
- (l) the total amount of share warrants issued and surrendered respectively since the date of the last return ;
- (m) the number of shares comprised in each share warrant ;
- (n) all such particulars with respect to the persons who at the date of the return are the directors of the company as are by this Ordinance required to be contained with respect to directors in the register of the directors of a company ;

- (c) the total amount of the indebtedness of the company in respect of all mortgages and charges which are required to be registered with the registrar under this Ordinance or which would have been required so to be registered if created after the 1st day of April, 1922.

(4) The return shall be in accordance with the form set out in the Fifth Schedule to this Ordinance, or as near thereto as circumstances admit.

(5) In the case of a company keeping a branch register, the particulars of the entries in that register shall, so far as they relate to matters which are required to be stated in the return, be included in the return made next after copies of those entries are received at the registered office of the company.

109. (1) Every company not having a share capital shall once at least in every calendar year make a return stating—

(a) the address of the registered office of the company;

(b) all such particulars with respect to the persons who at the date of the return are the directors of the company as are by this Ordinance required to be contained with respect to directors in the register of directors of a company.

Annual
return to be
made by
company
not having
share capital.

(2) There shall be annexed to the return a statement containing particulars of the total amount of the indebtedness of the company in respect of all mortgages and charges which are required to be registered with the registrar under this Ordinance, or which would have been required so to be registered if created after the 1st day of April, 1922.

110. (1) The annual return must be contained in a separate part of the register of members, and must be completed within twenty-eight days after the first or only general meeting in the year, and the company must forthwith forward to the registrar a copy signed by a director or by the manager or by the secretary of the company.

General
provisions as
to annual
returns.

(2) Section 99 of this Ordinance shall apply to the annual return as it applies to the register of members.

(3) Except where the company is a private company, the annual return shall include a written copy, certified by a director or the manager or secretary of the company to be a true copy, of the last balance sheet which has been audited by the company's auditors, including every document required

by law to be annexed thereto, together with a copy of the report of the auditors thereon certified as aforesaid, and if any such balance sheet is in a foreign language there shall also be annexed to it a translation thereof in English, certified in the prescribed manner to be a correct translation :

Provided that, if the said last balance sheet did not comply with the requirements of the law as in force at the date of the audit with respect to the form of balance sheets there shall be made such additions to and corrections in the said copy as would have been required to be made in the said balance sheet in order to make it comply with the said requirements, and the fact that the said copy has been so amended shall be stated thereon.

(4) If a company fails to comply with this section or either of the two last foregoing sections of this Ordinance, the company and every officer of the company who is in default shall be liable to a default fine.

(5) For the purposes of sub-section (4) of this section, the expression "officer," and for the purposes of the last two foregoing sections of this Ordinance the expression "director," shall include any person in accordance with whose directions or instructions the directors of the company are accustomed to act.

Certificates
to be sent
by private
company
with annual
return.

111. A private company shall send with the annual return required by section 108 of this Ordinance a certificate signed by a director or the secretary of the company that the company has not, since the date of the last return or, in the case of a first return, since the date of the incorporation of the company, issued any invitation to the public to subscribe for any shares or debentures of the company, and, where the annual return discloses the fact that the number of members of the company exceeds fifty, also a certificate so signed that the excess consists wholly of persons who under paragraph (b) of sub-section (1) of section 27 of this Ordinance, are not to be included in reckoning the number of fifty.

Meetings and Proceedings.

Annual general
meeting.

112. (1) A general meeting of every company shall be held once at the least in every calendar year, and not more than fifteen months after the holding of the last preceding general meeting.

(2) If default is made in holding a meeting of the company in accordance with the provisions of this section, the company, and every director or manager of the company who is knowingly a party to the default shall be liable to a fine not exceeding fifty pounds.

(3) If default is made as aforesaid, the court may, on the application of any member of the company, call, or direct the calling of, a general meeting of the company.

113. (1) Every company limited by shares and every company limited by guarantee and having a share capital shall, within a period of not less than one month nor more than three months from the date at which the company is entitled to commence business, hold a general meeting of the members of the company, which shall be called "the statutory meeting."

Statutory
meeting and
statutory
report.

(2) The directors shall, at least fourteen days before the day on which the meeting is held, forward a report (in this Ordinance referred to as "the statutory report") to every member of the company.

(3) The statutory report shall be certified by not less than two directors of the company or, where there are less than two directors, by the sole director and manager, and shall state—

- (a) the total number of shares allotted, distinguishing shares allotted as fully or partly paid up otherwise than in cash, and stating in the case of shares partly paid up the extent to which they are so paid up, and in either case the consideration for which they have been allotted;
- (b) the total amount of cash received by the company in respect of all the shares allotted, distinguished as aforesaid;
- (c) an abstract of the receipts of the company and of the payments made thereout, up to a date within seven days of the date of the report, exhibiting under distinctive headings the receipts of the company from shares and debentures and other sources, the payments made thereout, and particulars concerning the balance remaining in hand, and an account or estimate of the preliminary expenses of the company;

(d) the names, addresses and descriptions of the directors, auditors, if any, managers, if any, and secretary of the company; and

(e) the particulars of any contract, the modification of which is to be submitted to the meeting for its approval, together with the particulars of the modification or proposed modification.

(4) The statutory report shall, so far as it relates to the shares allotted by the company, and to the cash received in respect of such shares, and to the receipts and payments of the company on capital account, be certified as correct by the auditors, if any, of the company.

(5) The directors shall cause a copy of the statutory report, certified as required by this section, to be delivered to the registrar for registration forthwith after the sending thereof to the members of the company.

(6) The directors shall cause a list showing the names, descriptions and addresses of the members of the company, and the number of shares held by them respectively, to be produced at the commencement of the meeting, and to remain open and accessible to any member of the company during the continuance of the meeting.

(7) The members of the company present at the meeting shall be at liberty to discuss any matter relating to the formation of the company, or arising out of the statutory report, whether previous notice has been given or not, but no resolution of which notice has not been given in accordance with the articles may be passed.

(8) The meeting may adjourn from time to time, and at any adjourned meeting any resolution of which notice has been given in accordance with the articles either before or subsequently to the former meeting, may be passed, and the adjourned meeting shall have the same powers as an original meeting.

(9) In the event of any default in complying with the provisions of this section every director of the company who is guilty of or who knowingly and wilfully authorizes or permits the default shall be liable to a fine not exceeding fifty pounds.

(10) This section shall not apply to a private company.

114. (1) The directors of a company, notwithstanding anything in its articles, shall, on the requisition of members of the company holding at the date of the deposit of the requisition not less than one-tenth of such of the paid-up capital of the company as at the date of the deposit carries the right of voting at general meetings of the company or, in the case of a company not having a share capital, members of the company representing not less than one-tenth of the total voting rights of all the members having at the said date a right to vote at general meetings of the company, forthwith proceed duly to convene an extraordinary general meeting of the company.

Convening of
extraordinary
general
meeting on
requisition.

(2) The requisition must state the objects of the meeting, and must be signed by the requisitionists and deposited at the registered office of the company, and may consist of several documents in like form, each signed by one or more requisitionists.

(3) If the directors do not within twenty-one days from the date of the deposit of the requisition proceed duly to convene a meeting, the requisitionists, or any of them representing more than one-half of the total voting rights of all of them, may themselves convene a meeting, but any meeting so convened shall not be held after the expiration of three months from the said date.

(4) A meeting convened under this section by the requisitionists shall be convened in the same manner, as nearly as possible, as that in which meetings are to be convened by directors.

(5) Any reasonable expenses incurred by the requisitionists by reason of the failure of the directors duly to convene a meeting shall be repaid to the requisitionists by the company, and any sum so repaid shall be retained by the company out of any sums due or to become due from the company by way of fees or other remuneration in respect of their services to such of the directors as were in default.

(6) For the purposes of this section, the directors shall, in the case of a meeting at which a resolution is to be proposed as a special resolution, be deemed not to have duly convened the meeting if they do not give such notice thereof as is required by section 117 of this Ordinance.

Provisions as
to meetings
and votes.

115. (1) The following provisions shall have effect in so far as the articles of the company do not make other provision in that behalf—

- (a) a meeting of a company, other than a meeting for the passing of a special resolution, may be called by fourteen days' notice in writing;
- (b) notice of the meeting of a company shall be served on every member of the company in the manner in which notices are required to be served by Table A. and for the purpose of this paragraph the expression "Table A" means that Table as for the time being in force;
- (c) two or more members holding not less than one-tenth of the issued share capital or, if the company has not a share capital, not less than five per cent in number of the members of the company may call a meeting;
- (d) in the case of a private company two members, and in the case of any other company three members, personally present shall be a quorum;
- (e) any member elected by the members present at a meeting may be chairman thereof;
- (f) in the case of a company originally having a share capital, every member shall have one vote in respect of each share or each ten pounds of stock held by him, and in any other case every member shall have one vote.

(2) If for any reason it is impracticable to call a meeting of a company in any manner in which meetings of that company may be called, or to conduct the meeting of the company in manner prescribed by the articles or this Ordinance, the court may, either of its own motion or on the application of any director of the company or of any member of the company who would be entitled to vote at the meeting, order a meeting of the company to be called, held and conducted in such manner as the court thinks fit, and where any such order is made may give such ancillary or consequential directions as it thinks expedient, and any meeting called, held and conducted in accordance with any such order shall for all purposes be deemed to be a meeting of the company duly called, held and conducted.

116. (1) A corporation, whether a company within the meaning of this Ordinance or not, may—

Representa-
tion of
companies at
meetings of
other com-
panies and
of creditors.

- (a) if it is a member of another corporation, being a company within the meaning of this Ordinance, by resolution of its directors or other governing body authorize such person as it thinks fit to act as its representative at any meeting of the company or at any meeting of any class of members of the company ;
- (b) if it is a creditor (including a holder of debentures) of another corporation, being a company within the meaning of this Ordinance, by resolution of its directors or other governing body authorize such person as it thinks fit to act as its representative at any meeting of any creditors of the company held in pursuance of this Ordinance or of any rules made thereunder, or in pursuance of the provisions contained in any debenture or trust deed, as the case may be.

(2) A person authorized as aforesaid shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual shareholder, creditor or holder of debentures, of that other company.

117. (1) A resolution shall be an extraordinary resolution when it has been passed by a majority of not less than three-fourths of such members as, being entitled so to do, vote in person or, where proxies are allowed, by proxy at a general meeting of which notice specifying the intention to propose the resolution as an extraordinary resolution has been duly given.

Provisions
as to extra-
ordinary
and special
resolutions.

(2) A resolution shall be a special resolution when it has been passed by such a majority as is required for the passing of an extraordinary resolution and at a general meeting of which not less than twenty-one days' notice, specifying the intention to propose the resolution as a special resolution, has been duly given :

Provided that, if all the members entitled to attend and vote at any such meeting so agree, a resolution may be proposed and passed as a special resolution at a meeting of which less than twenty-one days' notice has been given.

(3) At any meeting at which an extraordinary resolution or a special resolution is submitted to be passed, a declaration of the chairman that the resolution is carried shall, unless a poll is demanded, be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

(4) At any meeting at which an extraordinary resolution or a special resolution is submitted to be passed a poll shall be taken to be effectively demanded, if demanded—

(a) by such number of members for the time being entitled under the articles to vote at the meeting, as may be specified in the articles, so, however, that it shall not in any case be necessary for more than five members to make the demand; or

(b) if no provision is made by the articles with respect to the right to demand the poll, by three members so entitled or by one member or two members so entitled, if that member holds or those two members together hold not less than fifteen per cent of the paid-up share capital of the company.

(5) When a poll is demanded in accordance with this section, in computing the majority on the poll reference shall be had to the number of votes to which each member is entitled by virtue of this Ordinance or of the articles of the company.

(6) For the purposes of this section, notice of a meeting shall be deemed to be duly given and the meeting to be duly held when the notice is given and the meeting held in manner provided by this Ordinance or the articles.

Registration
and copies
of certain
resolutions
and agree-
ments.

118. (1) A printed copy of every resolution or agreement to which this section applies shall, within thirty days after the passing or making thereof, be forwarded to the registrar and recorded by him.

(2) Where articles have been registered, a copy of every such resolution or agreement for the time being in force shall be embodied in or annexed to every copy of the articles issued after the passing of the resolution or the making of the agreement.

(3) Where articles have not been registered, a printed copy of every such resolution or agreement shall be forwarded to any member at his request, on payment of one shilling or such less sum as the company may direct.

(4) This section shall apply to—

- (a) special resolutions;
- (b) extraordinary resolutions;
- (c) resolutions which have been agreed to by all the members of a company, but which, if not so agreed to, would not have been effective for their purpose unless, as the case may be, they had been passed as special resolutions or as extraordinary resolutions;
- (d) resolutions or agreements which have been agreed to by all the members of some class of shareholders, but which, if not so agreed to, would not have been effective for their purpose unless they had been passed by some particular majority or otherwise in some particular manner, and all resolutions or agreements which effectively bind all the members of any class of shareholders though not agreed to by all those members;
- (e) resolutions requiring a company to be wound up voluntarily, passed under paragraph (a) of sub-section (1) of section 221 of this Ordinance.

(5) If a company fails to comply with sub-section (1) of this section, the company and every officer of the company who is in default shall be liable to a default fine of two pounds.

(6) If a company fails to comply with sub-section (2) or sub-section (3) of this section, the company and every officer of the company who is in default shall be liable to a fine not exceeding one pound for each copy in respect of which default is made.

(7) For the purposes of the last two foregoing sub-sections, a liquidator of the company shall be deemed to be an officer of the company.

119. Where after the commencement of this Ordinance a resolution is passed at an adjourned meeting of—

- (a) a company;
- (b) the holders of any class of shares in a company;
- (c) the directors of a company,

Resolutions
passed at
adjourned
meetings.

the resolution shall for all purposes be treated as having been passed on the date on which it was in fact passed, and shall not be deemed to have been passed on any earlier date.

Minutes of
proceedings
of meetings
and directors.

120. (1) Every company shall cause minutes of all proceedings of general meetings, and where there are directors or managers, of all proceedings at meetings of its directors or of its managers, to be entered in books kept for that purpose.

(2) Any such minute if purporting to be signed by the chairman of the meeting at which the proceedings were had, or by the chairman of the next succeeding meeting, shall be evidence of the proceedings.

(3) Where minutes have been made in accordance with the provisions of this section of the proceedings at any general meeting of the company or meeting of directors or managers, then, until the contrary is proved, the meeting shall be deemed to have been duly held and convened, and all proceedings had thereat to have been duly had, and all appointments of directors, managers or liquidators, shall be deemed to be valid.

Inspection
of minute
books.

121. (1) The books containing the minutes of proceedings of any general meeting of a company held after the commencement of this Ordinance shall be kept at the registered office of the company, and shall during business hours (subject to such reasonable restrictions as the company may by its articles or in general meeting impose, so that not less than two hours in each day be allowed for inspection) be open to the inspection of any member without charge.

(2) Any member shall be entitled to be furnished within seven days after he has made a request in that behalf to the company with a copy of any such minutes as aforesaid at a charge not exceeding fifty cents for every hundred words.

(3) If any inspection required under this section is refused or if any copy required under this section is not sent within the proper time, the company and every officer of the company who is in default shall be liable in respect of each offence to a fine not exceeding two pounds and further to a default fine of two pounds.

(4) In the case of any such refusal or default, the court may by order compel an immediate inspection of the books in respect of all proceedings of general meetings or direct that the copies required shall be sent to the persons requiring them.

Accounts and Audit.

122. (1) Every company shall cause to be kept proper books of account with respect to— Keeping of books of account.

- (a) all sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place;
- (b) all sales and purchases of goods by the company;
- (c) the assets and liabilities of the company.

(2) The books of account shall be kept at the registered office of the company or at such other place as the directors think fit, and shall at all times be open to inspection by the directors.

(3) If any person being a director of a company fails to take all reasonable steps to secure compliance by the company with the requirements of this section, or has by his own wilful act been the cause of any default by the company thereunder, he shall, in respect of each offence, be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding two hundred pounds:

Provided that a person shall not be sentenced to imprisonment for an offence under this section unless, in the opinion of the court dealing with the case, the offence was committed wilfully.

123. (1) The directors of every company shall at some date not later than eighteen months after the incorporation of the company and subsequently once at least in every calendar year lay before the company in general meeting a profit and loss account or, in the case of a company not trading for profit, an income and expenditure account for the period, in the case of the first account, since the incorporation of the company, and, in any other case, since the preceding account, made up to a date not earlier than the date of the meeting by more than nine months or, in the case of a company carrying on business or having interests abroad, by more than twelve months: Profit and loss account and balance sheet.

Provided that the Governor in Council, if for any special reason he thinks fit so to do, may, in the case of any company, extend the period of eighteen months aforesaid, and in the case of any company and with respect to any year extend the periods of nine and twelve months aforesaid.

(2) The directors shall cause to be made out in every calendar year, and to be laid before the company in general meeting, a balance sheet as at the date to which the profit and loss account, or the income and expenditure account, as the case may be, is made up, and there shall be attached to every such balance sheet a report by the directors with respect to the state of the company's affairs, the amount, if any, which they recommend should be paid by way of dividend, and the amount, if any, which they propose to carry to the reserve fund, general reserve or reserve account shown specifically on the balance sheet, or to a reserve fund, general reserve or reserve account to be shown specifically on a subsequent balance sheet.

(3) If any person being a director of a company fails to take all reasonable steps to comply with the provisions of this section, he shall, in respect of each offence, be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding two hundred pounds :

Provided that a person shall not be sentenced to imprisonment for an offence under this section unless, in the opinion of the court dealing with the case, the offence was committed wilfully.

Contents of
balance sheet.

124. (1) Every balance sheet of a company shall contain a summary of the authorized share capital and of the issued share capital of the company, its liabilities and its assets, together with such particulars as are necessary to disclose the general nature of the liabilities and the assets of the company and to distinguish between the amounts respectively of the fixed assets and of the floating assets, and shall state how the values of the fixed assets have been arrived at.

(2) There shall be stated under separate headings in the balance sheet, so far as they are not written off—

- (a) the preliminary expenses of the company ; and
- (b) any expenses incurred in connexion with any issue of share capital or debentures ; and
- (c) if it is shown as a separate item in or is otherwise ascertainable from the books of the company, or from any contract for the sale or purchase of any property to be acquired by the company, or from any documents in the possession of the company relating to the stamp duty payable in respect of any such

contract or the conveyance of any such property, the amount of the good will and of any patents and trademarks as so shown or ascertained.

(3) Where any liability of the company is secured otherwise than by operation of law on any assets of the company, the balance sheet shall include a statement that that liability is so secured, but it shall not be necessary to specify in the balance sheet the assets on which the liability is secured.

(4) The provisions of this section are in addition to other provisions of this Ordinance requiring other matters to be stated in balance sheets.

125. Where any of the assets of a company consist of shares in, or amounts owing (whether on account of a loan or otherwise) from a subsidiary company or subsidiary companies, the aggregate amount of those assets, distinguishing shares and indebtedness, shall be set out in the balance sheet of the first-mentioned company, separately from all its other assets, and where a company is indebted, whether on account of a loan or otherwise, to a subsidiary company or subsidiary companies, the aggregate amount of that indebtedness shall be set out in the balance sheet of that company separately from all its other liabilities.

Assets consisting of shares in subsidiary companies to be set out separately in balance sheet.

126. (1) Where a company (in this section referred to as "the holding company") holds shares either directly or through a nominee in a subsidiary company or in two or more subsidiary companies, there shall be annexed to the balance sheet of the holding company a statement, signed by the persons by whom in pursuance of section 129 of this Ordinance the balance sheet is signed, stating how the profits and losses of the subsidiary company or, where there are two or more subsidiary companies, the aggregate profits and losses of those companies, have, so far as they concern the holding company, been dealt with in, or for the purposes of, the accounts of the holding company, and in particular how, and to what extent—

Balance sheet to include particulars as to subsidiary companies.

(a) provision has been made for the losses of a subsidiary company either in the accounts of that company or of the holding company, or of both; and

(b) losses of a subsidiary company have been taken into account by the directors of the holding company in arriving at the profits and losses of the holding company as disclosed in its accounts:

Provided that it shall not be necessary to specify in any such statement the actual amount of the profits or losses of any subsidiary company, or the actual amount of any part of any such profits or losses which has been dealt with in any particular manner.

(2) If in the case of a subsidiary company the auditor's report on the balance sheet of the company does not state without qualification that the auditors have obtained all the information and explanations they have required and that the balance sheet is properly drawn up so as to exhibit a true and correct view of the state of the company's affairs according to the best of their information and the explanations given to them and as shown by the books of the company, the statement which is to be annexed as aforesaid to the balance sheet of the holding company shall contain particulars of the manner in which the report is qualified.

(3) For the purposes of this section, the profits or losses of a subsidiary company mean the profits or losses shown in any accounts of the subsidiary company made up to a date within the period to which the accounts of the holding company relate, or, if there are no such accounts of the subsidiary company available at the time when the accounts of the holding company are made up, the profits or losses shown in the last previous accounts of the subsidiary company which became available within that period.

(4) If for any reason the directors of the holding company are unable to obtain such information as is necessary for the preparation of the statement aforesaid, the directors who sign the balance sheet shall so report in writing and their report shall be annexed to the balance sheet in lieu of the statement.

Meaning of
subsidiary
company.

127. (1) Where the assets of a company consist in whole or in part of shares in another company, whether held directly or through a nominee and whether that other company is a company within the meaning of this Ordinance or not, and—

- (a) the amount of the shares so held is at the time when the accounts of the holding company are made up more than fifty per cent of the issued share capital of that other company or such as to entitle the company to more than fifty per cent of the voting power in that other company: or

- (b) the company has power (not being power vested in it by virtue only of the provisions of a debenture trust deed or by virtue of shares issued to it for the purpose in pursuance of those provisions) directly or indirectly to appoint the majority of the directors of that other company,

that other company shall be deemed to be a subsidiary company within the meaning of this Ordinance, and the expression "subsidiary company" in this Ordinance means a company in the case of which the conditions of this section are satisfied.

(2) Where a company the ordinary business of which includes the lending of money holds shares in another company as security only, no account shall for the purpose of determining under this section whether that other company is a subsidiary company be taken of the shares so held.

128. (1) The accounts which in pursuance of this Ordinance are to be laid before every company in general meeting shall, subject to the provisions of this section, contain particulars showing—

Accounts to contain particulars as to loans to, and remuneration of, directors, etc.

- (a) the amount of any loans which during the period to which the accounts relate have been made either by the company or by any other person under a guarantee from or on a security provided by the company to any director or officer of the company, including any such loans which were repaid during the said period; and
- (b) the amount of any loans made in manner aforesaid to any director or officer at any time before the period aforesaid and outstanding at the expiration thereof; and
- (c) the total of the amount paid to the directors as remuneration for their services, inclusive of all fees, percentages or other emoluments, paid to or receivable by them by or from the company or by or from any subsidiary company.

(2) The provisions of sub-section (1) of this section with respect to loans shall not apply—

- (a) in the case of a company the ordinary business of which includes the lending of money, to a loan made by the company in the ordinary course of its business; or

(b) to a loan made by the company to any employee of the company if the loan does not exceed two thousand pounds and is certified by the directors of the company to have been made in accordance with any practice adopted or about to be adopted by the company with respect to loans to its employees.

(3) The provisions of sub-section (1) of this section with respect to the remuneration paid to directors shall not apply in relation to a managing director of the company, and in the case of any other director who holds any salaried employment or office in the company there shall not be required to be included in the said total amount any sums paid to him except sums paid by way of directors' fees.

(4) If in the case of any such accounts as aforesaid the requirements of this section are not complied with, it shall be the duty of the auditors of the company by whom the accounts are examined to include in their report on the balance sheet of the company, so far as they are reasonably able to do so, a statement giving the required particulars.

(5) In this section the expression "emoluments" includes fees, percentages and other payments made or consideration given, directly or indirectly, to a director as such, and the money value of any allowances or perquisites belonging to his office.

Signing of
balance sheet.

129. (1) Every balance sheet of a company shall be signed on behalf of the board by two of the directors of the company or, if there is only one director, by that director, and the auditors' report shall be attached to the balance sheet, and the report shall be read before the company in general meeting, and shall be open to inspection by any member.

(2) In the case of a banking company the balance sheet must be signed by the secretary or manager, if any, and where there are more than three directors of the company by at least three of those directors, and where there are not more than three directors by all the directors.

(3) When the total number of directors of the company for the time being in the Colony is less than the number of directors whose signatures are required by this section, the balance sheet shall be signed by all the directors for the time being in the Colony or, if there is only one director for

the time being in the Colony, by such director, but in such case there shall be sub-joined to the balance sheet a statement signed by such directors or director explaining the reason for non-compliance with the provisions of this section.

(4) If any copy of a balance sheet which has not been signed as required by this section is issued, circulated or published, or if any copy of a balance sheet is issued, circulated or published without having a copy of the auditors' report attached thereto, the company, and every director, manager, secretary or other officer of the company who is knowingly a party to the default, shall on conviction be liable to a fine not exceeding fifty pounds.

130. (1) In the case of a company not being a private company—

Right to
receive copies
of balance
sheets and
auditor's
report.

- (a) a copy of every balance sheet, including every document required by law to be annexed thereto, which is to be laid before the company in general meeting, together with a copy of the auditors' report shall, not less than fourteen days before the date of the meeting, be sent to all persons entitled to receive notices of general meetings of the company;
- (b) any member of the company, whether he is or is not entitled to have sent to him copies of the company's balance sheets, and any holder of debentures of the company, shall be entitled to be furnished on demand without charge with a copy of the last balance sheet of the company, including every document required by law to be annexed thereto, together with a copy of the auditors' report on the balance sheet.

If default is made in complying with paragraph (a) of this sub-section, the company and every officer of the company who is in default shall be liable to a fine not exceeding twenty pounds, and if, where any person makes a demand for a document with which he is by virtue of paragraph (b) of this sub-section entitled to be furnished, default is made in complying with the demand within seven days after the making thereof, the company and every director, manager, secretary or other officer of the company who is knowingly a party to the default shall be liable to a fine not exceeding five pounds for every day during which the default continues, unless it is proved that that person has already made a demand for and been furnished with a copy of the document.

(2) In the case of a company being a private company, any member shall be entitled to be furnished, within seven days after he has made a request in that behalf to the company, with a copy of the balance sheet and auditors' report at a charge not exceeding fifty cents for every hundred words.

If default is made in furnishing such a copy to any member who demands it and tenders to the company the amount of the proper charge therefor, the company and every officer of the company who is in default shall be liable to a default fine.

Banking and
certain other
companies to
publish
periodical
statement

131. (1) Every company, being a limited banking company or an insurance company or a deposit, provident or benefit society, shall, before it commences business, and also on the first Monday in February and the first Tuesday in August in every year during which it carries on business, make a statement in the form set out in the Sixth Schedule to this Ordinance, or as near thereto as circumstances admit.

(2) A copy of the statement shall be put up in a conspicuous place in the registered office of the company, and in every branch office or place where the business of the company is carried on.

(3) Every member and every creditor of the company shall be entitled to a copy of the statement, on payment of a sum not exceeding fifty cents.

(4) If default is made in complying with this section, the company and every director and manager of the company who knowingly and wilfully authorizes or permits the default shall be liable to a fine not exceeding five pounds for every day during which the default continues.

Appointment
and remunera-
tion of
auditors.

132. (1) Every company shall at each annual general meeting appoint an auditor or auditors to hold office until the next annual general meeting.

(2) If an appointment of auditors is not made at an annual general meeting, the court may, on the application of any member of the company, appoint an auditor of the company for the current year.

(3) A person, other than a retiring auditor, shall not be capable of being appointed auditor at an annual general meeting unless notice of an intention to nominate that person to the office of auditor has been given by a member to the company not less than fourteen days before the annual general meeting.

meeting, and the company shall send a copy of any such notice to the retiring auditor, and shall give notice thereof to the members, either by advertisement or in any other mode allowed by the articles, not less than seven days before the annual general meeting :

Provided that if, after notice of the intention to nominate an auditor has been so given, an annual general meeting is called for a date fourteen days or less after the notice has been given, the notice, though not given within the time required by this sub-section, shall be deemed to have been properly given for the purposes thereof, and the notice to be sent or given by the company may, instead of being sent or given within the time required by this sub-section, be sent or given at the same time as the notice of the annual general meeting.

(4) Subject as hereinafter provided, the first auditors of the company may be appointed by the directors at any time before the first annual general meeting, and auditors so appointed shall hold office until that meeting :

Provided that—

(a) the company may at a general meeting of which notice has been served on the auditors in the same manner as on members of the company remove any such auditors and appoint in their place any other persons being persons who have been nominated for appointment by any member of the company and of whose nomination notice has been given to the members of the company not less than seven days before the date of the meeting ; and

(b) if the directors fail to exercise their powers under this sub-section, the company in general meeting may appoint the first auditors, and thereupon the said powers of the directors shall cease.

(5) The directors may fill any casual vacancy in the office of auditor, but while any such vacancy continues the surviving or continuing auditor or auditors, if any, may act.

(6) The remuneration of the auditors of a company shall be fixed by the company in general meeting, except that the remuneration of an auditor appointed before the first annual general meeting, or of an auditor appointed to fill a

casual vacancy, may be fixed by the directors, and that the remuneration of an auditor appointed by the court may be fixed by the court.

Disqualifi-
cation for
appointment
as auditor.

133. None of the following persons shall be qualified for appointment as auditor of a company—

- (a) a director or officer of the company;
- (b) except where the company is a private company, a person who is a partner of or in the employment of an officer of the company;
- (c) a body corporate.

Auditors'
report and
auditors' right
of access to
books and
right to attend
general
meetings.

134. (1) The auditors shall make a report to the members on the accounts examined by them, and on every balance sheet laid before the company in general meeting during their tenure of office, and the report shall state—

- (a) whether or not they have obtained all the information and explanations they have required; and
- (b) whether, in their opinion, the balance sheet referred to in the report is properly drawn up so as to exhibit a true and correct view of the state of the company's affairs according to the best of their information and the explanations given to them, and as shown by the books of the company.

(2) Every auditor of a company shall have a right of access at all times to the books and accounts and vouchers of the company, and shall be entitled to require from the directors and officers of the company such information and explanation as may be necessary for the performance of the duties of the auditors:

Provided that, in the case of a banking company which has branch banks beyond the limits of the Colony, it shall be sufficient if the auditor is allowed access to such copies and extracts from such books and accounts of any such branch as have been transmitted to the head office of the company in the Colony.

(3) The auditors of a company shall be entitled to attend any general meeting of the company at which any accounts which have been examined or reported on by them are to be laid before the company and to make any statement or explanation they desire with respect to the accounts.

Investigation by the Registrar.

135. (1) Where the registrar on perusal of any document which a company is required to submit to him under the provisions of this Ordinance, is of opinion that any information is necessary in order that such document may afford full particulars of the matters to which it purports to relate, he may, by a written order, call on the company submitting the document to furnish in writing such information or explanation within such time as he may specify in his order.

Investigation
by registrar.

(2) On receipt of an order under sub-section (1) it shall be the duty of all persons who are or have been officers of the company to furnish such information or explanation to the best of their power.

(3) If any such person refuses or neglects to furnish any such information or explanation he shall be liable to a fine not exceeding five pounds in respect of each offence.

(4) If such information or explanation is not furnished within the specified time, or if after perusal of such information or explanation the registrar is of opinion that the document in question discloses an unsatisfactory state of affairs, or that it does not disclose a full and fair statement of the matters to which it purports to relate the registrar shall report the circumstances of the case in writing to the court.

Inspection.

136. (1) The court may appoint one or more competent inspectors to investigate the affairs of a company and to report thereon in such manner as shall be directed—

Investigation
of affairs of
company by
inspectors.

- (a) in the case of a banking company having a share capital, on the application of members holding not less than one-third of the shares issued;
- (b) in the case of any other company having a share capital, on the application of members holding not less than one-tenth of the shares issued;
- (c) in the case of a company not having a share capital, on the application of not less than one-fifth in number of the persons on the company's register of members;
- (d) in the case of any company, on a report by the registrar under section 135 sub-section (4).

(2) The application shall be supported by such evidence as the court may require for the purpose of showing that the applicants have good reason for, and are not actuated by malicious motives in, requiring the investigation, and the court may, before appointing an inspector, require the applicants to give security, to an amount not exceeding one hundred pounds, for payment of the costs of the inquiry.

(3) It shall be the duty of all officers and agents of the company to produce to the inspectors all books and documents in their custody or power.

(4) An inspector may examine on oath the officers and agents of the company in relation to its business, and may administer an oath accordingly.

(5) If any officer or agent of the company refuses to produce to the inspectors any book or document which it is his duty under this section so to produce, or refuses to answer any question which is put to him by the inspectors with respect to the affairs of the company, the inspectors may certify the refusal under their hand to the court, and the court may thereupon inquire into the case, and after hearing any witnesses who may be produced against or on behalf of the alleged offender and after hearing any statement which may be offered in defence, punish the offender in like manner as if he had been guilty of contempt of the court.

(6) On the conclusion of the investigation the inspectors shall report their opinion to the court, and a copy of the report shall be forwarded by the court to the registered office of the company, and a further copy shall, at the request of the applicants for the investigation, be delivered to them.

The report shall be written or printed, as the court directs.

Proceedings
on report by
inspectors.

137. (1) If from any report made under the last foregoing section it appears to the court that any person has been guilty of any offence in relation to the company for which he is criminally liable the court shall refer the matter to the Attorney General.

(2) If where any matter is referred to the Attorney General under this section he considers that the case is one in which a prosecution ought to be instituted and, further, that it is desirable in the public interest that the proceedings in the prosecution should be conducted by him, he shall institute proceedings accordingly, and it shall be the duty of all officers and agents of the company, past and present (other

than the defendant in the proceedings), to give to him all assistance in connexion with the prosecution which they are reasonably able to give.

For the purposes of this sub-section, the expression "agents" in relation to a company shall be deemed to include the bankers and advocates of the company and any persons employed by the company as auditors, whether those persons are or are not officers of the company.

(3) The expenses of and incidental to an investigation under the last preceding section of this Ordinance (in this sub-section referred to as "the expenses") shall be defrayed as follows—

- (a) where as a result of the investigation a prosecution is instituted by the Attorney General, the expenses shall be defrayed by the Government;
- (b) in any other case the expenses shall be defrayed by the company unless the court directs, as the court is hereby authorized to do, that they shall either be paid by the applicants or in part by the company and in part by the applicants:

Provided that—

- (i) if the company fails to pay the whole or any part of the sum which it is liable to pay under this sub-section, the applicants shall make good the deficiency up to the amount by which the security given by them under the last preceding section exceeds the amount, if any, which they have under this sub-section been directed by the court to pay; and
- (ii) any balance of the expenses not defrayed either by the company or the applicants shall be defrayed by the Government.

138. (1) A company may by special resolution appoint inspectors to investigate its affairs.

Power of
company to
appoint
inspectors.

(2) Inspectors so appointed shall have the same powers and duties as inspectors appointed by the court, except that instead of reporting to the court, they shall report in such manner and to such persons as the company in general meeting may direct.

(3) If any officer or agent of the company refuses to produce to the inspectors any book or document which it is his duty under this section so to produce, or refuses to answer any question which is put to him by the inspectors with respect to the affairs of the company, he shall be liable to be proceeded against in the same manner as if the inspectors had been inspectors appointed by the court.

Report of
inspectors to
be evidence.

139. A copy of the report of any inspectors appointed under this Ordinance, authenticated by the seal of the company whose affairs they have investigated, shall be admissible in any legal proceeding as evidence of the opinion of the inspectors in relation to any matters contained in the report.

Directors and Managers.

Number of
directors.

140. (1) Every company registered after the commencement of this Ordinance shall have at least two directors.

(2) This section shall not apply to a private company.

Restrictions
on appoint-
ment or
advertisement
of director.

141. (1) A person shall not be capable of being appointed director of a company by the articles, and shall not be named as a director or proposed director of a company in a prospectus issued by or on behalf of the company, or as proposed director of an intended company in a prospectus issued in relation to that intended company, or in a statement in lieu of prospectus delivered to the registrar by or on behalf of a company, unless, before the registration of the articles or the publication of the prospectus, or the delivery of the statement in lieu of prospectus, as the case may be, he has by himself or by his agent authorized in writing—

(a) signed and delivered to the registrar for registration a consent in writing to act as such director; and

(b) either—

- (i) signed the memorandum for a number of shares not less than his qualification, if any; or
- (ii) taken from the company and paid or agreed to pay for his qualification shares, if any; or
- (iii) signed and delivered to the registrar for registration an undertaking in writing to take from the company and pay for his qualification shares, if any; or
- (iv) made and delivered to the registrar for registration a statutory declaration to the effect that a number of shares, not less than his qualification, if any, are registered in his name.

(2) Where a person has signed and delivered as aforesaid an undertaking to take and pay for his qualification shares, he shall, as regards those shares, be in the same position as if he had signed the memorandum for that number of shares.

(3) On the application for registration of the memorandum and articles of a company the applicant shall deliver to the registrar a list of the persons who have consented to be directors of the company, and, if this list contains the name of any person who has not so consented, the applicant shall be liable to a fine not exceeding fifty pounds.

(4) This section shall not apply to—

- (a) a company not having a share capital; or
- (b) a private company; or
- (c) a company which was a private company before becoming a public company; or
- (d) a prospectus issued by or on behalf of a company after the expiration of one year from the date on which the company was entitled to commence business.

142. (1) Without prejudice to the restrictions imposed by the last foregoing section, it shall be the duty of every director who is by the articles of the company required to hold a specified share qualification, and who is not already qualified, to obtain his qualification within two months after his appointment, or such shorter time as may be fixed by the articles.

Qualification
of director
or manager.

(2) For the purpose of any provision in the articles requiring a director or manager to hold a specified share qualification, the bearer of a share warrant shall not be deemed to be the holder of the share specified in the warrant.

(3) The office of director of a company shall be vacated if the director does not within two months from the date of his appointment, or within such shorter time as may be fixed by the articles, obtain his qualification, or if after the expiration of the said period or shorter time he ceases at any time to hold his qualification.

(4) A person vacating office under this section shall be incapable of being re-appointed director of the company until he has obtained his qualification.

(5) If after the expiration of the said period or shorter time any unqualified person acts as a director of the company, he shall be liable to a fine not exceeding five pounds for every

day between the expiration of the said period or shorter time or the day on which he ceased to be qualified, as the case may be, and the last day on which it is proved that he acted as a director.

Provisions
as to undis-
charged
bankrupts
acting as
directors.
No. 32 of 1930.

143. (1) If any person being an undischarged bankrupt in this Colony or in any territory which is declared to be a reciprocating territory under section 147 of the Bankruptcy Ordinance, 1930, acts as director of, or directly or indirectly takes part in or is concerned in the management of, any company except with the leave of the court by which he was adjudged bankrupt, he shall be liable on conviction on information to imprisonment for a term not exceeding two years, or to a fine not exceeding five hundred pounds, or to both such imprisonment and fine :

Provided that a person shall not be guilty of an offence under this section by reason that he, being an undischarged bankrupt, has acted as director of, or taken part or been concerned in the management of, a company, if he was at the date of the coming into force of this Ordinance acting as director of, or taking part or being concerned in the management of, that company and has continuously so acted, taken part, or been concerned since that date and the bankruptcy was prior to that date.

(2) The leave of the court for the purposes of this section shall not be given unless notice of intention to apply therefor has been served on the official receiver, and it shall be the duty of the official receiver, if he is of the opinion that it is contrary to the public interest that any such application should be granted, to attend on the hearing of and oppose the granting of the application.

(3) In this section the expression "company" includes an unregistered company and a company incorporated outside the Colony which has an established place of business within the Colony, and the expression "official receiver" means the official receiver in bankruptcy.

Validity of
acts of
directors.

144. The acts of a director or manager shall be valid notwithstanding any defect that may afterwards be discovered in his appointment or qualification.

145. (1) Every company shall keep at its registered office a register of its directors or managers containing with respect to each of them the following particulars, that it so say—

Register of
directors.

(a) in the case of an individual, his present Christian name and surname, any former Christian name or surname, his usual residential address, his nationality, and, if that nationality is not the nationality of origin, his nationality of origin, and his business occupation, if any, or, if he has no business occupation but holds any other directorship or directorships, particulars of that directorship or of some one of those directorships; and

(b) in the case of a corporation, its corporate name and registered or principal office.

(2) The company shall, within the periods respectively mentioned in this sub-section, send to the registrar a return in the prescribed form containing the particulars specified in the said register and a notification in the prescribed form of any change among its directors or in any of the particulars contained in the register.

The period within which the said return is to be sent shall be a period of fourteen days from the appointment of the first directors of the company, and the period within which the said notification of a change is to be sent shall be fourteen days from the happening thereof.

(3) The register to be kept under this section shall during business hours (subject to such reasonable restrictions as the company may by its articles or in general meeting impose, so that not less than two hours in each day be allowed for inspection) be open to the inspection of any member of the company without charge and of any other person on payment of one shilling, or such less sum as the company may prescribe, for each inspection.

(4) If any inspection required under this section is refused or if default is made in complying with sub-section (1) or sub-section (2) of this section, the company and every officer of the company who is in default shall be liable to a default fine.

(5) In the case of any such refusal, the court may by order compel an immediate inspection of the register.

(6) For the purposes of this section, a person in accordance with whose directions or instructions the directors of a company are accustomed to act shall be deemed to be a director and officer of the company.

Particulars
with respect
to directors
in trade
catalogues,
circulars, etc.

146. (1) ~~Every company~~ to which this section applies shall, in all trade catalogues, trade circulars, showcards and business letters on or in which the company's name appears and which are issued or sent by the company to any person in any part of His Majesty's dominions, or in any country under the protection of His Majesty or in respect of which His Majesty has accepted a mandate, state in legible Roman letters with respect to every director being a corporation, the corporate name, and with respect to every director being an individual, the following particulars:

- (a) his present Christian name and present surname;
- (b) any former Christian names and surnames;
- (c) his nationality, if not British;
- (d) his nationality of origin, if his nationality is not the nationality of origin:

Provided that, if special circumstances exist which render it in the opinion of a Judge of the Supreme Court expedient that such an exemption should be granted, a Judge of the Supreme Court may grant, subject to such conditions as he may specify, exemption from the obligations imposed by this sub-section.

(2) This section shall apply to—

- (a) every company registered under this Ordinance or the Indian Companies Act, 1882, as applied to the Colony, or the Companies Ordinance; and
- (b) every company incorporated outside the Colony which has an established place of business within the Colony; and
- (c) every company licensed under the Money-lenders Ordinance, 1932, whenever it was registered or whenever it established a place of business.

Cap. 93.

No. 45 of 1932.

(3) If a company makes default in complying with this section, every director of the company shall be liable on summary conviction for each offence to a fine not exceeding five pounds, and, in the case of a director being a corporation,

every director, secretary and officer of the corporation, who is knowingly a party to the default, shall be liable to a like penalty :

Provided that no proceedings shall be instituted under this section except by, or with the consent of, the Attorney General.

(4) For the purposes of this section—

- (a) the expression “director” includes any person in accordance with whose directions or instructions the directors of the company are accustomed to act ;
- (b) the expression “Christian name” includes a forename ;
- (c) in the case of a peer or person usually known by a title different from his surname, the expression “surname” means that title ;
- (d) references to a former Christian name or surname do not include—
 - (i) in the case of a peer or a person usually known by a British title different from his surname, the name by which he was known previous to the adoption of or succession to the title ; or
 - (ii) in the case of natural born British subjects, a former Christian name or surname where that name or surname was changed or disused before the person bearing the name attained the age of eighteen years ; or
 - (iii) in the case of a married woman the name or surname by which she was known previous to the marriage ;
- (e) the expression “showcard” means cards containing or exhibiting articles dealt with, or samples or representations thereof.

147. (1) In a limited company the liability of the directors or managers, or of the managing director, may, if so provided by the memorandum, be unlimited.

Limited company may have directors with unlimited liability.

(2) In a limited company in which the liability of a director or manager is unlimited, the directors or managers of the company, if any, and the member who proposes a person for election or appointment to the office of director or manager, shall add to that proposal a statement that the liability of the person holding that office will be unlimited, and the promoters, directors, managers and secretary, if any,

of the company, or one of them, shall, before the person accepts the office or acts therein, give him notice in writing that his liability will be unlimited.

(3) If any director, manager or proposer makes default in adding such a statement, or if any promoter, director, manager or secretary makes default in giving such a notice, he shall be liable to a fine not exceeding one hundred pounds, and shall also be liable for any damage which the person so elected or appointed may sustain from the default, but the liability of the person elected or appointed shall not be affected by the default.

Special
resolution
of limited
company
making
liability of
directors
unlimited.

148. (1) A limited company, if so authorized by its articles, may, by special resolution, alter its memorandum so as to render unlimited the liability of its directors, or managers, or of any managing director.

(2) Upon the passing of any such special resolution the provisions thereof shall be as valid as if they had been originally contained in the memorandum.

Statement as
to remunera-
tion of
directors to be
furnished to
shareholders.

149. (1) Subject as hereinafter provided, the directors of a company shall, on a demand in that behalf made to them in writing by members of the company entitled to not less than one-fourth of the aggregate number of votes to which all the members of the company are together entitled, furnish to all the members of the company within a period of one month from the receipt of the demand a statement, certified as correct, or with such qualifications as may be necessary, by the auditors of the company, showing as respects each of the last three preceding years in respect of which the accounts of the company have been made up the aggregate amount received in that year by way of remuneration or other emoluments by persons being directors of the company, whether as such directors or otherwise in connexion with the management of the affairs of the company, and there shall, in respect of any such director who is—

- (a) a director of any other company which is in relation to the first-mentioned company a subsidiary company; or
- (b) by virtue of the nomination, whether direct or indirect, of the company a director of any other company,

be included in the said aggregate amount any remuneration or other emoluments received by him for his own use whether as a director of, or otherwise in connexion with the management of the affairs of, that other company :

Provided that—

- (i) a demand for a statement under this section shall be of no effect if the company within one month after the date on which the demand is made resolve that the statement shall not be furnished ; and
 - (ii) it shall be sufficient to state the total aggregate of all sums paid to or other emoluments received by all the directors in each year without specifying the amount received by any individual.
- (3) If any director fails to comply with the requirements of this section, he shall be liable to a fine not exceeding fifty pounds.
- (4) In this section the expression "emoluments" includes fees, percentages, and other payments made or consideration given, directly or indirectly, to a director as such, and the money value of any allowances or perquisites belonging to his office.

150. (1) Subject to the provisions of this section, it shall be the duty of a director of a company who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the company to declare the nature of his interest at a meeting of the directors of the company.

Disclosure by directors of interest in contracts.

(2) In the case of a proposed contract the declaration required by this section to be made by a director shall be made at the meeting of the directors at which the question of entering into the contract is first taken into consideration, or if the director was not at the date of that meeting interested in the proposed contract, at the next meeting of the directors held after he became so interested, and in a case where the director becomes interested in a contract after it is made, the said declaration shall be made at the first meeting of the directors held after the director becomes so interested.

(3) For the purpose of this section, a general notice given to the directors of a company by a director to the effect that he is a member of a specified company or firm and is to be regarded as interested in any contract which may, after the

date of the notice, be made with that company or firm, shall be deemed to be a sufficient declaration of interest in relation to any contract so made.

(4) Any director who fails to comply with the provisions of this section shall be liable to a fine not exceeding one hundred pounds.

(5) Nothing in this section shall be taken to prejudice the operation of any rule of law restricting directors of a company from having any interest in contracts with the company.

Provisions as
to payments
received by
directors for
loss of office
or on retire-
ment.

151. (1) It is hereby declared that it is not lawful in connexion with the transfer of the whole or any part of the undertaking or property of a company for any payment to be made to any director of the company by way of compensation for loss of office, or as consideration for or in connexion with his retirement from office, unless particulars with respect to the proposed payment, including the amount thereof, have been disclosed to the members of the company and the proposal approved by the company.

(2) Where a payment which is hereby declared to be illegal is made to a director of the company, the amount received shall be deemed to have been received by him in trust for the company.

(3) Where a payment is to be made as aforesaid to a director of a company in connexion with the transfer to any persons, as a result of an offer made to the general body of shareholders, of all or any of the shares in the company, it shall be the duty of that director to take all reasonable steps to secure that particulars with respect to the proposed payment, including the amount thereof, shall be included in or sent with any notice of the offer made for their shares which is given to any shareholders.

(4) If any such director fails to take reasonable steps as aforesaid, or if any person who has been properly required by any such director to include the said particulars in or send them with any such notice fails so to do, he shall be liable to a fine not exceeding twenty-five pounds, and if the requirements of the last foregoing sub-section are not complied with in relation to any such payment as is mentioned in the said sub-section, any sum received by the director on account of the payment shall be deemed to have been received by him in trust for any persons who have sold their shares as a result of the offer made.

(5) If in connexion with any such transfer as aforesaid the price to be paid to a director of the company whose office is to be abolished or who is to retire from office for any shares in the company held by him is in excess of the price which could at the time have been obtained by other holders of the like shares or any valuable consideration is given to any such director, the excess or the money value of the consideration, as the case may be, shall, for the purposes of this section, be deemed to have been a payment made to him by way of compensation for loss of office or as consideration for or in connexion with his retirement from office.

(6) Nothing in this section shall be taken to prejudice the operation of any rule of law requiring disclosure to be made with respect to any such payments as are mentioned in this section or with respect to any other like payments made or to be made to the directors of a company.

152. If in the case of any company provision is made by the articles or by any agreement entered into between any person and the company for empowering a director or manager of the company to assign his office as such to another person, any assignment of office made in pursuance of the said provision shall, notwithstanding anything to the contrary contained in the said provision, be of no effect unless and until it is approved by a special resolution of the company.

Provisions as to assignment of office by directors.

Avoidance of Provisions in Articles or Contracts relieving Officers from Liability.

153. Subject as hereinafter provided, any provision, whether contained in the articles of a company or in any contract with a company or otherwise, for exempting any director, manager or officer of the company, or any person (whether an officer of the company or not) employed by the company as auditor from, or indemnifying him against, any liability which by virtue of any rule of law would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the company shall be void :

Provisions as to liability of officers and auditors.

Provided that—

- (a) in relation to any such provision which is in force at the date of the commencement of this Ordinance, this section shall have effect only on the expiration of a period of six months from that date; and

- (b) nothing in this section shall operate to deprive any person of any exemption or right to be indemnified in respect of anything done or omitted to be done by him while any such provision was in force; and
- (c) notwithstanding anything in this section, a company may, in pursuance of any such provision as aforesaid, indemnify any such director, manager, officer or auditor against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connexion with any application under section 346 of this Ordinance in which relief is granted to him by the court.

Arrangements and Reconstructions.

Power to
compromise
with creditors
and members.

154. (1) Where a compromise or arrangement is proposed between a company and its creditors or any class of them, or between the company and its members or any class of them, the court may, on the application in a summary way of the company or of any creditor or member of the company, or, in the case of a company being wound up, of the liquidator, order a meeting of the creditors or class of creditors, or of the members of the company or class of members, as the case may be, to be summoned in such manner as the court directs.

(2) If a majority in number representing three-fourths in value of the creditors or class of creditors, or members or class of members, as the case may be, present and voting either in person or by proxy at the meeting, agree to any compromise or arrangement, the compromise or arrangement shall, if sanctioned by the court, be binding on all the creditors or the class of creditors, or on the members or class of members, as the case may be, and also on the company or, in the case of a company in the course of being wound up, on the liquidator and contributories of the company.

(3) An order made under sub-section (2) of this section shall have no effect until a certified copy of the order has been delivered to the registrar for registration, and a copy of every such order shall be annexed to every copy of the memorandum of the company issued after the order has been made, or, in the case of a company not having a memorandum, of every copy so issued of the instrument constituting or defining the constitution of the company.

(4) If a company makes default in complying with sub-section (3) of this section, the company and every officer of the company who is in default shall be liable to a fine not exceeding one pound for each copy in respect of which default is made.

(5) In this section the expression "company" means any company liable to be wound up under this Ordinance, and the expression "arrangement" includes a reorganization of the share capital of the company by the consolidation of shares of different classes or by the division of shares into shares of different classes or by both those methods.

155. (1) Where an application is made to the court under the last foregoing section of this Ordinance for the sanctioning of a compromise or arrangement proposed between a company and any such persons as are mentioned in that section, and it is shown to the court that the compromise or arrangement has been proposed for the purposes of or in connexion with a scheme for the reconstruction of any company or companies or the amalgamation of any two or more companies, and that under the scheme the whole or any part of the undertaking or the property of any company concerned in the scheme (in this section referred to as "a transferor company") is to be transferred to another company (in this section referred to as "the transferee company"), the court may, either by the order sanctioning the compromise or arrangement or by any subsequent order, make provision for all or any of the following matters—

Provisions for facilitating reconstruction and amalgamation of companies.

- (a) the transfer to the transferee company of the whole or any part of the undertaking and of the property or liabilities of any transferor company;
- (b) the allotting or appropriation by the transferee company of any shares, debentures, policies or other like interests in that company which under the compromise or arrangement are to be allotted or appropriated by that company to or for any person;
- (c) the continuation by or against the transferee company of any legal proceedings pending by or against any transferor company;
- (d) the dissolution, without winding up, of any transferor company;
- (e) the provision to be made for any persons, who within such time and in such manner as the court directs, dissent from the compromise or arrangement;

(f) such incidental, consequential and supplemental matters as are necessary to secure that the reconstruction or amalgamation shall be fully and effectively carried out.

(2) Where an order under this section provides for the transfer of property or liabilities, that property shall, by virtue of the order, be transferred to and vest in, and those liabilities shall, by virtue of the order, be transferred to and become the liabilities of, the transferee company, and in the case of any property, if the order so directs, freed from any charge which is by virtue of the compromise or arrangement to cease to have effect.

(3) Where an order is made under this section, every company in relation to which the order is made shall cause a certified copy thereof to be delivered to the registrar for registration within fourteen days after the making of the order, and if default is made in complying with this sub-section, the company and every officer of the company who is in default shall be liable to a default fine.

(4) In this section the expression "property" includes property, rights and powers of every description, and the expression "liabilities" includes duties.

(5) Notwithstanding the provisions of sub-section (5) of the last foregoing section, the expression "company" in this section does not include any company other than a company within the meaning of this Ordinance.

Power to
acquire shares
of shareholders
dissenting
from scheme
or contract
approved by
majority.

156. (1) Where a scheme or contract involving the transfer of shares or any class of shares in a company (in this section referred to as "the transferor company") to another company, whether a company within the meaning of this Ordinance or not (in this section referred to as "the transferee company"), has within four months after the making of the offer in that behalf by the transferee company been approved by the holders of not less than nine-tenths in value of the shares affected, the transferee company may, at any time within two months after the expiration of the said four months, give notice in the prescribed manner to any dissenting shareholder that it desires to acquire his shares, and where such a notice is given the transferee company shall, unless on an application made by the dissenting shareholder within one month from the date on which the notice was given the court

thinks fit to order otherwise, be entitled and bound to acquire those shares on the terms on which under the scheme or contract the shares of the approving shareholders are to be transferred to the transferee company :

Provided that, where any such scheme or contract has been so approved at any time before the commencement of this Ordinance, the court may by order, on an application made to it by the transferee company within two months after the commencement of this Ordinance, authorize notice to be given under this section at any time within fourteen days after the making of the order, and this section shall apply accordingly, except that the terms on which the shares of the dissenting shareholder are to be acquired shall be such terms as the court may by the order direct instead of the terms provided by the scheme or contract.

(2) Where a notice has been given by the transferee company under this section and the court has not, on an application made by the dissenting shareholder, ordered to the contrary, the transferee company shall, on the expiration of one month from the date on which the notice has been given, or, if an application to court by the dissenting shareholder is then pending, after that application has been disposed of, transmit a copy of the notice to the transferor company, and pay or transfer to the transferor company the amount or other consideration representing the price payable by the transferee company for the shares which by virtue of this section that company is entitled to acquire, and the transferor company shall thereupon register the transferee company as the holder of those shares.

(3) Any sums received by the transferor company under this section shall be paid into a separate bank account, and any such sums and any other consideration so received shall be held by that company on trust for the several persons entitled to the shares in respect of which the said sums or other consideration were respectively received.

(4) In this section the expression "dissenting shareholder" includes a shareholder who has not assented to the scheme or contract and any shareholder who has failed or refused to transfer his shares to the transferee company in accordance with the scheme or contract.

PART VI.

WINDING UP.

(i) PRELIMINARY.

Modes of Winding Up.

Modes of
winding up.

157. (1) The winding up of a company may be either—

- (a) by the court; or
- (b) voluntary; or
- (c) subject to the supervision of the court.

(2) The provisions of this Ordinance with respect to winding up apply, unless the contrary appears, to the winding up of a company in any of those modes.

Contributories.

Liability as
contributories
of present
and past
members

158. (1) In the event of a company being wound up, every present and past member shall be liable to contribute to the assets of the company to an amount sufficient for payment of its debts and liabilities, and the costs, charges and expenses of the winding up, and for the adjustment of the rights of the contributories among themselves, subject to the provisions of sub-section (2) of this section and the following qualifications—

- (a) a past member shall not be liable to contribute if he has ceased to be a member for one year or upwards before the commencement of the winding up;
- (b) a past member shall not be liable to contribute in respect of any debt or liability of the company contracted after he ceased to be a member;
- (c) a past member shall not be liable to contribute unless it appears to the court that the existing members are unable to satisfy the contributions required to be made by them in pursuance of this Ordinance;
- (d) in the case of a company limited by shares no contribution shall be required from any member exceeding the amount, if any, unpaid on the shares in respect of which he is liable as a present or past member;
- (e) in the case of a company limited by guarantee, no contribution shall, subject to the provisions of sub-section (3) of this section, be required from any member exceeding the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up;

(f) nothing in this Ordinance shall invalidate any provision contained in any policy of insurance or other contract whereby the liability of individual members on the policy or contract is restricted, or whereby the funds of the company are alone made liable in respect of the policy or contract;

(g) a sum due to any member of a company, in his character of a member, by way of dividends, profits or otherwise, shall not be deemed to be a debt of the company, payable to that member in a case of competition between himself and any other creditor not a member of the company, but any such sum may be taken into account for the purpose of the final adjustment of the rights of the contributories among themselves.

(2) In the winding up of a limited company, any director or manager, whether past or present, whose liability is, under the provisions of this Ordinance, unlimited, shall, in addition to his liability, if any, to contribute as an ordinary member, be liable to make a further contribution as if he were at the commencement of the winding up a member of an unlimited company:

Provided that—

(a) a past director or manager shall not be liable to make such further contribution if he has ceased to hold office for a year or upwards before the commencement of the winding up;

(b) a past director or manager shall not be liable to make such further contribution in respect of any debt or liability of the company contracted after he ceased to hold office;

(c) subject to the articles of the company, a director or manager shall not be liable to make such further contribution unless the court deems it necessary to require that contribution in order to satisfy the debts and liabilities of the company, and the costs, charges and expenses of the winding up.

(3) In the winding up of a company limited by guarantee which has a share capital, every member of the company shall be liable, in addition to the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up, to contribute to the extent of any sums unpaid on any shares held by him.

Definition of contributory.

159. The term "contributory" means every person liable to contribute to the assets of a company in the event of its being wound up, and for the purposes of all proceedings for determining, and all proceedings prior to the final determination of, the persons who are to be deemed contributories, includes any person alleged to be a contributory.

Nature of liability of contributory.

160. The liability of a contributory shall create a debt accruing due from him at the time when his liability commenced, but payable at the times when calls are made for enforcing the liability.

Contributories in case of death of member.

161. (1) If a contributory dies either before or after he has been placed on the list of contributories, his legal representatives, and his heirs, shall be liable in a due course of administration to contribute to the assets of the company in discharge of his liability and shall be contributories accordingly.

(2) If the legal representatives make default in paying any money ordered to be paid by them, proceedings may be taken for administering the estate of the deceased contributory, and for compelling payment thereof of the money due.

Contributories in case of bankruptcy of member.

162. If a contributory becomes bankrupt, either before or after he has been placed on the list of contributories—

(a) his trustee in bankruptcy shall represent him for all the purposes of the winding up, and shall be a contributory accordingly, and may be called on to admit to proof against the estate of the bankrupt, or otherwise to allow to be paid out of his assets in due course of law, any money due from the bankrupt in respect of his liability to contribute to the assets of the company; and

(b) there may be proved against the estate of the bankrupt the estimated value of his liability to future calls as well as calls already made.

(ii) WINDING UP BY THE COURT.

Jurisdiction.

Jurisdiction to wind up companies registered in the Colony.

163. The Supreme Court shall have jurisdiction to wind up any company registered in the Colony.

164. Where the Supreme Court makes an order for winding up a company under this Ordinance, it may, if it thinks fit, direct all subsequent proceedings to be had in a subordinate court of the first class and thereupon such court shall for the purpose of winding up the company be deemed to be the court within the meaning of this Ordinance, and shall have, for the purposes of such winding up, all the jurisdiction and powers of the Supreme Court.

Transfer of proceedings from Supreme Court to subordinate court.

165. If during the progress of a winding up in a subordinate court it is made to appear to the Supreme Court that the same could be more conveniently prosecuted in any other subordinate court, the Supreme Court may transfer the same to such other court, and thereupon the winding up shall proceed in such other subordinate court.

Transfer of proceedings from one subordinate court to another.

166. If any question arises in any winding-up proceedings in a subordinate court which all the parties to the proceeding, or which one of them and the magistrate of the court, desire to have determined in the first instance in the Supreme Court, the magistrate shall state the facts in the form of a special case for the opinion of the Supreme Court, and thereupon the special case and the proceedings, or such of them as may be required, shall be transmitted to the Supreme Court for the purposes of determination.

Statement of case for opinion of Supreme Court.

Cases in which a Company may be Wound Up by Court.

167. A company may be wound up by the court if—

- (a) the company has by special resolution resolved that the company be wound up by the court ;
- (b) default is made in delivering the statutory report to the registrar or in holding the statutory meeting ;
- (c) the company does not commence its business within a year from its incorporation, or suspends its business for a whole year ;
- (d) the number of members is reduced, in the case of a private company, below two or, in the case of any other company, below seven ;
- (e) the company is unable to pay its debts ;
- (f) the court is of opinion that it is just and equitable that the company should be wound up.

Circumstances in which company may be wound up by court.

Definition of
inability to
pay debts.

168. A company shall be deemed to be unable to pay its debts—

- (a) if a creditor, by assignment or otherwise, to whom the company is indebted in a sum exceeding fifty pounds then due, has served on the company, by leaving it at the registered office of the company, a demand under his hand requiring the company to pay the sum so due, and the company has for three weeks thereafter neglected to pay the sum, or to secure or compound for it to the reasonable satisfaction of the creditor; or
- (b) if execution or other process issued on a decree or order of any court in favour of a creditor of the company is returned unsatisfied in whole or in part; or
- (c) if it is proved to the satisfaction of the court that the company is unable to pay its debts, and, in determining whether a company is unable to pay its debts, the court shall take into account the contingent and prospective liabilities of the company.

Petition for Winding Up and Effects thereof.

Provisions as
to applications
for winding
up.

169. An application to the court for the winding up of a company shall be by petition, presented subject to the provisions of this section either by the company, or by any creditor or creditors (including any contingent or prospective creditor or creditors), contributory or contributories, or by all or any of those parties, together or separately :

Provided that—

- (a) a contributory shall not be entitled to present a winding-up petition unless—
 - (i) either the number of members is reduced, in the case of a private company, below two or, in the case of any other company, below seven; or
 - (ii) the shares in respect of which he is a contributory, or some of them, either were originally allotted to him or have been held by him, and registered in his name, for at least six months during the eighteen months before the commencement of winding-up, or have devolved on him through the death of a former holder; and

- (b) a winding-up petition shall not, if the ground of the petition is default in delivering the statutory report to the registrar or in holding the statutory meeting, be presented by any person except a shareholder, nor before the expiration of fourteen days after the last day on which the meeting ought to have been held; and
- (c) the court shall not give a hearing to a winding-up petition presented by a contingent or prospective creditor until such security for costs has been given as the court thinks reasonable and until a prima facie case for winding up has been established to the satisfaction of the court.

170. (1) On hearing a winding-up petition the court may dismiss it, or adjourn the hearing conditionally or unconditionally, or make any interim order, or any other order that it thinks fit, but the court shall not refuse to make a winding-up order on the ground only that the assets of the company have been mortgaged to an amount equal to or in excess of those assets, or that the company has no assets.

Power of court on hearing petition.

(2) Where the petition is presented on the ground of default in delivering the statutory report to the registrar or in holding the statutory meeting, the court may—

- (a) instead of making a winding-up order, direct that the statutory report shall be delivered or that a meeting shall be held; and
- (b) order the costs to be paid by any persons who, in the opinion of the court, are responsible for the default.

171. The court may, at any time after the presentation of the petition for winding up a company under this Ordinance, and before making an order for winding up the company, upon the application of the company or any creditor or contributory, restrain further proceedings in any suit or proceeding against the company upon such terms as the court thinks fit.

Power to stay or restrain proceedings against company.

172. In a winding up by the court, any disposition of the property of the company, including actionable claims, and any transfer of shares, or alteration in the status of the members of the company, made after the commencement of the winding up, shall, unless the court otherwise orders, be void.

Avoidance of dispositions of property, etc., after commencement of winding up.

Avoidance of attachment, etc.

173. Where any company is being wound up by the court, any attachment, distress or execution put in force against the estate or effects of the company after the commencement of the winding up shall be void to all intents.

Commencement of Winding Up.

Commencement of winding up by the court.

174. (1) Where before the presentation of a petition for the winding up of a company by the court a resolution has been passed by the company for voluntary winding up, the winding up of the company shall be deemed to have commenced at the time of the passing of the resolution, and unless the court, on proof of fraud or mistake, thinks fit otherwise to direct, all proceedings taken in the voluntary winding up shall be deemed to have been validly taken.

(2) In any other case, the winding up of a company by the court shall be deemed to commence at the time of the presentation of the petition for the winding up.

Consequences of Winding-up Order.

Copy of order to be forwarded to registrar.

175. On the making of a winding-up order, a copy of the order must forthwith be forwarded by the company to the registrar who shall make a minute thereof in his books relating to the company.

Actions stayed on winding-up order.

176. When a winding-up order has been made, or a provisional liquidator has been appointed, no action or proceeding shall be proceeded with or commenced against the company except by leave of the court, and subject to such terms as the court may impose.

Effect of winding-up order.

177. An order for winding up a company shall operate in favour of all the creditors and of all the contributories of the company as if made on the joint petition of a creditor and of a contributory.

Official Receiver in Winding Up.

Official receiver in bankruptcy to be official receiver for winding-up purposes.

178. (1) For the purposes of this Ordinance, so far as it relates to the winding up of companies by the court, the term "official receiver" means the official receiver appointed for bankruptcy purposes.

(2) Such officer shall for the purpose of his duties under this Ordinance be styled "the official receiver".

179. If in the case of the winding up of any company by the court it appears to the court desirable, with a view to securing the more convenient and economical conduct of the winding up, that some officer, other than the person who would by virtue of the last foregoing section of this Ordinance be the official receiver, should be the official receiver for the purposes of that winding up, the court may appoint that other officer to act as official receiver in that winding up, and the person so appointed shall be deemed to be the official receiver in that winding up for all the purposes of this Ordinance.

Appointment
of official
receiver by
court in
certain cases

180. (1) Where the court has made a winding-up order or appointed a provisional liquidator, there shall, unless the court thinks fit to order otherwise and so orders, be made out and submitted to the official receiver a statement as to the affairs of the company in the prescribed form, verified by affidavit, and showing the particulars of its assets, debts and liabilities, the names, residences and occupations of its creditors, the securities held by them respectively, the dates when the securities were respectively given, and such further or other information as may be prescribed or as the official receiver may require.

Statement of
company's
affairs to be
submitted
to official
receiver.

(2) The statement shall be submitted and verified by one or more of the persons who are at the relevant date the directors and by the person who is at that date the secretary or other chief officer of the company, or by such of the persons hereinafter in this sub-section mentioned as the official receiver, subject to the direction of the court, may require to submit and verify the statement, that is to say, persons—

- (a) who are or have been directors or officers of the company;
- (b) who have taken part in the formation of the company at any time within one year before the relevant date;
- (c) who are in the employment of the company, or have been in the employment of the company within the said year, and are in the opinion of the official receiver capable of giving the information required;
- (d) who are or have been within the said year officers of or in the employment of a company which is, or within the said year was, an officer of the company to which the statement relates.

(3) The statement shall be submitted within fourteen days from the relevant date, or within such extended time as the official receiver or the court may for special reasons appoint.

(4) Any person making or concurring in making the statement and affidavit required by this section shall be allowed, and shall be paid by the official receiver or provisional liquidator, as the case may be, out of the assets of the company, such costs and expenses incurred in and about the preparation and making of the statement and affidavit as the official receiver may consider reasonable, subject to an appeal to the court.

(5) If any person, without reasonable excuse, makes default in complying with the requirements of this section, he shall be liable to a fine not exceeding ten pounds for every day during which the default continues.

(6) Any person stating himself in writing to be a creditor or contributory of the company shall be entitled by himself or by his agent at all reasonable times, on payment of the prescribed fee, to inspect the statement submitted in pursuance of this section, and to a copy thereof or extract therefrom.

(7) Any person untruthfully so stating himself to be a creditor or contributory shall be guilty of an offence and shall, on the application of the liquidator or of the official receiver, be liable to a fine not exceeding twenty pounds.

(8) In this section the expression "the relevant date" means in a case where a provisional liquidator is appointed, the date of his appointment, and, in a case where no such appointment is made, the date of the winding-up order.

Report by
official
receiver.

181. (1) In a case where a winding-up order is made, the official receiver shall, as soon as practicable after receipt of the statement to be submitted under the last foregoing section or, in a case where the court orders that no statement shall be submitted, as soon as practicable after the date of the order, submit a preliminary report to the court—

(a) as to the amount of capital issued, subscribed and paid up, and the estimated amount of assets and liabilities; and

(b) if the company has failed, as to the causes of the failure; and

(c) whether in his opinion further inquiry is desirable as to any matter relating to the promotion, formation or failure of the company, or the conduct of the business thereof.

(2) The official receiver may also, if he thinks fit, make a further report, or further reports, stating the manner in which the company was formed and whether in his opinion any fraud has been committed by any person in its promotion or formation, or by any director or other officer of the company in relation to the company since the formation thereof, and any other matters which in his opinion it is desirable to bring to the notice of the court.

(3) If the official receiver states in any such further report as aforesaid that in his opinion a fraud has been committed as aforesaid, the court shall have the further powers provided in sections 212 and 213 of this Ordinance.

Liquidators.

182. For the purpose of conducting the proceedings in winding up a company and performing such duties in reference thereto as the court may impose, the court may appoint a liquidator or liquidators.

Power of
court to
appoint
liquidators.

183. (1) Subject to the provisions of this section, the court may appoint a liquidator provisionally at any time after the presentation of a winding-up petition, and before the making of a winding-up order, and either the official receiver or any other fit person may be appointed.

Appointment
and powers of
provisional
liquidator.

(2) Where a liquidator is provisionally appointed by the court, the court may limit and restrict his powers by the order appointing him.

184. The following provisions with respect to liquidators shall have effect on a winding-up order being made—

Appointment,
style, etc., of
liquidators.

(a) the official receiver shall by virtue of his office become the provisional liquidator and shall continue to act as such until he or another person becomes liquidator and is capable of acting as such;

(b) the official receiver shall summon separate meetings of the creditors and contributories of the company for the purpose of determining whether or not an application is to be made to the court for appointing a liquidator in the place of the official receiver;

- (c) the court may make any appointment and order required to give effect to any such determination, and, if there is a difference between the determinations of the meetings of the creditors and contributories in respect of the matter aforesaid, the court shall decide the difference and make such order thereon as the court may think fit;
- (d) in a case where a liquidator is not appointed by the court, the official receiver shall be the liquidator of the company;
- (e) the court may determine whether any and what security is to be given by a liquidator on his appointment;
- (f) the official receiver shall by virtue of his office be the liquidator during any vacancy;
- (g) a liquidator shall be described, where a person other than the official receiver is liquidator, by the style of "the liquidator", and, where the official receiver is liquidator, by the style of "the official receiver and liquidator", of the particular company in respect of which he is appointed, and not by his individual name.

Provisions where person other than official receiver is appointed liquidator.

185. Where in the winding up of a company by the court a person other than the official receiver is appointed liquidator, that person—

- (a) shall not be capable of acting as liquidator until he has notified his appointment to the registrar and given security in the prescribed manner to the satisfaction of the registrar;
- (b) shall give the official receiver such information and such access to and facilities for inspecting the books and documents of the company, and generally such aid as may be requisite for enabling that officer to perform his duties under this Ordinance.

Provisions as to liquidators on an order for winding up by court after order for winding up subject to supervision.

186. Where an order has been made for winding up a company subject to supervision, and an order is afterwards made for winding up by the court, the court may by the last-mentioned or by any subsequent order appoint any person who is then liquidator, either provisionally or permanently, and either with or without any other person, to be liquidator in the winding up by the court

187. (1) A liquidator appointed by the court may resign, or, on cause shown, be removed by the court. General provisions as to liquidators.

(2) Where a person other than the official receiver is appointed liquidator, he shall receive such salary or remuneration by way of percentage or otherwise as the court may direct and, if more such persons than one are appointed liquidators, their remuneration shall be distributed among them in such proportions as the court directs.

(3) A vacancy in the office of a liquidator appointed by the court shall be filled by the court.

(4) If more than one liquidator is appointed by the court, the court shall declare whether any act by this Ordinance required or authorized to be done by the liquidator is to be done by all or any one or more of the persons appointed.

(5) Subject to the provisions of section 272 of this Ordinance, the acts of a liquidator shall be valid notwithstanding any defects that may afterwards be discovered in his appointment or qualification.

188. Where a winding-up order has been made or where a provisional liquidator has been appointed, the liquidator, or the provisional liquidator, as the case may be, shall take into his custody, or under his control, all the property and things in action to which the company is or appears to be entitled. Custody of company's property.

189. Where a company is being wound up by the court, the court may on the application of the liquidator by order direct that all or any part of the property of whatsoever description belonging to the company or held by trustees on its behalf shall vest in the liquidator by his official name, and thereupon the property to which the order relates shall vest accordingly, and the liquidator may, after giving such indemnity, if any, as the court may direct, bring or defend in his official name any action or other legal proceeding which relates to that property or which it is necessary to bring or defend for the purpose of effectually winding up the company and recovering its property. Vesting of property of company in liquidator.

190. (1) The liquidator in a winding up by the court shall have power with the sanction either of the court or of the committee of inspection— Powers of liquidator.

(a) to bring or defend any action or other legal proceeding in the name and on behalf of the company;

- (b) to carry on the business of the company, so far as may be necessary for the beneficial winding up thereof;
- (c) to appoint an advocate to assist him in the performance of his duties: Provided that where the liquidator is an advocate, he shall not appoint his partner unless the latter consents to act without remuneration;
- (d) to pay any classes of creditors in full;
- (e) to make any compromise or arrangement with creditors or persons claiming to be creditors, or having or alleging themselves to have any claim, present or future, certain or contingent, ascertained or sounding only in damages against the company, or whereby the company may be rendered liable;
- (f) to compromise all calls and liabilities to calls, debts, and liabilities capable of resulting in debts, and all claims, present or future, certain or contingent, ascertained or sounding only in damages, subsisting or supposed to subsist between the company and a contributory, or alleged contributory, or other debtor or person apprehending liability to the company, and all questions in any way relating to or affecting the assets or the winding up of the company, on such terms as may be agreed, and take any security for the discharge of any such call, debt, liability or claim and give a complete discharge in respect thereof.

(2) The liquidator in a winding-up by the court shall have power—

- (a) to sell the movable and immovable property and things in action of the company by public auction or private contract, with power to transfer the whole thereof to any person or company, or to sell the same in parcels;
- (b) to do all acts and to execute, in the name and on behalf of the company, all deeds, receipts and other documents, and for that purpose to use, when necessary, the company's seal;

- (c) to prove, rank and claim in the bankruptcy of any contributory, for any balance against his estate, and to receive dividends in the bankruptcy in respect of that balance, as a separate debt due from the bankrupt, and rateably with the other separate creditors;
- (d) to draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the company, with the same effect with respect to the liability of the company as if the bill or note had been drawn, accepted, made or endorsed by or on behalf of the company in the course of its business;
- (e) to raise on the security of the assets of the company any money requisite;
- (f) to take out in his official name letters of administration to any deceased contributory, and to do in his official name any other act necessary for obtaining payment of any money due from a contributory or his estate which cannot be conveniently done in the name of the company, and in all such cases the money due shall, for the purpose of enabling the liquidator to take out the letters of administration or recover the money, be deemed to be due to the liquidator himself: Provided that nothing herein empowered shall be deemed to affect the rights, duties and privileges of the Public Trustee;
- (g) to appoint an agent to do any business which the liquidator is unable to do himself;
- (h) to do all such other things as may be necessary for winding up the affairs of the company and distributing its assets.

(3) The exercise by the liquidator in a winding up by the court of the powers conferred by this section shall be subject to the control of the court, and any creditor or contributory may apply to the court with respect to any exercise or proposed exercise of any of those powers.

(4) The court may provide by any order that the liquidator may, where there is no committee of inspection, exercise any of the powers mentioned in paragraph (a) or paragraph (b) of sub-section (1) of this section without the sanction or intervention of the court.

Exercise and
control of
liquidator's
powers.

191. (1) Subject to the provisions of this Ordinance, the liquidator of a company which is being wound up by the court shall, in the administration of the assets of the company and in the distribution thereof among its creditors, have regard to any directions that may be given by resolution of the creditors or contributories at any general meeting, or by the committee of inspection, and any directions given by the creditors or contributories at any general meeting shall in case of conflict be deemed to override any directions given by the committee of inspection.

(1) The liquidator may summon general meetings of the creditors or contributories for the purpose of ascertaining their wishes, and it shall be his duty to summon meetings at such times as the creditors or contributories, by resolution, either at the meeting appointing the liquidator or otherwise, may direct, or whenever requested in writing to do so by one-tenth in value of the creditors or contributories, as the case may be.

(3) The liquidator may apply to the court in manner prescribed for directions in relation to any particular matter arising under the winding up.

(4) Subject to the provisions of this Ordinance, the liquidator shall use his own discretion in the management of the estate and its distribution among the creditors.

(5) If any person is aggrieved by any act or decision of the liquidator, that person may apply to the court, and the court may confirm, reverse or modify the act or decision complained of, and make such order in the premises as it thinks just.

Books to be
kept by
liquidator.

192. Every liquidator of a company which is being wound up by the court shall keep, in manner prescribed, proper books in which he shall cause to be made entries or minutes of proceedings at meetings, and of such other matters as may be prescribed, and any creditor or contributory may, subject to the control of the court, personally or by his agent inspect any such books.

Audit of
liquidator's
accounts.

193. (1) Every liquidator of a company which is being wound up by the court shall, at such times as may be prescribed, but not less than twice in each year during his tenure of office, send to the registrar an account of his receipts and payments as liquidator.

(2) The account shall be in a prescribed form, shall be made in duplicate, and shall be verified by a statutory declaration in the prescribed form.

(3) The registrar shall cause the account to be audited, and for the purpose of the audit the liquidator shall furnish the registrar with such vouchers and information as the registrar may require, and the registrar may at any time require the production of and inspect any books or accounts kept by the liquidator.

(4) When the account has been audited, one copy thereof shall be filed and kept by the registrar, and the other copy shall be delivered to the court for filing, and each copy shall be open to the inspection of any creditor, or of any person interested.

(5) The registrar shall cause the account when audited or a summary thereof to be printed, and shall send a printed copy of the account or summary by post to every creditor and contributory.

194. (1) The registrar shall take cognizance of the conduct of liquidators of companies which are being wound up by the court, and, if a liquidator does not faithfully perform his duties and duly observe all the requirements imposed on him by statute, rules or otherwise with respect to the performance of his duties, or if any complaint is made to the registrar by any creditor or contributory in regard thereto, the registrar shall inquire into the matter and take such action thereon as he may think expedient.

Control over liquidators.

(2) The registrar may at any time require any liquidator of a company which is being wound up by the court to answer any inquiry in relation to any winding up in which he is engaged, and may, if the registrar thinks fit, apply to the court to examine him or any other person on oath concerning the winding up.

(3) The registrar may also direct a local investigation to be made of the books and vouchers of the liquidator.

195. (1) When the liquidator of a company which is being wound up by the court has realized all the property of the company, or so much thereof as can, in his opinion, be realized without needlessly protracting the liquidation, and has distributed a final dividend, if any, to the creditors, and adjusted the rights of the contributories among themselves, and made a

Release of liquidators.

final return, if any, to the contributories, or has resigned, or has been removed from his office, the court shall, on his application, cause a report on his accounts to be prepared, and, on his complying with all the requirements of the court, shall take into consideration the report, and any objection which may be urged by any creditor or contributory or person interested against the release of the liquidator, and shall either grant or withhold the release accordingly.

(2) Where the release of a liquidator is withheld, the court may, on the application of any creditor or contributory or person interested, make such order as it thinks just, charging the liquidator with the consequences of any act or default which he may have done or made contrary to his duty.

(3) An order of court releasing the liquidator shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the company, or otherwise in relation to his conduct as liquidator, but any such order may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact.

(4) Where the liquidator has not previously resigned or been removed, his release shall operate as a removal of him from his office.

Committees of Inspection.

Meetings of creditors and contributories to determine whether committee of inspection shall be appointed.

196. (1) When a winding-up order has been made by the court, it shall be the business of the separate meetings of creditors and contributories summoned for the purpose of determining whether or not an application should be made to the court for appointing a liquidator in place of the official receiver, to determine further whether or not an application is to be made to the court for the appointment of a committee of inspection to act with the liquidator and who are to be members of the committee if appointed.

(2) The court may make any appointment and order required to give effect to any such determination, and if there is a difference between the determinations of the meetings of the creditors and contributories in respect of the matters aforesaid the court shall decide the difference and make such order thereon as the court may think fit.

197. (1) A committee of inspection appointed in pursuance of this Ordinance shall consist of creditors and contributories of the company or persons holding general powers of attorney from creditors or contributories in such proportions as may be agreed on by the meetings of creditors and contributories or as, in case of difference, may be determined by the court.

Constitution and proceedings of committee of inspection.

(2) The committee shall meet at such times as they from time to time appoint and, failing such appointment, at least once a month, and the liquidator or any member of the committee may also call a meeting of the committee as and when he thinks necessary.

(3) The committee may act by a majority of their members present at a meeting, but shall not act unless a majority of the committee are present.

(4) A member of the committee may resign by notice in writing signed by him and delivered to the liquidator.

(5) If a member of the committee becomes bankrupt, or compounds or arranges with his creditors, or is absent from five consecutive meetings of the committee without the leave of those members who together with himself represent the creditors or contributories, as the case may be, his office shall thereupon become vacant.

(6) A member of the committee may be removed by an ordinary resolution at a meeting of creditors, if he represents creditors, or of contributories, if he represents contributories, of which seven days' notice has been given, stating the object of the meeting.

(7) On a vacancy occurring in the committee, the liquidator shall forthwith summon a meeting of creditors or of contributories, as the case may require, to fill the vacancy, and the meeting may, by resolution, re-appoint the same or appoint another creditor or contributory to fill the vacancy.

(8) The continuing members of the committee, if not less than two, may act notwithstanding any vacancy in the committee.

General Powers of Court in Case of Winding Up by Court.

198. (1) The court may at any time after an order for winding up, on the application either of the liquidator or the official receiver, or any creditor or contributory, and on proof to the satisfaction of the court that all proceedings in relation

Power to stay winding up.

to the winding up ought to be stayed, make an order staying the proceedings, either altogether or for a limited time, on such terms and conditions as the court thinks fit.

(2) On any application under this section the court may, before making an order, require the official receiver to furnish to the court a report with respect to any facts or matters which are in his opinion relevant to the application.

Settlement of
list of contri-
butories and
application
of assets.

199. (1) As soon as may be after making a winding-up order, the court shall settle a list of contributories, with power to rectify the register of members in all cases where rectification is required in pursuance of this Ordinance, and shall cause the assets of the company to be collected, and applied in discharge of its liabilities :

Provided that, where it appears to the court that it will not be necessary to make calls on or adjust the rights of contributories, the court may dispense with the settlement of a list of contributories.

(2) In settling the list of contributories, the court shall distinguish between persons who are contributories in their own right and persons who are contributories as being representatives of or liable for the debts of others.

Delivery of
property to
liquidator.

200. The court may, at any time after making a winding-up order, require any contributory for the time being on the list of contributories, and any trustee, receiver, banker, agent or officer of the company to pay, deliver, surrender or transfer forthwith, or within such time as the court directs, to the liquidator any money, property or books and papers in his hands to which the company is *prima facie* entitled.

Payment of
debts due by
contributory
to company
and extent to
which set off
allowed.

201. (1) The court may, at any time after making a winding-up order, make an order on any contributory for the time being on the list of contributories to pay, in manner directed by the order, any money due from him or from the estate of the person whom he represents to the company, exclusive of any money payable by him or the estate by virtue of any call in pursuance of this Ordinance.

(2) The court in making such an order may—

(a) in the case of an unlimited company, allow to the contributory by way of set-off any money due to him or to the estate which he represents from the company on any independent dealing or contract with

the company, but not any money due to him as a member of the company in respect of any dividend or profit; and

(b) in the case of a limited company, make to any director or manager whose liability is unlimited or to his estate the like allowance.

(3) In the case of any company, whether limited or unlimited, when all the creditors are paid in full, any money due on any account whatever to a contributory from the company may be allowed to him by way of set-off against any subsequent call.

202. (1) The court may, at any time after making a winding-up order, and either before or after it has ascertained the sufficiency of the assets of the company, make calls on all or any of the contributories for the time being settled on the list of the contributories to the extent of their liability, for payment of any money which the court considers necessary to satisfy the debts and liabilities of the company, and the costs, charges and expenses of winding-up, and for the adjustment of the rights of the contributories among themselves, and make an order for payment of any calls so made.

Power of court to make calls.

(2) In making a call the court may take into consideration the probability that some of the contributories may partly or wholly fail to pay the call.

203. (1) The court may order any contributory, purchaser or other person from whom money is due to the company to pay the same into a specified bank or any branch thereof to the account of the liquidator instead of to the liquidator, and any such order may be enforced in the same manner as if it had directed payment to the liquidator.

Payment into bank of moneys due to company.

(2) All moneys, bills, notes and other securities paid or delivered into a specified bank or any branch thereof in the event of a winding up by the court shall be subject in all respects to the orders of the court.

204. (1) An order made by the court on a contributory shall, subject to any right of appeal, be conclusive evidence that the money, if any, thereby appearing to be due or ordered to be paid is due.

Order on a contributory conclusive evidence.

(2) All other pertinent matters stated in the order shall be taken to be truly stated as against all persons and in all proceedings whatsoever.

Appointment
of special
manager.

205. (1) Where in proceedings the official receiver becomes the liquidator of a company, whether provisionally or otherwise, he may, if satisfied that the nature of the estate or business of the company, or the interests of the creditors or contributories generally, require the appointment of a special manager of the estate or business of the company other than himself, apply to the court, and the court may on such application appoint a special manager of the said estate or business to act during such time as the court may direct, with such powers, including any of the powers of a receiver or manager, as may be entrusted to him by the court.

(2) The special manager shall give such security and account in such manner as the court shall direct.

(3) The special manager shall receive such remuneration as may be fixed by the court.

Power to
exclude
creditors not
proving in
time.

206. The court may fix a time or times within which creditors are to prove their debts or claims, or to be excluded from the benefit of any distribution made before those debts are proved.

Adjustment
of rights of
contribu-
tories.

207. The court shall adjust the rights of the contributories among themselves, and distribute any surplus among the persons entitled thereto.

Inspection of
books by
creditors and
contribu-
tories.

208. The court may, at any time after making a winding-up order, make such order for inspection of the books and papers of the company by creditors and contributories as the court thinks just, and any books and papers in the possession of the company may be inspected by creditors or contributories accordingly, but not further or otherwise.

Power to
order costs of
winding up to
be paid out
of assets.

209. The court may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the assets of the costs, charges and expenses incurred in the winding up in such order of priority as the court thinks just.

Power to sum-
mon persons
suspected of
having
property of
company.

210. (1) The court may, at any time after the appointment of a provisional liquidator or the making of a winding-up order, summon before it any officer of the company or person known or suspected to have in his possession any property of the company or supposed to be indebted to the company, or any person whom the court deems capable of giving information concerning the promotion, formation, trade, dealings, affairs or property of the company.

(2) The court may examine him on oath concerning the matters aforesaid, either by word of mouth or on written interrogatories, and may reduce his answers to writing and require him to sign them.

(3) The court may require him to produce any books and papers in his custody or power relating to the company, but, where he claims any lien on books or papers produced by him, the production shall be without prejudice to that lien, and the court shall have jurisdiction in the winding up to determine all questions relating to that lien.

(4) If any person so summoned, after being tendered a reasonable sum for his expenses, refuses to come before the court at the time appointed, not having a lawful impediment (made known to the court at the time of its sitting, and allowed by it), the court may cause him to be apprehended and brought before the court for examination.

211. In the winding up by the court of a company the court shall have power to require the attendance of any director or other officer of the company at any meeting of creditors or of contributories or of a committee of inspection for the purpose of giving information as to the trade, dealings, affairs or property of the company.

Attendance of
director of
company at
meetings of
creditors, etc.

212. (1) Where an order has been made for winding up a company by the court, and the official receiver has made a further report under this Ordinance stating that in his opinion a fraud has been committed by any person in the promotion or formation of the company, or by any director or other officer of the company in relation to the company since its formation, the court may, after consideration of the report, direct that that person, director, or officer shall attend before the court on a day appointed by the court for that purpose, and be publicly examined as to the promotion or formation or the conduct of the business of the company, or as to his conduct and dealings as director or officer thereof.

Power to
order public
examination
of promoters,
directors, etc.

(2) The official receiver shall take part in the examination, and for that purpose may, if specially authorized by the court in that behalf, employ an advocate.

(3) The liquidator, where the official receiver is not the liquidator, and any creditor or contributory, may also take part in the examination either personally or by an advocate.

(4) The court may put such questions to the person examined as the court thinks fit.

(5) The person examined shall be examined on oath, and shall answer all such questions as the court may put or allow to be put to him.

(6) A person ordered to be examined under this section shall at his own cost, before his examination, be furnished with a copy of the official receiver's report, and may at his own cost employ an advocate, who shall be at liberty to put to him such questions as the court may deem just for the purpose of enabling him to explain or qualify any answers given by him :

Provided that, if any such person applies to the court to be exculpated from any charges made or suggested against him, it shall be the duty of the official receiver to appear on the hearing of the application and call the attention of the court to any matters which appear to the official receiver to be relevant, and if the court, after hearing any evidence given or witnesses called by the official receiver, grants the application, the court may allow the applicant such costs as in its discretion it may think fit.

(7) Notes of the examination shall be taken down in writing, and shall be read over to or by, and signed by, the person examined, and may thereafter be used in evidence against him, and shall be open to the inspection of any creditor or contributory at all reasonable times.

(8) The court may, if it thinks fit, adjourn the examination from time to time.

Power to
restrain
fraudulent
persons from
managing
companies.

213. (1) Where an order has been made for winding up a company by the court, and the official receiver has made a further report under this Ordinance stating that, in his opinion, a fraud has been committed by a person in the promotion or formation of the company, or by any director or other officer of the company in relation to the company since its formation, the court may, on the application of the official receiver, order that that person, director or officer shall not, without the leave of the court, be a director of or in any way, whether directly or indirectly, be concerned in or take part in the management of a company for such period, not exceeding five years, from the date of the report as may be specified in the order.

(2) The official receiver shall, where he intends to make an application under the last foregoing sub-section, give not less than ten days' notice of his intention to the person charged with the fraud, and on the hearing of the application that person may appear and himself give evidence or call witnesses.

(3) It shall be the duty of the official receiver to appear on the hearing of an application by him for an order under this section and on an application for leave under this section and to call the attention of the court to any matters which appear to him to be relevant, and on any such application the official receiver may himself give evidence or call witnesses.

(4) If any person acts in contravention of an order made under this section, he shall, in respect of each offence, be liable on conviction to imprisonment for a term not exceeding two years, or to a fine not exceeding five hundred pounds, or to both such imprisonment and fine.

(5) The provisions of this section shall have effect notwithstanding that the person concerned may be criminally liable in respect of the matters on the ground of which the order is to be made.

214. The court, at any time either before or after making a winding-up order, on proof of probable cause for believing that a contributory is about to quit the Colony, or otherwise to abscond, or to remove or conceal any of his property for the purpose of evading payment of calls, or of avoiding examination respecting the affairs of the company, may cause the contributory to be arrested, and his books and papers and movable personal property to be seized, and him and them to be safely kept until such time as the court may order.

Power to
arrest
absconding
contributory.

215. Any powers by this Ordinance conferred on the court shall be in addition to and not in restriction of any existing powers of instituting proceedings against any contributory or debtor of the company, or the estate of any contributory or debtor, for the recovery of any call or other sums.

Powers of
court
cumulative.

216. Provision may be made by general rules for enabling or requiring all or any of the powers and duties conferred and imposed on the court in respect of the following matters—

Delegation to
liquidator
of certain
powers of
court.

- (1) the holding and conducting of meetings to ascertain the wishes of creditors and contributories;
- (2) the settling of lists of contributories and the rectifying of the register of members where required, and the collecting and applying of the assets;

- (3) the paying, delivery, conveyance, surrender or transfer of money, property, books or papers to the liquidator;
- (4) the making of calls;
- (5) the fixing of a time within which debts and claims must be proved;

to be exercised or performed by the liquidator as an officer of the court, and subject to the control of the court: Provided that the liquidator shall not, without the special leave of the court, rectify the register of members, and shall not make any call without either the special leave of the court or the sanction of the committee of inspection.

Dissolution of company.

217. (1) When the affairs of a company have been completely wound up, the court shall make an order that the company be dissolved from the date of the order, and the company shall be dissolved accordingly.

(2) The order shall within fourteen days from the date thereof be reported by the liquidator to the registrar, who shall make in his books a minute of the dissolution of the company.

(3) If the liquidator makes default in complying with the requirements of this section, he shall be liable to a fine not exceeding five pounds for every day during which he is in default.

Enforcements of and Appeal from Orders.

Manner of enforcing orders of court.

218. All orders made by a court under this Ordinance may be enforced in the same manner in which decrees of such court made in any suit pending therein may be enforced.

Enforcement of order in another court.

219. Where any order made by one court is required to be enforced by another court, a certified copy of the order shall be produced to the proper officer of the court required to enforce the same, and the production of a certified copy shall be sufficient evidence of the order and thereupon the last-mentioned court shall take the requisite steps in the matter for enforcing the order in the same manner as if it had been made by that court.

Appeals from orders.

220. Appeals from any order or decision made or given in the matter of the winding up of a company by the court may be had in the same manner and subject to the same conditions as appeals from any order or decision of the court in cases within its ordinary jurisdiction.

(iii) VOLUNTARY WINDING UP.

*Resolutions for, and Commencement of, Voluntary Winding Up.***221.** (1) A company may be wound up voluntarily—

Circumstances
in which com-
pany may be
wound up
voluntarily.

- (a) when the period, if any, fixed for the duration of the company by the articles expires, or the event, if any, occurs, on the occurrence of which the articles provide that the company is to be dissolved, and the company in general meeting has passed a resolution requiring the company to be wound up voluntarily;
- (b) if the company resolves by special resolution that the company be wound up voluntarily;
- (c) if the company resolves by extraordinary resolution to the effect that it cannot by reason of its liabilities continue its business, and that it is advisable to wind up.

(2) In this Ordinance the expression "a resolution for voluntary winding up" means a resolution passed under any of the provisions of sub-section (1) of this section.

222. (1) When a company has passed a resolution for voluntary winding up, it shall, within ten days after the passing of the resolution, give notice of the resolution by advertisement in the Gazette and also in some newspaper, if any, circulating in the district where the registered office of the company is situate.

Notice of
resolution to
wind up
voluntarily.

(2) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine, and for the purposes of this sub-section the liquidator of the company shall be deemed to be an officer of the company.

223. A voluntary winding up shall be deemed to commence at the time of the passing of the resolution for voluntary winding up.

Commence-
ment of
voluntary
winding up.

Consequences of Voluntary Winding Up.

224. In case of a voluntary winding up, the company shall, from the commencement of the winding up, cease to carry on its business, except so far as may be required for the beneficial winding up thereof:

Effect of
voluntary
winding up
on business
and status of
company.

Provided that the corporate state and corporate powers of the company shall, notwithstanding anything to the contrary in its articles, continue until it is dissolved.

Avoidance of transfers, etc., after commencement of voluntary winding up.

225. Any transfer of shares, not being a transfer made to or with the sanction of the liquidator, and any alteration in the status of the members of the company, made after the commencement of a voluntary winding up, shall be void.

Declaration of Solvency.

Statutory declaration of solvency in case of proposal to wind up voluntarily.

226. (1) Where it is proposed to wind up a company voluntarily, the directors of the company or, in the case of a company having more than two directors, the majority of the directors may, at a meeting of the directors held before the date on which the notices of the meeting at which the resolution for the winding up of the company is to be proposed are sent out, make a statutory declaration to the effect that they have made a full inquiry into the affairs of the company, and that, having so done, they have formed the opinion that the company will be able to pay its debts in full within a period, not exceeding twelve months, from the commencement of the winding up.

(2) A declaration made as aforesaid shall have no effect for the purposes of this Ordinance unless it is delivered to the registrar for registration before the date mentioned in sub-section (1) of this section.

(3) A winding up in the case of which a declaration has been made and delivered in accordance with this section is in this Ordinance referred to as "a members' voluntary winding up," and a winding up in the case of which a declaration has not been made and delivered as aforesaid is in this Ordinance referred to as "a creditors' voluntary winding up."

Provisions applicable to a Members' Voluntary Winding Up.

Provisions applicable to a members' winding up.

227. The provisions contained in the five sections of this Ordinance next following shall apply in relation to a members' voluntary winding up.

Power of company to appoint and fix remuneration of liquidators.

228. (1) The company in general meeting shall appoint one or more liquidators for the purpose of winding up the affairs and distributing the assets of the company, and may fix the remuneration to be paid to him or them.

(2) On the appointment of a liquidator all the powers of the directors shall cease, except so far as the company in general meeting, or the liquidator, sanctions the continuance thereof.

229. (1) If a vacancy occurs by death, resignation or otherwise in the office of liquidator appointed by the company, the company in general meeting may, subject to any arrangement with its creditors, fill the vacancy. Power to fill vacancy in office of liquidator.

(2) For that purpose a general meeting may be convened by any contributory or, if there were more liquidators than one, by the continuing liquidators.

(3) The meeting shall be held in manner provided by this Ordinance or by the articles, or in such manner as may, on application by any contributory or by the continuing liquidators, be determined by the court.

230. (1) Where a company is proposed to be, or is in course of being, wound up altogether voluntarily, and the whole or part of its business or property is proposed to be transferred or sold to another company, whether a company within the meaning of this Ordinance or not (in this section called "the transferee company") the liquidator of the first-mentioned company (in this section called "the transferor company") may, with the sanction of a special resolution of that company, conferring either a general authority on the liquidator or an authority in respect of any particular arrangement, receive in compensation or part compensation for the transfer or sale, shares, policies or other like interests in the transferee company, for distribution among the members of the transferor company, or may enter into any other arrangement whereby the members of the transferor company may, in lieu of receiving cash, shares, policies or other like interests, or in addition thereto, participate in the profits of or receive any other benefit from the transferee company. Power of liquidator to accept shares, etc., as consideration for sale of property of company.

(2) Any sale or arrangement in pursuance of this section shall be binding on the members of the transferor company.

(3) If any member of the transferor company who did not vote in favour of the special resolution expresses his dissent therefrom in writing addressed to the liquidator, and left at the registered office of the company within seven days after the passing of the resolution, he may require the liquidator either to abstain from carrying the resolution into effect, or to purchase his interest at a price to be determined by agreement or by arbitration in accordance with the law relating to arbitration in force in the Colony.

(4) If the liquidator elects to purchase the member's interest, the purchase money must be paid before the company

is dissolved, and be raised by the liquidator in such manner as may be determined by special resolution.

(5) A special resolution shall not be invalid for the purposes of this section by reason that it is passed before or concurrently with a resolution for voluntary winding up or for appointing liquidators but, if an order is made within a year for winding up the company by or subject to the supervision of the court, the special resolution shall not be valid unless sanctioned by the court.

Duty of liquidator to call general meeting at end of each year.

231. (1) In the event of the winding-up continuing for more than one year, the liquidator shall summon a general meeting of the company at the end of the first year from the commencement of the winding up, and of each succeeding year, or as soon thereafter as may be convenient, and shall lay before the meeting an account of his acts and dealings and of the conduct of the winding up during the preceding year.

(2) If the liquidator fails to comply with this section, he shall be liable to a fine not exceeding ten pounds.

Final meeting and dissolution.

232. (1) As soon as the affairs of the company are fully wound up, the liquidator shall make up an account of the winding up, showing how the winding up has been conducted and the property of the company has been disposed of, and thereupon shall call a general meeting of the company for the purpose of laying before it the account, and giving any explanation thereof.

(2) The meeting shall be called by advertisement specifying the time, place and object thereof, and published one month at least before the meeting in the manner specified in sub-section (1) of section 222 of this Ordinance.

(3) Within one week after the meeting, the liquidator shall send to the registrar a copy of the account, and shall make a return to him of the holding of the meeting and of its date, and if the copy is not sent or the return is not made in accordance with this sub-section the liquidator shall be liable to a fine not exceeding five pounds for every day during which the default continues:

Provided that, if a quorum is not present at the meeting, the liquidator shall, in lieu of the return hereinbefore mentioned, make a return that the meeting was duly summoned and that no quorum was present thereat, and upon such a return being made the provisions of this sub-section as to the making of the return shall be deemed to have been complied with.

(4) The registrar on receiving the account and either of the returns hereinbefore mentioned shall forthwith register them, and on the expiration of three months from the registration of the return the company shall be deemed to be dissolved :

Provided that the court may, on the application of the liquidator or of any other person who appears to the court to be interested, make an order deferring the date at which the dissolution of the company is to take effect for such time as the court thinks fit.

(5) It shall be the duty of the person on whose application an order of the court under this section is made, within seven days after the making of the order, to deliver to the registrar a certified copy of the order for registration, and if that person fails so to do he shall be liable to a fine not exceeding five pounds for every day during which the default continues.

*Provisions applicable to a Creditors' Voluntary
Winding Up.*

233. The provisions contained in the eight sections of this Ordinance next following shall apply in relation to a creditors' voluntary winding up. Provisions applicable to a creditors' winding up.

234. (1) The company shall cause a meeting of the creditors of the company to be summoned for the day, or the day next following the day, on which there is to be held the meeting at which the resolution for voluntary winding up is to be proposed, and shall cause the notices of the said meeting of creditors to be sent by post to the creditors simultaneously with the sending of the notices of the said meeting of the company. Meeting of creditors.

(2) The company shall cause notice of the meeting of the creditors to be advertised once in the Gazette and once at least in a local newspaper, if any, circulating in the district where the registered office or principal place of business of the company is situate.

(3) The directors of the company shall—

- (a) cause a full statement of the position of the company's affairs together with a list of the creditors of the company and the estimated amount of their claims to be laid before the meeting of creditors to be held as aforesaid; and
- (b) appoint one of their number to preside at the said meeting.

(4) It shall be the duty of the director appointed to preside at the meeting of creditors to attend the meeting and preside thereat.

(5) If the meeting of the company at which the resolution for voluntary winding up is to be proposed is adjourned and the resolution is passed at an adjourned meeting, any resolution passed at the meeting of the creditors held in pursuance of sub-section (1) of this section shall have effect as if it had been passed immediately after the passing of the resolution for winding up the company.

(6) If default is made—

- (a) by the company in complying with sub-sections (1) and (2) of this section ;
- (b) by the directors of the company in complying with sub-section (3) of this section ;
- (c) by any director of the company in complying with sub-section (4) of this section.

the company, directors or director, as the case may be, shall be liable to a fine not exceeding one hundred pounds, and in the case of default by the company, every officer of the company who is in default shall be liable to the like penalty.

**Appointment
of liquidator.**

235. The creditors and the company at their respective meetings mentioned in the last foregoing section of this Ordinance may nominate a person to be liquidator for the purpose of winding up the affairs and distributing the assets of the company, and if the creditors and the company nominate different persons, the person nominated by the creditors shall be liquidator, and if no person is nominated by the creditors the person, if any, nominated by the company shall be liquidator :

Provided that in the case of different persons being nominated any director, member or creditor of the company may, within fourteen days after the date on which the nomination was made by the creditors, apply to the court for an order either directing that the person nominated as liquidator by the company shall be liquidator instead of or jointly with the person nominated by the creditors, or appointing some other person to be liquidator instead of the person appointed by the creditors.

**Appointment
of committee
of inspection.**

236. (1) The creditors at the meeting to be held in pursuance of section 234 of this Ordinance or at any subsequent meeting, may, if they think fit, appoint a committee of

inspection consisting of not more than five persons, and if such a committee is appointed the company may, either at the meeting at which the resolution for voluntary winding up is passed or at any time subsequently in general meeting, appoint such number of persons as they think fit to act as members of the committee not exceeding five in number :

Provided that the creditors may, if they think fit, resolve that all or any of the persons so appointed by the company ought not to be members of the committee of inspection and, if the creditors so resolve, the persons mentioned in the resolution shall not, unless the court otherwise directs, be qualified to act as members of the committee, and on any application to the court under this provision the court may, if it thinks fit, appoint other persons to act as such members in place of the persons mentioned in the resolution.

(2) Subject to the provisions of this section and to any rules made in this behalf, the provisions of section 197 (except sub-section (1)) of this Ordinance shall apply with respect to a committee of inspection appointed under this section as they apply with respect to a committee of inspection appointed in a winding up by the court.

237. (1) The committee of inspection, or if there is no such committee, the creditors, may fix the remuneration to be paid to the liquidator or liquidators.

Fixing of liquidators' remuneration and cesser of directors' powers.

(2) On the appointment of a liquidator, all the powers of the directors shall cease, except so far as the committee of inspection, or if there is no such committee, the creditors, sanction the continuance thereof.

238. If a vacancy occurs, by death, resignation or otherwise, in the office of a liquidator, other than a liquidator appointed by, or by the direction of, the court, the creditors may fill the vacancy.

Power to fill vacancy in office of liquidator.

239. The provisions of section 230 of this Ordinance shall apply in the case of a creditors' voluntary winding up as in the case of a members' voluntary winding up, with the modification that the powers of the liquidator under the said section shall not be exercised except with the sanction either of the court or of the committee of inspection.

Application of section 230 to a creditors' voluntary winding up.

240. (1) In the event of the winding up continuing for more than one year, the liquidator shall summon a general meeting of the company and a meeting of creditors at the end of the first year from the commencement of the winding up, and of each succeeding year, or as soon thereafter as

Duty of liquidator to call meetings of company and of creditors at end of each year.

may be convenient, and shall lay before the meetings an account of his acts and dealings and of the conduct of the winding up during the preceding year.

(2) If the liquidator fails to comply with this section, he shall be liable to a fine not exceeding ten pounds.

Final meeting
and dissolution.

241. (1) As soon as the affairs of the company are fully wound up, the liquidator shall make up an account of the winding up, showing how the winding up has been conducted and the property of the company has been disposed of, and thereupon shall call a general meeting of the company and a meeting of the creditors, for the purpose of laying the account before the meetings, and giving any explanation thereof.

(2) Each such meeting shall be called by advertisement in the Gazette, specifying the time, place and object thereof, and published one month at least before the meeting.

(3) Within one week after the date of the meetings or, if the meetings are not held on the same date, after the date of the later meeting, the liquidator shall send to the registrar a copy of the account, and shall make a return to him of the holding of the meetings and of their dates, and if the copy is not sent or the return is not made in accordance with this sub-section the liquidator shall be liable to a fine not exceeding five pounds for every day during which the default continues :

Provided that, if a quorum is not present at either such meeting, the liquidator shall, in lieu of the return hereinbefore mentioned, make a return that the meeting was duly summoned and that no quorum was present thereat, and upon such a return being made the provisions of this sub-section as to the making of the return shall, in respect of that meeting, be deemed to have been complied with.

(4) The registrar on receiving the account and in respect of each such meeting either of the returns hereinbefore mentioned shall forthwith register them, and on the expiration of three months from the registration thereof the company shall be deemed to be dissolved :

Provided that the court may, on the application of the liquidator or of any other person who appears to the court to be interested, make an order deferring the date at which the dissolution of the company is to take effect for such time as the court thinks fit.

(5) It shall be the duty of the person on whose application an order of the court under this section is made, within fourteen days after the making of the order, to deliver to the registrar a certified copy of the order for registration, and if that person fails so to do he shall be liable to a fine not exceeding five pounds for every day during which the default continues.

Provisions applicable to every Voluntary Winding Up.

242. The provisions contained in the nine sections of this Ordinance next following shall apply to every voluntary winding up whether a members' or a creditors' winding up.

Provisions applicable to every voluntary winding up.

243. Subject to the provisions of this Ordinance as to preferential payments, the assets of a company shall on its winding up, be applied in satisfaction of its liabilities *pari passu*, and, subject to such application, shall unless the articles otherwise provide, be distributed among the members according to their rights and interests in the company.

Distribution of assets of company.

244. (1) The liquidator may—

Powers and duties of liquidator in voluntary winding up.

- (a) in the case of a members' voluntary winding up, with the sanction of an extraordinary resolution of the company, and, in the case of a creditors' voluntary winding up, with the sanction of either the court or the committee of inspection, exercise any of the powers given by paragraphs (d), (e) and (f) of subsection (1) of section 190 of this Ordinance to a liquidator in a winding up by the court;
- (b) without sanction, exercise any of the other powers by this Ordinance given to the liquidator in a winding up by the court;
- (c) exercise the power of the court under this Ordinance of settling a list of contributories and the list of contributories shall be prima facie evidence of the liability of the persons named therein to be contributories;
- (d) exercise the power of the court of making calls;
- (e) summon general meetings of the company for the purpose of obtaining the sanction of the company by special or extraordinary resolution or for any other purpose he may think fit.

(2) The liquidator shall pay the debts of the company and shall adjust the rights of the contributories among themselves.

(3) When several liquidators are appointed, any power given by this Ordinance may be exercised by such one or more of them as may be determined at the time of their appointment or, in default of such determination, by any number not less than two.

Power of court to appoint and remove liquidator in voluntary winding up.

Notice by liquidator of his appointment.

245. (1) If from any cause whatever there is no liquidator acting, the court may appoint a liquidator.

(2) The court may, on cause shown, remove a liquidator and appoint another liquidator.

246. (1) The liquidator shall, within twenty-one days after his appointment, deliver to the registrar for registration a notice of his appointment in the form prescribed.

(2) If the liquidator fails to comply with the requirements of this section he shall be liable to a fine not exceeding five pounds for every day during which the default continues.

Arrangement, when binding on creditors.

247. (1) Any arrangement entered into between a company about to be, or in the course of being, wound up and its creditors shall, subject to the right of appeal under this section, be binding on the company if sanctioned by an extraordinary resolution, and on the creditors if acceded to by three-fourths in number and value of the creditors.

(2) Any creditor or contributory may, within three weeks from the completion of the arrangement, appeal to the court against it, and the court may thereupon, as it thinks just, amend, vary or confirm the arrangement.

Power to apply to court to have questions determined or powers exercised.

248. (1) The liquidator or any contributory or creditor may apply to the court to determine any question arising in the winding up of a company, or to exercise, as respects the enforcing of calls, or any other matter, all or any of the powers which the court might exercise if the company were being wound up by the court.

(2) The court, if satisfied that the determination of the question or the required exercise of power will be just and beneficial, may accede wholly or partially to the application on such terms and conditions as it thinks fit, or may make such other order on the application as it thinks just.

Power of court to stay proceedings against company.

249. Nothing in this Ordinance contained shall be taken to affect the practice or powers of the court as existing immediately before the commencement of this Ordinance with respect to the staying of proceedings against a company in course of being wound up.

250. All costs, charges, and expenses properly incurred in the winding up, including the remuneration of the liquidator, shall be payable out of the assets of the company in priority to all other claims. Cost of voluntary winding up.

251. The winding up of a company shall not bar the right of any creditor or contributory to have it wound up by the court, but in the case of an application by a contributory, the court must be satisfied that the rights of contributories will be prejudiced by a voluntary winding up. Saving of rights of creditors and contributories.

(iv) WINDING UP SUBJECT TO SUPERVISION OF COURT.

252. When a company has passed a resolution for voluntary winding up, the court may make an order that the voluntary winding up shall continue but subject to such supervision of the court, and with such liberty for creditors, contributories or others to apply to the court, and generally on such terms and conditions, as the court thinks just. Power to order winding up subject to supervision.

253. A petition for the continuance of a voluntary winding up subject to the supervision of the court shall, for the purpose of giving jurisdiction to the court over actions, be deemed to be a petition for winding up by the court. Effect of petition for winding up subject to supervision.

254. A winding up subject to the supervision of the court shall, for the purposes of section 172 and 173 of this Ordinance, be deemed to be a winding up by the court. Application of sections 172 and 173 to winding up subject to supervision.

255. (1) Where an order is made for a winding up subject to supervision, the court may by that or any subsequent order appoint an additional liquidator. Power of court to appoint or remove liquidators.

(2) A liquidator appointed by the court under this section shall have the same powers, be subject to the same obligations, and in all respects stand in the same position, as if he had been duly appointed in accordance with the provisions of this Ordinance with respect to the appointment of liquidators in a voluntary winding up.

(3) The court may remove any liquidator so appointed by the court or any liquidator continued under the supervision order and fill any vacancy occasioned by the removal, or by death or resignation.

256. (1) Where an order is made for a winding up subject to supervision, the liquidator may, subject to any restrictions imposed by the court, exercise all his powers, without the Effect of supervision order.

sanction or intervention of the court, in the same manner as if the company were being wound up altogether voluntarily :

Provided that the powers specified in paragraphs (d), (e) and (f) of sub-section (1) of section 190 of this Ordinance shall not be exercised by the liquidator except with the sanction of the court or, in a case where before the order the winding up was a creditors' voluntary winding up, with the sanction of either the court or the committee of inspection.

(2) A winding up subject to the supervision of the court is not a winding up by the court for the purpose of the provisions of this Ordinance which are set out in the Seventh Schedule to this Ordinance, but, subject as aforesaid, an order for a winding up subject to supervision shall for all purposes be deemed to be an order for winding up by the court :

Provided that where the order for winding up subject to supervision was made in relation to a creditor's voluntary winding up in which a committee of inspection had been appointed, the order shall be deemed to be an order for winding up by the court for the purpose of section 197 (except sub-section (1) thereof) of this Ordinance, except in so far as the operation of those sections is excluded in a voluntary winding up by general rules.

(v) PROVISIONS APPLICABLE TO EVERY MODE OF
WINDING UP.

Proof and Ranking of Claims.

Debts of all
descriptions
to be proved.

257. In every winding up (subject in the case of insolvent companies to the application in accordance with the provisions of this Ordinance of the law of bankruptcy) all debts payable on a contingency, and all claims against the company, present or future, certain or contingent, shall be admissible to proof against the company, a just estimate being made, so far as possible, of the value of such debts or claims as may be subject to any contingency or for some other reason do not bear a certain value.

Application of
bankruptcy
rules in wind-
ing up of
insolvent
companies.

258. In the winding up of an insolvent company the same rules shall prevail and be observed with regard to the respective rights of secured and unsecured creditors and to debts provable and to the valuation of annuities and future and contingent liabilities as are in force for the time being under the law of bankruptcy with respect to the estates of persons adjudged bankrupt, and all persons who in any such case would be entitled to prove for and receive dividends out of the assets

of the company may come in under the winding up, and make such claims against the company as they respectively are entitled to by virtue of this section.

259. (1) In a winding up there shall be paid in priority to all other debts— **Preferential payments.**

- (a) all taxes and rates whether payable to the crown or to a local authority, due from the company at the relevant date and having become due and payable within twelve months next before that date;
- (b) all wages or salary (whether or not earned wholly or in part by way of commission) of any clerk or servant in respect of services rendered to the company during four months next before the relevant date, not exceeding one hundred pounds;
- (c) all wages of any workman or labourer not exceeding fifty pounds, whether payable for time or for piece work, in respect of services rendered to the company during two months next before the relevant date:

Provided that, where any labourer in husbandry has entered into a contract for the payment of a portion of his wages in a lump sum at the end of the year of hiring, he shall have priority in respect of the whole of such sum, or a part thereof, as the court may decide to be due under the contract, proportionate to the time of service up to the relevant date:

- (d) all sums of money deposited by natives for safe custody except where such money was deposited, for the purposes of banking, with a company lawfully carrying on the business of banking.

(2) Where any payment on account of wages or salary has been made to any clerk, servant, workman or labourer in the employment of a company out of money advanced by some person for that purpose, that person shall in a winding up have a right of priority in respect of the money so advanced and paid up to the amount by which the sum in respect of which that clerk, servant, workman or labourer would have been entitled to priority in the winding up has been diminished by reason of the payment having been made.

(3) The foregoing debts shall—

- (a) rank equally among themselves and be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions; and

(b) so far as the assets of the company available for payment of general creditors are insufficient to meet them, have priority over the claims of holders of debentures under any floating charge created by the company, and be paid accordingly out of any property comprised in or subject to that charge.

(4) Subject to the retention of such sums as may be necessary for the costs and expenses of the winding up, the foregoing debts shall be discharged forthwith so far as the assets are sufficient to meet them.

(5) In the event of a landlord or other person distraining or having distrained on any goods or effects of the company within three months next before the date of a winding-up order, the debts to which priority is given by this section shall be a first charge on the goods or effects so distrained on, or the proceeds of the sale thereof :

Provided that, in respect of any money paid under any such charge, the landlord or other person shall have the same rights of priority as the person to whom the payment is made.

(6) In this section the expression "the relevant date" means—

- (a) in the case of a company ordered to be wound up compulsorily which had not previously commenced to be wound up voluntarily, the date of the winding-up order; and
- (b) in any other case, the date of the commencement of the winding up.

Effect of Winding Up on antecedent and other Transactions.

Fraudulent preference.

260. (1) Any transfer, mortgage, delivery of goods, payment, execution or other act relating to property which would, if made or done by or against an individual, be deemed in his bankruptcy a fraudulent preference, shall, if made or done by or against a company, be deemed, in the event of its being wound up, a fraudulent preference of its creditors, and be invalid accordingly.

(2) For the purposes of this section, the commencement of the winding up shall be deemed to correspond with the presentation of the bankruptcy petition in the case of an individual.

(3) Any transfer or assignment by a company of all its property to trustees for the benefit of all its creditors shall be void to all intents.

261. Where a company is being wound up, a floating charge on the undertaking or property of the company created within six months of the commencement of the winding up shall, unless it is proved that the company immediately after the creation of the charge was solvent, be invalid, except to the amount of any cash paid to the company at the time of or subsequently to the creation of, and in consideration for, the charge, together with interest on that amount at the rate of five per cent per annum. Effect of floating charge.

262. (1) Where any part of the property of a company which is being wound up consists of land of any tenure burdened with onerous covenants, of shares or stock in companies, of unprofitable contracts, or of any other property that is unsaleable, or not readily saleable, by reason of its binding the possessor thereof to the performance of any onerous act, or to the payment of any sum of money, the liquidator of the company, notwithstanding that he has endeavoured to sell or has taken possession of the property, or exercised any act of ownership in relation thereto, may, with the leave of the court and subject to the provisions of this section, by writing signed by him, at any time within twelve months after the commencement of the winding up or such extended period as may be allowed by the court, disclaim the property : Disclaimer of onerous property.

Provided that, where any such property has not come to the knowledge of the liquidator within one month after the commencement of the winding up, the power under this section of disclaiming the property may be exercised at any time within twelve months after he has become aware thereof or such extended period as may be allowed by the court.

(2) The disclaimer shall operate to determine, as from the date of disclaimer, the rights, interest and liabilities of the company, and the property of the company, in or in respect of the property disclaimed, but shall not, except so far as is necessary for the purpose of releasing the company and the property of the company from liability, affect the rights or liabilities of any other person.

(3) The court, before or on granting leave to disclaim, may require such notices to be given to persons interested, and impose such terms as a condition of granting leave, and make such other order in the matter as the court thinks just.

(4) The liquidator shall not be entitled to disclaim any property under this section in any case where an application in writing has been made to him by any persons interested in the property requiring him to decide whether he will or will not disclaim, and the liquidator has not, within a period of twenty-eight days after the receipt of the application or such further period as may be allowed by the court, given notice to the applicant that he intends to apply to the court for leave to disclaim, and, in the case of a contract, if the liquidator, after such an application as aforesaid, does not within the said period or further period disclaim the contract, the company shall be deemed to have adopted it.

(5) The court may, on the application of any person who is, as against the liquidator, entitled to the benefit or subject to the burden of a contract made with the company, make an order rescinding the contract on such terms as to payment by or to either party of damages for the non-performance of the contract, or otherwise as the court thinks just, and any damages payable under the order to any such person may be proved by him as a debt in the winding up.

(6) The court may, on an application by any person who either claims any interest in any disclaimed property or is under any liability not discharged by this Ordinance in respect of any disclaimed property and on hearing any such persons as it thinks fit, make an order for the vesting of the property in or the delivery of the property to any persons entitled thereto, or to whom it may seem just that the property should be delivered by way of compensation for such liability as aforesaid, or a trustee for him, and on such terms as the court thinks just, and on any such vesting order being made, the property comprised therein shall vest accordingly in the person therein named in that behalf without any conveyance or assignment for the purpose :

Provided that, where the property disclaimed is of a leasehold nature, the court shall not make a vesting order in favour of any person claiming under the company, whether as under-lessee or as mortgagee by demise, including a chargee by way of legal mortgage, except upon the terms of making that person—

- (a) subject to the same liabilities and obligations as those to which the company was subject under the lease in respect of the property at the commencement of the winding up; or

- (b) if the court thinks fit, subject only to the same liabilities and obligations as if the lease had been assigned to that person at that date,

and in either event (if the case so requires) as if the lease had comprised only the property comprised in the vesting order, and any mortgagee or under-lessee declining to accept a vesting order upon such terms shall be excluded from all interest in and security upon the property, and, if there is no person claiming under the company who is willing to accept an order upon such terms, the court shall have power to vest the estate and interest of the company in the property in any person liable either personally or in a representative character, and either alone or jointly with the company to perform the lessee's covenants in the lease, freed and discharged from all estates, incumbrances and interests created therein by the company.

- (7) Any person injured by the operation of a disclaimer under this section shall be deemed to be a creditor of the company to the amount of the injury, and may accordingly prove the amount as a debt in the winding up.

263. (1) Where a creditor has issued execution against the movable or immovable property of a company or has attached any debt due to the company, and the company is subsequently wound up, he shall not be entitled to retain the benefit of the execution or attachment against the liquidator in the winding up of the company unless he has completed the execution or attachment before the commencement of the winding up :

Restriction of rights of creditor as to execution or attachment in case of company being wound up.

Provided that—

- (a) where any creditor has had notice of a meeting having been called at which a resolution for voluntary winding up is to be proposed, the date on which the creditor so had notice shall for the purposes of the foregoing provision be substituted for the date of the commencement of the winding up; and
- (b) a person who purchases in good faith under a sale by order of the court any movable property of a company on which an execution has been levied shall in all cases acquire a good title to it against the liquidator.

(2) For the purposes of this section, an execution against movable property shall be taken to be completed by seizure and sale, and an attachment of a debt shall be deemed to be completed by receipt of the debt, and an execution against land shall be deemed to be completed by seizure, and, in the case of an equitable interest, by the appointment of a receiver.

Duties of
court as to
goods taken
in execution.

264. (1) Where any movable property of a company is taken in execution, and, before the sale thereof or the completion of the execution by the receipt or recovery of the full amount of the levy, the court is notified that a provisional liquidator has been appointed or that a winding-up order has been made or that a resolution for voluntary winding up has been passed, the court shall, on being so required, deliver the movable property and any money seized or received in part satisfaction of the execution to the liquidator, but the costs of the execution shall be a first charge on the movable property or money so delivered, and the liquidator may sell the movable property, or a sufficient part thereof, for the purpose of satisfying that charge.

(2) Where under an execution in respect of a judgment for a sum exceeding twenty pounds the movable property of a company is sold or money is paid in order to avoid sale, the court shall deduct the costs of the execution from the proceeds of the sale or the money paid and retain the balance for fourteen days, and if within that time notice is served on the court of a petition for the winding up of the company having been presented or of a meeting having been called at which there is to be proposed a resolution for the voluntary winding up of the company and an order is made or a resolution is passed, as the case may be, for the winding up of the company, the court shall pay the balance to the liquidator, who shall be entitled to retain it as against the execution creditor.

(3) In this section the expression "court" includes any officer charged with the execution of a writ or other process.

Offences Antecedent to or in Course of Winding Up.

Offences by
officers of
companies in
liquidation.

265. (1) If any person, being a past or present director, manager or other officer of a company which at the time of the commission of the alleged offence is being wound up,

whether by or under the supervision of the court or voluntarily, or is subsequently ordered to be wound up by the court or subsequently passes a resolution for voluntary winding up—

- (a) does not to the best of his knowledge and belief fully and truly discover to the liquidator all the property movable and immovable of the company, and how and to whom and for what consideration and when the company disposed of any part thereof, except such part as has been disposed of in the ordinary way of the business of the company; or
- (b) does not deliver up to the liquidator, or as he directs, all such part of the movable and immovable property of the company as is in his custody or under his control, and which he is required by law to deliver up; or
- (c) does not deliver up to the liquidator, or as he directs, all books and papers in his custody or under his control belonging to the company and which he is required by law to deliver up; or
- (d) within twelve months next before the commencement of the winding up or at any time thereafter conceals any part of the property of the company to the value of ten pounds or upwards, or conceals any debt due to or from the company; or
- (e) within twelve months next before the commencement of the winding up or at any time thereafter fraudulently removes any part of the property of the company to the value of ten pounds or upwards; or
- (f) makes any material omission in any statement relating to the affairs of the company; or
- (g) knowing or believing that a false debt has been proved by any person under the winding up, fails for the period of a month to inform the liquidator thereof; or
- (h) after the commencement of the winding up prevents the production of any book or paper affecting or relating to the property or affairs of the company; or
- (i) within twelve months next before the commencement of the winding up or at any time thereafter, conceals, destroys, mutilates or falsifies, or is privy to the

concealment, destruction, mutilation or falsification of, any book or paper affecting or relating to the property or affairs of the company; or

- (j) within twelve months next before the commencement of the winding up or at any time thereafter makes or is privy to the making of any false entry in any book or paper affecting or relating to the property or affairs of the company; or
- (k) within twelve months next before the commencement of the winding up or at any time thereafter fraudulently parts with, alters, or makes any omission in, or is privy to the fraudulent parting with, altering or making any omission in, any document affecting or relating to the property or affairs of the company; or
- (l) after the commencement of the winding up or at any meeting of the creditors of the company within twelve months next before the commencement of the winding up attempts to account for any part of the property of the company by fictitious losses or expenses; or
- (m) has within twelve months next before the commencement of the winding up or at any time thereafter, by any false representation or other fraud, obtained any property for or on behalf of the company on credit which the company does not subsequently pay for; or
- (n) within twelve months next before the commencement of the winding up or at any time thereafter, under the false pretence that the company is carrying on its business, obtains on credit, for or on behalf of the company, any property which the company does not subsequently pay for; or
- (o) within twelve months next before the commencement of the winding up or at any time thereafter pawns, pledges, or disposes of any property of the company which has been obtained on credit and has not been paid for, unless such pawning, pledging, or disposing is in the ordinary way of the business of the company; or

Companies

~~1000~~ (p) is guilty of any false representation or other fraud for the purpose of obtaining the consent of the creditors of the company or any of them to an agreement with reference to the affairs of the company or to the winding up,

he shall be guilty of an offence, and in the case of the offences mentioned respectively in paragraphs (m), (n) and (o) of this sub-section, be liable on conviction to imprisonment for a term not exceeding five years, and in the case of any other offence shall be liable on conviction to imprisonment for a term not exceeding two years :

Provided that it shall be a good defence to a charge under any of paragraphs (a), (b), (c), (d), (f), (n) and (o) if the accused proves that he had no intent to defraud, and to a charge under any of the paragraphs (h), (i) and (j) if he proves that he had no intent to conceal the state of affairs of the company or to defeat the law.

(2) Where any person pawns, pledges or disposes of any property in circumstances which amount to an offence under paragraph (o) of sub-section (1) of this section, every person who takes in pawn or pledge or otherwise receives the property knowing it to be pawned, pledged, or disposed of in such circumstances as aforesaid shall be guilty of an offence, and on conviction thereof shall be liable to be punished in the same way as if he had received the property knowing it to have been obtained in circumstances amounting to a felony under section 295 of the Penal Code.

No. 10 of 1930.

(3) For the purposes of this section, the expression "director" shall include any person in accordance with whose directions or instructions the directors of a company have been accustomed to act.

266. If any director, manager or other officer, or contributory of any company being wound up destroys, mutilates, alters or falsifies any books, papers or securities, or makes or is privy to the making of any false or fraudulent entry in any register, book of account or document belonging to the company, with intent to defraud or deceive any person, he shall be liable to imprisonment for any term not exceeding seven years, and shall also be liable to a fine.

Penalty for falsification of books.

Frauds by
officers of
companies
which have
gone into
liquidation.

267. If any person, being at the time of the commission of the alleged offence a director, manager or other officer of a company which is subsequently ordered to be wound up by the court or subsequently passes a resolution for voluntary winding up—

- (a) has by false pretences or by means of any other fraud induced any person to give credit to the company ;
- (b) with intent to defraud creditors of the company, has made or caused to be made any gift or transfer of or charge on, or has caused or connived at the levying of any execution against, the property of the company ;
- (c) with intent to defraud creditors of the company, has concealed or removed any party of the property of the company since, or within two months before, the date of any unsatisfied judgment or order for payment of money obtained against the company,

he shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding two years.

Liability
where proper
accounts not
kept.

268. (1) If where a company is wound up it is shown that proper books of account were not kept by the company throughout the period of two years immediately preceding the commencement of the winding up, every director, manager or other officer of the company who was knowingly a party to or connived at the default of the company shall, unless he shows that he acted honestly or that in the circumstances in which the business of the company was carried on the default was excusable, be liable on conviction to imprisonment for a term not exceeding one year.

(2) For the purposes of this section, proper books of account shall be deemed not to have been kept in the case of any company if there have not been kept such books or accounts as are necessary to exhibit and explain the transactions and financial position of the trade or business of the company, including books containing entries from day to day in sufficient detail of all cash received and cash paid, and, where the trade or business has involved dealings in goods, statements of the annual stocktakings and (except in the case of goods sold by way of ordinary retail trade) of all goods sold and purchased, showing the goods and the buyers and sellers thereof in sufficient detail to enable those goods and those buyers and sellers to be identified.

269. (1) If in the course of the winding up of a company it appears that any business of the company has been carried on with intent to defraud creditors of the company or creditors of any other person or for any fraudulent purpose, the court, on the application of the official receiver or the liquidator or any creditor or contributory of the company, may, if it thinks proper so to do, declare that any of the directors, whether past or present, of the company who were knowingly parties to the carrying on of the business in manner aforesaid shall be personally responsible, without any limitation of liability, for all or any of the debts or other liabilities of the company as the court may direct.

Responsibility
of directors
for fraudulent
trading.

(2) Where the court makes any such declaration, it may give such further directions as it thinks proper for the purpose of giving effect to that declaration, and in particular may make provision for making the liability of any such director under the declaration a charge on any debt or obligation due from the company to him, or on any mortgage or charge or any interest in any mortgage or charge on any assets of the company held by or vested in him, or any company or person on his behalf, or any person claiming as assignee from or through the director, company or person, and may from time to time make such further order as may be necessary for the purpose of enforcing any charge imposed under this sub-section.

For the purpose of this sub-section, the expression "assignee" includes any person to whom or in whose favour, by the directions of the director, the debt, obligation, mortgage, or charge was created, issued or transferred or the interest created, but does not include an assignee for valuable consideration (not including consideration by way of marriage) given in good faith and without notice of any of the matters on the ground of which the declaration is made.

(3) Where any business of a company is carried on with such intent or for such purpose as is mentioned in sub-section (1) of this section, every director of the company who was knowingly a party to the carrying on of the business in manner aforesaid, shall be liable on conviction to imprisonment for a term not exceeding one year.

(4) The court may, in the case of any person in respect of whom a declaration has been made under sub-section (1) of this section, or who has been convicted of an offence under sub-section (3) of this section, order that that person shall not, without the leave of the court, be a director of or in any way,

whether directly or indirectly, be concerned in or take part in the management of a company for such period, not exceeding five years, from the date of the declaration or of the conviction, as the case may be, as may be specified in the order, and if any person acts in contravention of an order made under this sub-section he shall, in respect of each offence, be liable on conviction to imprisonment for a term not exceeding two years, or to a fine not exceeding five hundred pounds, or to both such imprisonment and fine.

In this sub-section the expression "the court" in relation to the making of an order, means the court by which the declaration was made or the court before which the person was convicted, as the case may be, and in relation to the granting of leave means any court having jurisdiction to wind up the company.

(5) For the purposes of this section, the expression "director" shall include any person in accordance with whose directions or instructions the directors of a company have been accustomed to act.

(6) The provisions of this section shall have effect notwithstanding that the person concerned may be criminally liable in respect of the matters on the ground of which the declaration is made, and where the declaration is made under sub-section (1) of this section, the declaration shall be deemed to be a final judgment within the meaning of paragraph (g) of sub-section

No. 32 of 1930. (1) of section 3 of the Bankruptcy Ordinance, 1930.

(7) It shall be the duty of the official receiver or of the liquidator to appear on the hearing of an application for leave under sub-section (4) of this section, and on the hearing of an application under that sub-section or under sub-section (1) of this section the official receiver or the liquidator, as the case may be, may himself give evidence or call witnesses.

Power of
court to assess
damages
against
delinquent
directors, etc.

270. (1) If in the course of winding up a company it appears that any person who has taken part in the formation or promotion of the company, or any past or present director, manager or liquidator or any officer of the company, has misapplied or retained or become liable or accountable for any money or property of the company, or been guilty of any misfeasance or breach of trust in relation to the company, the court may, on the application of the official receiver, or of the liquidator, or of any creditor or contributory, examine into the conduct of the promoter, director, manager, liquidator or

officer, and compel him to repay or restore the money or property or any part thereof respectively with interest at such rate as the court thinks just, or to contribute such sum to the assets of the company by way of compensation in respect of the misapplication, retainer, misfeasance or breach of trust as the court thinks just.

(2) The provisions of this section shall have effect notwithstanding that the offence is one for which the offender may be criminally liable.

(3) The law relating to limitation for the time being in force in the Colony shall apply to an application under this section as if such application were a suit.

271. (1) If it appears to the court in the course of a winding up by, or subject to the supervision of, the court that any past or present director, manager or other officer, or any member of the company has been guilty of any offence in relation to the company for which he is criminally liable, the court may, either on the application of any person interested in the winding up or of its own motion, direct the liquidator either himself to prosecute the offender or to refer the matter to the Attorney General.

Prosecution of delinquent officers and members of company.

(2) If it appears to the liquidator in the course of a voluntary winding up that any past or present director, manager or other officer, or any member, of the company has been guilty of any offence in relation to the company for which he is criminally liable, he shall forthwith report the matter to the Attorney General and shall furnish to the Attorney General such information and give to him such access to and facilities for inspecting and taking copies of any documents, being information or documents in the possession or under the control of the liquidator and relating to the matter in question, as he may require.

(3) Where any report is made under the last foregoing sub-section to the Attorney General, he may, if he thinks fit, refer the matter to the Governor in Council for further inquiry, and the Governor in Council may if he thinks it expedient, give directions for an application to be addressed to the court for an order conferring on the Attorney General or any person designated by the Attorney General for the purpose with respect to the company concerned all such powers of investigating the affairs of the company as are provided by this Ordinance in the case of a winding up by the court.

(4) If on any report to the Attorney General under sub-section (2) of this section it appears to him that the case is not one in which proceedings ought to be taken by him, he shall inform the liquidator accordingly, and thereupon, subject to the previous sanction of the court, the liquidator may himself take proceedings against the offender.

(5) If it appears to the court in the course of a voluntary winding up that any past or present director, manager or other officer, or any member, of the company has been guilty as aforesaid, and that no report with respect to the matter has been made by the liquidator to the Attorney General under sub-section (2) of this section, the court may, on the application of any person interested in the winding up or of its own motion, direct the liquidator to make such a report, and on a report being made accordingly the provisions of this section shall have effect as though the report had been made in pursuance of the provisions of sub-section (2) of this section.

(6) If, where any matter is reported or referred to the Attorney General under this section, he considers that the case is one in which a prosecution ought to be instituted and, further, that it is desirable in the public interest that the proceedings in the prosecution should be conducted by him, he shall institute proceedings accordingly, and it shall be the duty of the liquidator and of every officer and agent of the company past and present (other than the defendant in the proceedings) to give him all assistance in connexion with the prosecution which he is reasonably able to give.

For the purposes of this sub-section, the expression "agent" in relation to a company shall be deemed to include any banker or advocate of the company and any person employed by the company as auditor, whether that person is or is not an officer of the company.

(7) If any person fails or neglects to give assistance in manner required by sub-section (6) of this section, the court may, on the application of the Attorney General, direct that person to comply with the requirements of the said sub-section, and where any such application is made with respect to a liquidator the court may, unless it appears that the failure or neglect to comply was due to the liquidator not having in his hands sufficient assets of the company to enable him so to do, direct that the costs of the application shall be borne by the liquidator personally.

(8) The Governor in Council may direct that the whole or any part of any costs and expenses properly incurred by the liquidator in proceedings duly brought by him under this section shall be defrayed by the Government.

Subject to any direction under this sub-section and to any mortgages or charges on the assets of the company and any debts to which priority is given by section 259 of this Ordinance, all such costs and expenses as aforesaid shall be payable out of those assets in priority to all other liabilities payable thereout.

Supplementary Provisions as to Winding Up.

272. (1) A body corporate shall not be qualified for appointment as liquidator of a company, whether in a winding up by or under the supervision of the court or in a voluntary winding up, and any appointment made in contravention of this provision shall be void.

Disqualifica-
tion for
appointment
as liquidator.

(2) Nothing in this section shall disqualify a body corporate from acting as liquidator of a company if acting under an appointment made before the commencement of this Ordinance, but subject as aforesaid any body corporate which acts as liquidator of a company shall be liable to a fine not exceeding one hundred pounds.

273. (1) If any liquidator, who has made any default in filing, delivering or making any return, account or other document, or in giving any notice which he is by law required to file, deliver, make or give, fails to make good the default within fourteen days after the service on him of a notice requiring him to do so, the court may, on an application made to the court by any contributory or creditor of the company or by the registrar, make an order directing the liquidator to make good the default within such time as may be specified in the order.

Enforcement
of duty of
liquidator
to make
returns, etc.

(2) Any such order may provide that all costs of and incidental to the application shall be borne by the liquidator.

(3) Nothing in this section shall be taken to prejudice the operation of any enactment imposing penalties on a liquidator in respect of any such default as aforesaid.

274. (1) Where a company is being wound up, whether by or under the supervision of the court or voluntarily, every invoice, order for goods or business letter issued by or on behalf of the company or a liquidator of the company, or a

Notification
that a com-
pany is in
liquidation.

receiver or manager of the property of the company, being a document on or in which the name of the company appears, shall contain a statement that the company is being wound up.

(2) If default is made in complying with this section, the company and every director, manager, secretary or other officer of the company, and every liquidator of the company and every receiver or manager, who knowingly and wilfully authorizes or permits the default, shall be liable to a fine of twenty pounds.

Exemption
of certain
documents
from stamp
duty on
winding up
of companies.

275. (1) In the case of a winding up by the court, or of a creditors' voluntary winding up of a company—

- (a) every assurance relating solely to freehold or leasehold property, or to any mortgage, charge or other encumbrance on, or any estate, right or interest in, any movable or immovable property, which forms part of the assets of the company and which, after the execution of the assurance, either at law or in equity, is or remains part of the assets of the company; and
- (b) every power of attorney, proxy paper, writ, order, certificate, affidavit, bond or other instrument or writing relating solely to the property of any company which is being so wound up, or to any proceeding under any such winding up,

shall be exempt from duties chargeable under the enactments relating to stamp duties.

(2) In this section the expression "assurance" includes transfer, instrument, conveyance, discharge, assignment and surrender.

Books of
company to
be evidence.

276. Where a company is being wound up, all books and papers of the company and of the liquidators shall, as between the contributories of the company, be prima facie evidence of the truth of all matters purporting to be therein recorded.

Disposal of
books and
papers of
company.

277. (1) When a company has been wound up and is about to be dissolved, the books and papers of the company and of the liquidators may be disposed of as follows, that is to say—

- (a) in the case of a winding up by, or subject to the supervision of, the court, in such way as the court directs;

(b) in the case of a members' voluntary winding up, in such way as the company by extraordinary resolution directs and, in the case of a creditors' voluntary winding up, in such way as the committee of inspection or, if there is no such committee, as the creditors of the company, may direct.

(2) After five years from the dissolution of the company no responsibility shall rest on the company, the liquidators, or any person to whom the custody of the books and papers has been committed, by reason of any book or paper not being forthcoming to any person claiming to be interested therein.

(3) The Governor in Council may make rules to prevent, for any period not exceeding five years from the dissolution of the company, the destruction of the books and papers of a company which has been wound up, and for enabling any creditor or contributory of the company to appeal to the court from any direction which may be given in the matter.

(4) If any person acts in contravention of any rules made for the purposes of this section he shall be liable to a fine not exceeding one hundred pounds.

273. (1) If where a company is being wound up the winding up is not concluded within one year after its commencement, the liquidator shall, at such intervals as may be prescribed, until the winding up is concluded, send to the registrar a statement in the prescribed form and containing the prescribed particulars with respect to the proceedings in and position of the liquidation.

Information
as to pending
liquidations.

(2) Any person stating himself in writing to be a creditor or contributory of the company shall be entitled, by himself or by his agent, at all reasonable times, on payment of the prescribed fee, to inspect the statement, and to receive a copy thereof or extract therefrom.

(3) If a liquidator fails to comply with this section, he shall be liable to a fine not exceeding fifty pounds for each day during which the default continues, and any person untruthfully stating himself as aforesaid to be a creditor or contributory shall be guilty of an offence and shall on conviction be liable to a fine not exceeding twenty pounds.

279. (1) If where a company is being wound up in the Colony it appears either from any statement sent to the registrar under the last foregoing section or otherwise that a liquidator has in his hands or under his control any money

Unclaimed
assets to be
paid into
court.

representing unclaimed or undistributed assets of the company which have remained unclaimed or undistributed for six months after the date of their receipt, the liquidator shall forthwith pay the said money into court, and shall be entitled to the prescribed certificate of receipt for the money so paid, and that certificate shall be an effectual discharge to him in respect thereof.

No. 32 of 1932.

(2) For the purpose of ascertaining and getting in any money payable into court in pursuance of this section, the like powers may be exercised, and by the like authority as are exercisable under section 133 of the Bankruptcy Ordinance, 1930, for the purpose of ascertaining and getting in the sums, funds or dividends referred to in that section.

(3) Any person claiming to be entitled to any money paid into court in pursuance of this section may apply to the registrar for payment thereof, and the registrar may, on a certificate by the liquidator that the person claiming is entitled, make an order for the payment to that person of the sum due.

(4) Any person dissatisfied with the decision of the registrar in respect of a claim made in pursuance of this section may appeal to the Supreme Court.

Resolutions
passed at
adjourned
meetings of
creditors and
contribu-
tories.

280. Where after the commencement of this Ordinance a resolution is passed at an adjourned meeting of any creditors or contributories of a company, the resolution shall, for all purposes, be treated as having been passed on the date on which it was in fact passed, and shall not be deemed to have been passed on any earlier date.

Supplementary Powers of Court.

Meetings to
ascertain
wishes of
creditors or
contribu-
tories.

281. (1) The court may, as to all matters relating to the winding up of a company, have regard to the wishes of the creditors or contributories of the company, as proved to it by any sufficient evidence, and may, if it thinks fit, for the purpose of ascertaining those wishes, direct meetings of the creditors or contributories to be called, held and conducted in such manner as the court directs, and may appoint a person to act as chairman of any such meeting and to report the result thereof to the court.

(2) In the case of creditors, regard shall be had to the value of each creditor's debt.

(3) In the case of contributories, regard shall be had to the number of votes conferred on each contributory by this Ordinance or the articles.

282. (1) Any affidavit required to be sworn under the provisions or for the purposes of this Part of this Ordinance may be sworn in the Colony or within the dominions of His Majesty, or within any country which has been declared to be under His Majesty's protection or in respect of which His Majesty has accepted a mandate, before any court, judge or person lawfully authorized to take and receive affidavits or in any place outside His Majesty's dominions or countries under his protection or mandate, before any of His Majesty's consuls or vice-consuls.

Affidavits,
etc., in
Colony and
dominions.

(2) All courts, judges, justices, commissioners and persons acting judicially in the Colony shall take judicial notice of the seal or stamp or signature, as the case may be, of any such court, judge, person, consul or vice-consul attached, appended or subscribed to any such affidavit, or to any other document to be used for the purposes of this Part of this Ordinance.

Provisions as to Dissolution.

283. (1) Where a company has been dissolved, the court may at any time within two years of the date of the dissolution, on an application being made for the purpose by the liquidator of the company or by any other person who appears to the court to be interested, make an order, upon such terms as the court thinks fit, declaring the dissolution to have been void, and thereupon such proceedings may be taken as might have been taken if the company had not been dissolved.

Power of
court to
declare
dissolution
of company
void.

(2) It shall be the duty of the person on whose application the order was made, within fourteen days after the making of the order, or such further time as the court may allow, to deliver to the registrar for registration an office copy of the order, and if that person fails so to do he shall be liable to a fine not exceeding five pounds for every day during which the default continues.

284. (1) Where the registrar has reasonable cause to believe that a company is not carrying on business or in operation, he may send to the company by post a letter inquiring whether the company is carrying on business or in operation.

Registrar may
strike defunct
company off
register.

(2) If the registrar does not within one month of sending the letter receive any answer thereto, he shall within fourteen days after the expiration of the month send to the company

by post a registered letter referring to the first letter, and stating that no answer thereto has been received, and that if an answer is not received to the second letter within one month from the date thereof, a notice will be published in the Gazette with a view to striking the name of the company off the register.

(3) If the registrar either receives an answer to the effect that the company is not carrying on business or in operation, or does not within one month after sending the second letter receive any answer, he may publish in the Gazette and send to the company by post, a notice that at the expiration of three months from the date of that notice the name of the company mentioned therein will, unless cause is shown to the contrary, be struck off the register and the company will be dissolved.

(4) If, in any case where a company is being wound up, the registrar has reasonable cause to believe either that no liquidator is acting, or that the affairs of the company are fully wound up, and the returns required to be made by the liquidator have not been made for a period of six consecutive months, the registrar shall publish in the Gazette and send to the company or the liquidator, if any, a like notice as is provided in the last preceding sub-section.

(5) At the expiration of the time mentioned in the notice the registrar may, unless cause to the contrary is previously shown by the company, strike its name off the register, and shall publish notice thereof in the Gazette, and on the publication in the Gazette of this notice the company shall be dissolved :

Provided that—

- (a) the liability, if any, of every director, managing officer and member of the company shall continue and may be enforced as if the company had not been dissolved ; and
- (b) nothing in this sub-section shall affect the power of the court to wind up a company the name of which has been struck off the register.

(6) If a company or any member or creditor thereof feels aggrieved by the company having been struck off the register, the court on an application made by the company or member or creditor before the expiration of twenty years from the publication in the Gazette of the notice aforesaid may, if satisfied that the company was at the time of the striking off

carrying on business or in operation or otherwise that it is just that the company be restored to the register, order the name of the company to be restored to the register, and upon a certified copy of the order being delivered to the registrar for registration the company shall be deemed to have continued in existence as if its name had not been struck off; and the court may by the order give such directions and make such provisions as seem just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been struck off.

(7) A notice to be sent under this section to a liquidator may be addressed to the liquidator at his last known place of business, and a letter or notice to be sent under this section to a company may be addressed to the company at its registered office, or, if no office has been registered, to the care of some director or officer of the company, or, if there is no director or officer of the company whose name and address are known to the registrar, may be sent to each of the persons who subscribed the memorandum, addressed to him at the address mentioned in the memorandum.

285. Where a company is dissolved, all property and rights whatsoever vested in or held on trust for the company immediately before its dissolution (including leasehold property but not including property held by the company on trust for any other person) shall, subject and without prejudice to any order which may at any time be made by the court under the two last foregoing sections of this Ordinance, be deemed to be *bona vacantia*.

Property of dissolved company to be *bona vacantia*.

Rules and Fees.

286. (1) The Supreme Court may, with the approval of the Governor in Council, from time to time, make rules consistent with this Ordinance and with the law for the time being relating to procedure in civil courts concerning the mode of proceedings to be had for winding up a company in such court and in the courts subordinate thereto, and for giving effect to the provisions hereinbefore contained as to the reduction of the capital of a company.

General rules and fees for winding up.

- *see S.N. 718/30*
h. 505.

(2) There shall be paid in respect of proceedings under this Ordinance in relation to the winding up of companies such fees as the Supreme Court may, with the approval of the Governor in Council, direct.

PART VII.

RECEIVERS AND MANAGERS.

Disqualifica-
tion for
appointment
as receiver.

287. (1) A body corporate shall not be qualified for appointment as a receiver of the property of a company.

(2) Nothing in this section shall disqualify a body corporate from acting as receiver as aforesaid if acting under an appointment made before the commencement of this Ordinance but, subject as aforesaid, any body corporate which acts as receiver as aforesaid shall be liable to a fine not exceeding one hundred pounds.

Power to
appoint official
receiver as
receiver for
debenture-
holders or
creditors.

288. Where an application is made to the court to appoint a receiver on behalf of the debenture-holders or other creditors of a company which is being wound up by the court, the official receiver may be so appointed.

Notification
that receiver
or manager
appointed.

289. (1) Where a receiver or manager of the property of a company has been appointed, every invoice, order for goods or business letter issued by or on behalf of the company or the receiver or manager or the liquidator of the company, being a document on or in which the name of the company appears, shall contain a statement that a receiver or manager has been appointed.

(2) If default is made in complying with the requirements of this section, the company and every director, manager, secretary or other officer of the company, and every liquidator of the company, and every receiver or manager, who knowingly and wilfully authorizes or permits the default, shall be liable to a fine of twenty pounds.

Power of
court to fix
remuneration
on application
of liquidator.

290. The court may, on an application made to the court by the liquidator of a company, by order fix the amount to be paid by way of remuneration to any person who, under the powers contained in any instrument, has been appointed as receiver or manager of the property of the company, and may from time to time, on an application made either by the liquidator or by the receiver or manager, vary or amend any order so made.

Delivery to
registrar of
accounts of
receivers and
managers.

291. (1) Every receiver or manager of the property of a company who has been appointed under the powers contained in any instrument shall, within one month, or such longer period as the registrar may allow, after the expiration

of the period of six months from the date of his appointment and of every subsequent period of six months, and within one month after he ceases to act as receiver or manager, deliver to the registrar for registration an abstract in the prescribed form showing his receipts and payments during that period of six months or, where he ceases to act as aforesaid, during the period from the end of the period to which the last preceding abstract related up to the date of his so ceasing, and the aggregate amount of his receipts and of his payments during all preceding periods since his appointment.

(2) Every receiver or manager who makes default in complying with the provisions of this section shall be liable to a fine not exceeding five pounds for every day during which the default continues.

292. (1) If—

- (a) any receiver of the property of a company, who has made default in filing, delivering, or making any return, account or other document or in giving any notice, which a receiver is by law required to file deliver, make or give, fails to make good the default within fourteen days after the service on him of a notice requiring him to do so; or
- (b) any receiver or manager of the property of a company who has been appointed under the powers contained in any instrument, has, after being required at any time by the liquidator of the company so to do, failed to render proper accounts of his receipts and payments and to pay over to the liquidator the amount properly payable to him,

Enforcement
of duty of
receiver to
make
returns, etc.

the court may, on an application made for the purpose, make an order directing the receiver or manager, as the case may be, to make good the default within such time as may be specified in the order.

(2) In the case of any such default as is mentioned in paragraph (a) of the last preceding sub-section an application for the purposes of this section may be made by any member or creditor of the company or by the registrar and the order may provide that all costs of and incidental to the application shall be borne by the receiver, and in the case of any such default as is mentioned in paragraph (b) of that sub-section the application shall be made by the liquidator.

(3) Nothing in this section shall be taken to prejudice the operation of any enactments imposing penalties on receivers in respect of such default as is mentioned in paragraph (a) of sub-section (1) of this section.

PART VIII.

GENERAL PROVISIONS AS TO REGISTRATION.

Registration
offices.

293. (1) For the purposes of the registration of companies under this Ordinance there shall be offices in the Colony at such places as the Governor shall direct.

(2) The Governor may appoint such registrars, assistant registrars, clerks and servants as he may think necessary for the registration of companies under this Ordinance, and may make regulations with respect to their duties, and may remove any persons so appointed.

(3) Every assistant registrar may, subject to the directions of the registrar, perform any act or discharge any duty which the registrar may lawfully do or is required by this Ordinance to do, and for such purpose shall have all the powers, privileges and authority of the registrar.

(4) The Governor may direct a seal or seals to be prepared for the authentication of documents required for or connected with the registration of companies.

Fees.

294. (1) There shall be paid to the registrar in respect of the several matters mentioned in the table set out in the Eighth Schedule to this Ordinance the several fees therein specified.

(2) All fees paid to the registrar in pursuance of this Ordinance shall be accounted for to the Government.

Inspection,
production,
and evidence
of documents
kept by
registrar.

295. (1) Any person may inspect the documents kept by the registrar on payment of such fees as may be appointed by the Governor in Council, not exceeding one shilling for each inspection, and any person may require a certificate of the incorporation of any company, or a copy or extract of any other document or any part of any other document, to be certified by the registrar, on payment for the certificate, certified copy or extract, of such fees as the Governor in Council may appoint, not exceeding five shillings for a certificate of incorporation and not exceeding fifty cents for every hundred words or fractional part thereof required to be copied.

S. N. 45/34

OS 1. 45.

(2) No process for compelling the production of any document kept by the registrar shall issue from any court except with the leave of that court, and any such process if issued shall bear thereon a statement that it is issued with the leave of the court.

(3) A copy of or extract from any document kept and registered at any of the offices for the registration of companies certified to be a true copy under the hand of the registrar (whose official position it shall not be necessary to prove), shall in all legal proceedings be admissible in evidence as of equal validity with the original document.

296. (1) If a company, having made default in complying with any provision of this Ordinance which requires it to file with, deliver or send to the registrar any return, account or other document, or to give notice to him of any matter, fails to make good the default within fourteen days after the service of a notice on the company requiring it to do so, the court may, on an application made to the court by any member or creditor of the company or by the registrar make an order directing the company and any officer thereof to make good the default within such time as may be specified in the order.

Enforcement of duty of company to make returns to registrar.

(2) Any such order may provide that all costs of and incidental to the application shall be borne by the company or by any officers of the company responsible for the default.

(3) Nothing in this section shall be taken to prejudice the operation of any enactment imposing penalties on a company or its officers in respect of any such default as aforesaid.

Part VIII A added by Ord. 39/45
PART IX.

APPLICATION OF ORDINANCE TO COMPANIES FORMED OR REGISTERED UNDER THE REPEALED COMPANIES ORDINANCE OR THE INDIAN COMPANIES ACT, 1882, AS APPLIED TO THE COLONY.

297. In the application of this Ordinance to existing companies, it shall apply in the same manner—

Application of Ordinance to existing companies.

(a) in the case of a limited company, other than a company limited by guarantee, as if the company had been formed and registered under this Ordinance as a company limited by shares;

(b) in the case of a company limited by guarantee, as if the company had been formed and registered under this Ordinance as a company limited by guarantee; and

(c) in the case of a company other than a limited company, as if the company had been formed and registered under this Ordinance as an unlimited company :

Provided that reference, express or implied, to the date of registration shall be construed as a reference to the date at which the company was registered under the Indian Companies Act, 1882, as applied to the Colony, or the Companies Ordinance.

Cap. 93.

Application
of Ordinance
to companies
registered
under the
repealed
Companies
Ordinance
Cap. 93.

298. This Ordinance shall apply to every company registered but not formed under the Indian Companies Act, 1882, as applied to the Colony, or the Companies Ordinance, in the same manner as it is in Part X of this Ordinance declared to apply to companies registered but not formed under this Ordinance :

Provided that reference, express or implied, to the date of registration shall be construed as a reference to the date at which the company was registered under the Indian Companies Act, 1882, as applied to the Colony, or the Companies Ordinance.

Cap. 93.

PART X.

COMPANIES NOT FORMED UNDER THIS ORDINANCE AUTHORIZED TO REGISTER UNDER THIS ORDINANCE.

Companies
capable of
being
registered.

299. (1) With the exceptions and subject to the provisions contained in this section—

- (a) any company consisting of seven or more members, which was in existence on the 15th day of June, 1903; and
- (b) any company formed after the date aforesaid, whether before or after the commencement of this Ordinance, in pursuance of any Act of Parliament other than this Ordinance, or of letters patent, or being otherwise duly constituted according to law, and consisting of seven or more members,

may at any time register under this Ordinance as an unlimited company, or as a company limited by shares, or as a company limited by guarantee; and the registration shall not be invalid by reason that it has taken place with a view to the company being wound up :

Provided that—

- (i) a company registered under the Indian Companies Act, 1882, as applied to the Colony, or the Companies Ordinance, shall not register in pursuance of this section; *Cap. 93.*
- (ii) a company having the liability of its members limited by Act of Parliament or letters patent, and not being a joint stock company as hereinafter defined, shall not register in pursuance of this section;
- (iii) a company having the liability of its members limited by Act of Parliament or letters patent shall not register in pursuance of this section as an unlimited company or as a company limited by guarantee;
- (iv) a company that is not a joint stock company as hereinafter defined shall not register in pursuance of this section as a company limited by shares;
- (v) a company shall not register in pursuance of this section without the assent of a majority of such of its members as are present in person or by proxy (in cases where proxies are allowed by the regulations of the company) at a general meeting summoned for the purpose;
- (vi) where a company not having the liability of its members limited by Act of Parliament or letters patent is about to register as a limited company, the majority required to assent as aforesaid shall consist of not less than three-fourths of the members present in person or by proxy at the meeting;
- (vii) where a company is about to register as a company limited by guarantee, the assent to its being so registered shall be accompanied by a resolution declaring that each member undertakes to contribute to the assets of the company, in the event of its being wound up while he is a member, or within one year after he ceases to be a member, for payment of the debts and liabilities of the company contracted before he ceased to be a member, and of the costs and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding a specified amount.

(2) In computing any majority under this section when a poll is demanded regard shall be had to the number of votes to which each member is entitled according to the regulations of the company.

Definition of
joint stock
company.

300. For the purposes of this Part of this Ordinance, as far as relates to registration of companies as companies limited by shares, a joint stock company means a company having a permanent paid-up or nominal share capital of fixed amount divided into shares, also of fixed amount, or held and transferable as stock, or divided and held partly in one way and partly in the other, and formed on the principle of having for its members the holders of those shares or that stock, and no other persons, and such a company when registered with limited liability under this Ordinance shall be deemed to be a company limited by shares.

Requirements
for registra-
tion by joint
stock
companies.

301. Before the registration in pursuance of this Part of this Ordinance of a joint stock company, there shall be delivered to the registrar the following documents—

- (a) a list showing the names, addresses and occupations of all persons who on a day named in the list, not being more than six clear days before the day of registration, were members of the company, with the addition of the shares or stock held by them respectively, distinguishing, in cases where the shares are numbered, each share by its number;
- (b) a copy of any Act of Parliament, royal charter, letters patent, deed of settlement, contract of co-partnery, cost book regulations, or other instrument constituting or regulating the company; and
- (c) if the company is intended to be registered as a limited company, a statement specifying the following particulars—
 - (i) the nominal share capital of the company, and the number of shares into which it is divided, or the amount of stock of which it consists;
 - (ii) the number of shares taken and the amount paid on each share;
 - (iii) the name of the company, with the addition of the word "limited" as the last word thereof; and

- (iv) in the case of a company intended to be registered as a company limited by guarantee, the resolution declaring the amount of the guarantee.

302. Before the registration in pursuance of this Part of this Ordinance of any company not being a joint stock company, there shall be delivered to the registrar—

Requirements for registration by other than joint stock companies.

- (a) a list showing the names, addresses and occupations of the directors or other managers, if any, of the company; and
- (b) a copy of any Act of Parliament, letters patent, deed of settlement, contract of co-partnery, cost book regulations, or other instrument constituting or regulating the company; and
- (c) in the case of a company intended to be registered as a company limited by guarantee, a copy of the resolution declaring the amount of the guarantee.

303. The lists of members and directors and any other particulars relating to the company required to be delivered to the registrar shall be verified by a statutory declaration of any two or more directors or other principal officers of the company.

Authentication of statements of existing companies.

304. The registrar may require such evidence as he thinks necessary for the purpose of satisfying himself whether any company proposing to be registered is or is not a joint stock company as hereinbefore defined.

Registrar may require evidence as to nature of company.

305. No fees shall be charged in respect of the registration in pursuance of this Part of this Ordinance of a company if it is not registered as a limited company, or if before its registration as a limited company the liability of the shareholders was limited by some other Act of Parliament or by letters patent.

Exemption of certain companies from payment of fees.

306. When a company registers in pursuance of this Part of this Ordinance with limited liability, the word "limited" shall form, and be registered as, part of its name.

Addition of "limited" to name.

307. On compliance with the requirements of this Part of this Ordinance with respect to registration, and on payment of such fees, if any, as are payable under the Eighth Schedule to this Ordinance, the registrar shall certify under his hand that the company applying for registration is incorporated as a company under this Ordinance, and in the case of a limited

Certificate of registration of existing companies.

company that it is limited, and thereupon the company shall be so incorporated.

Vesting of
property on
registration.

308. All property, movable and immovable, including all interests and rights in, and arising out of, property, movable and immovable, and including obligations and actionable claims belonging to or vested in a company at the date of its registration in pursuance of this Part of this Ordinance, shall on registration pass to and vest in the company as incorporated under this Ordinance for all the estate and interest of the company therein.

Saving for
existing
liabilities.

309. Registration of a company in pursuance of this Part of this Ordinance shall not affect the rights or liabilities of the company in respect of any debt or obligation incurred, or any contract entered into, by, to, with or on behalf of, the company before registration.

Continuation
of existing
actions.

310. All actions and other legal proceedings which at the time of the registration of a company in pursuance of this Part of this Ordinance are pending by or against the company, or the public officer or any member thereof, may be continued in the same manner as if the registration had not taken place :

Provided that execution shall not issue against the effects of any individual member of the company on any decree, judgment or order obtained in any such action or proceeding, but, in the event of the property and effects of the company being insufficient to satisfy the decree, judgment or order, an order may be obtained for winding up the company.

Effect of regis-
tration under
Ordinance.

311. (1) When a company is registered in pursuance of this part of this Ordinance, the following provisions of this section shall have effect.

(2) All provisions contained in any Act of Parliament or other instrument constituting or regulating the company, including, in the case of a company registered as a company limited by guarantee, the resolution declaring the amount of the guarantee, shall be deemed to be conditions and regulations of the company, in the same manner and with the same incidents as if so much thereof as would, if the company had been formed under this Ordinance, have been required to be inserted in the memorandum, were contained in a registered memorandum, and the residue thereof were contained in registered articles.

(3) All the provisions of this Ordinance shall apply to the company, and the members, contributories and creditors thereof, in the same manner in all respects as if it had been formed under this Ordinance, subject as follows—

- (a) Table A shall not apply unless adopted by special resolution;
- (b) the provisions of this Ordinance relating to the numbering of shares shall not apply to any joint stock company whose shares are not numbered;
- (c) subject to the provisions of this section, the company shall not have power to alter any provision contained in any Act of Parliament relating to the company;
- (d) subject to the provisions of this section, the company shall not have power to alter any provisions contained in any letters patent relating to the company;
- (e) the company shall not have power to alter any provision contained in a royal charter or letters patent with respect to the objects of the company;
- (f) in the event of the company being wound up, every person shall be a contributory, in respect of the debts and liabilities of the company contracted before registration, who is liable to pay or contribute to the payment of any debt or liability of the company contracted before registration, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members among themselves in respect of any such debt or liability, or to pay or contribute to the payment of the costs and expenses of winding up the company, so far as relates to such debts or liabilities as aforesaid;
- (g) in the event of the company being wound up, every contributory shall be liable to contribute to the assets of the company, in the course of the winding up, all sums due from him in respect of any such liability as aforesaid, and, in the event of the death, bankruptcy or insolvency, of any contributory, the provisions of this Ordinance with respect to the legal representatives and heirs of deceased contributories and to the trustees of bankrupt or insolvent contributories, shall apply.

(4) The provisions of this Ordinance with respect to—

- (a) the registration of an unlimited company as limited;
- (b) the powers of an unlimited company on registration as a limited company to increase the nominal amount of its share capital and to provide that a portion of its share capital shall not be capable of being called up except in the event of winding up;
- (c) the power of a limited company to determine that a portion of its share capital shall not be capable of being called up except in the event of winding up,

shall apply notwithstanding any provisions contained in any Act of Parliament, royal charter or other instrument constituting or regulating the company.

(5) Nothing in this section shall authorize the company to alter any such provisions contained in any instrument constituting or regulating the company, as would, if the company had been originally formed under this Ordinance, have been required to be contained in the memorandum and are not authorized to be altered by this Ordinance.

(6) Nothing in this Ordinance shall derogate from any power of altering its constitution or regulations which may, by virtue of any Act of Parliament or other instrument constituting or regulating the company, be vested in the company.

(7) In this section the expression "instrument" includes deed of settlement, contract of co-partnery, cost book regulations and letters patent.

Power to
substitute
memorandum
and articles
for deed of
settlement.

312. (1) Subject to the provisions of this section, a company registered in pursuance of this Part of this Ordinance may by special resolution alter the form of its constitution by substituting a memorandum and articles for a deed of settlement.

(2) The provisions of this Ordinance with respect to confirmation by the court and registration of an alteration of the objects of a company shall, so far as applicable, apply to an alteration under this section with the following modifications—

- (a) there shall be substituted for the printed copy of the altered memorandum required to be delivered to the registrar a printed copy of the substituted memorandum and articles; and

- (b) on the registration of the alteration being certified by the registrar the substituted memorandum and articles shall apply to the company in the same manner as if it were a company registered under this Ordinance with that memorandum and those articles, and the company's deed of settlement shall cease to apply to the company.

(3) An alteration under this section may be made either with or without any alteration of the objects of the company under this Ordinance.

(4) In this section the expression "deed of settlement" includes any contract of co-partnery, or other instrument constituting or regulating the company, not being an Act of Parliament, a royal charter or letters patent.

313. The provisions of this Ordinance with respect to staying and restraining actions and proceedings against a company at any time after the presentation of a petition for winding up and before the making of a winding-up order shall in the case of a company registered in pursuance of this Part of this Ordinance, where the application to stay or restrain is by a creditor, extend to actions and proceedings against any contributory of the company.

Power of court to stay or restrain proceedings.

314. Where an order has been made for winding up a company registered in pursuance of this Part of this Ordinance, no action or proceeding shall be commenced or proceeded with against the company or any contributory of the company in respect of any debt of the company, except by leave of the court, and subject to such terms as the court may impose.

Actions stayed on winding-up order.

PART XI.

WINDING UP OF UNREGISTERED COMPANIES.

315. For the purposes of this Part of this Ordinance, the expression "unregistered company" shall include any partnership, whether limited or not, any association and any company, with the following exceptions—

Meaning of unregistered company.

- (a) a railway company incorporated by Act of Parliament, or under the Indian Companies Act, 1882, as applied to the Colony, or the Companies Ordinance;
- (b) a partnership, association or company which consists of less than eight members, and is not a partnership, association or company formed outside the Colony;
- (c) a limited partnership registered in the Colony.

Cap. 93.

Winding up of
unregistered
companies.

316. (1) Subject to the provisions of this Part of this Ordinance, any unregistered company may be wound up under this Ordinance, and all the provisions of this Ordinance with respect to winding up shall apply to an unregistered company, with the following exceptions and additions—

- (a) no unregistered company shall be wound up under this Ordinance voluntarily or subject to supervision;
- (b) the circumstances in which an unregistered company may be wound up are as follows—
 - (i) if the company is dissolved, or has ceased to carry on business, or is carrying on business only for the purpose of winding up its affairs;
 - (ii) if the company is unable to pay its debts;
 - (iii) if the court is of opinion that it is just and equitable that the company should be wound up;
- (c) an unregistered company shall, for the purposes of this Ordinance, be deemed to be unable to pay its debts—
 - (i) if a creditor by assignment or otherwise, to whom the company is indebted in a sum exceeding fifty pounds then due, has served on the company, by leaving at its principal place of business, or by delivering to the secretary or some director, manager or principal officer of the company, or by otherwise serving in such manner as the court may approve or direct, a demand under his hand requiring the company to pay the sum so due, and the company has for three weeks after the service of the demand neglected to pay the sum, or to secure or compound for it to the satisfaction of the creditor;
 - (ii) if any suit or other legal proceeding has been instituted against any member for any debt or demand due, or claimed to be due, from the company, or from him in his character of member, and notice in writing of the institution of the suit or proceeding having been served on the company by leaving the same at its principal place of business, or by delivering it to the secretary, or some director, manager or principal officer of the company, or by otherwise

serving the same in such manner as the court may approve or direct, the company has not within ten days after service of the notice paid, secured or compounded for the debt or demand, or procured the suit or other legal proceeding to be stayed, or indemnified the defendant to his reasonable satisfaction against the suit or other legal proceeding, and against all costs, damages and expenses to be incurred by him by reason of the same;

- (iii) if execution or other process issued on a decree, judgment or order obtained in any court in favour of a creditor against the company, or any member thereof as such, or any person authorized to be sued as nominal defendant on behalf of the company, is returned unsatisfied;
- (iv) if it is otherwise proved to the satisfaction of the court that the company is unable to pay its debts.

(2) In the case of a limited partnership the provisions of this Ordinance with respect to winding up shall apply with such modifications, if any, as may be provided by general rules, and with the substitution of general partners for directors.

(3) Where a company incorporated outside the Colony which has been carrying on business in the Colony ceases to carry on business in the Colony, it may be wound up as an unregistered company under this Part of this Ordinance, notwithstanding that it has been dissolved or otherwise ceased to exist as a company under or by virtue of the laws of the country under which it was incorporated.

(4) Nothing in this Part of this Ordinance shall affect the operation of any enactment which provides for any partnership, association or company being wound up, or being wound up as a company or as an unregistered company, under any enactment repealed by this Ordinance, except that a reference in any such first-mentioned enactment to any such repealed enactment shall be read as a reference to the corresponding provision, if any, of this Ordinance.

317. (1) In the event of an unregistered company being wound up, every person shall be deemed to be a contributory who is liable to pay or contribute to the payment of any debt or liability of the company, or to pay or contribute to the

Contributories
in winding up
of unregistered
company.

payment of any sum for the adjustment of the rights of the members among themselves or to pay or contribute to the payment of the costs and expenses of winding up the company, and every contributory shall be liable to contribute to the assets of the company all sums due from him in respect of any such liability as aforesaid.

(2) In the event of the death, bankruptcy, or insolvency of any contributory, the provisions of this Ordinance with respect to the legal representatives and heirs of deceased contributories, and to the trustees of bankrupt or insolvent contributories, shall apply.

Power of
court to stay
or restrain
proceedings.

318. The provisions of this Ordinance with respect to staying and restraining actions and proceedings against a company at any time after the presentation of a petition for winding up and before the making of a winding-up order shall, in the case of an unregistered company, where the application to stay or restrain is by a creditor, extend to actions and proceedings against any contributory of the company.

Actions
stayed on
winding-up
order.

319. Where an order has been made for winding up an unregistered company, no action or proceeding shall be proceeded with or commenced against any contributory of the company in respect of any debt of the company, except by leave of the court, and subject to such terms as the court may impose.

Provisions of
Part XI
cumulative.

320. The provisions of this Part of this Ordinance with respect to unregistered companies shall be in addition to and not in restriction of any provisions hereinbefore in this Ordinance contained with respect to winding up companies by the court, and the court or liquidator may exercise any powers or do any act in the case of unregistered companies which might be exercised or done by it or him in winding up companies formed and registered under this Ordinance :

Provided that an unregistered company shall not, except in the event of its being wound up, be deemed to be a company under this Ordinance, and then only to the extent provided by this Part of this Ordinance.

PART XII.

COMPANIES INCORPORATED OUTSIDE THE COLONY CARRYING
ON BUSINESS WITHIN THE COLONY.

321. This Part of this Ordinance shall apply to all companies incorporated outside the Colony which, after the commencement of this Ordinance, establish a place of business within the Colony, and to all companies incorporated outside the Colony which have, before the commencement of this Ordinance, established a place of business within the Colony and continue to have an established place of business within the Colony at the commencement of this Ordinance.

Companies
to which
Part XII
applies.

322. Every company incorporated outside the Colony which, at the commencement of this Ordinance has a place of business in the Colony and every such company which, after the commencement of this Ordinance establishes a place of business within the Colony, shall, within six months from the commencement of this Ordinance or within one month from the establishment of the place of business, deliver to the registrar for registration—

Documents,
etc., to be
delivered to
registrar by
companies
carrying on
business in
the Colony.

- (a) a certified copy of the charter, statutes or memorandum and articles of the company, or other instrument constituting or defining the constitution of the company, and, if the instrument is not written in the English language, a certified translation thereof;
- (b) the full address of the registered or principal office of the company;
- (c) a list of the directors of the company, containing such particulars with respect to the directors as are by this Ordinance required to be contained with respect to directors in the register of the directors of a company;
- (d) the names and addresses of some one or more persons resident in the Colony authorized to accept on behalf of the company service of process and any notices required to be served on the company,

and in the event of any alteration being made in any such instrument or in such address or in the directors or managers or in the names or addresses of any such person as aforesaid, the company shall within three months of such alteration deliver to the registrar a notice of the alteration.

Power of companies incorporated outside the Colony to hold lands.

323. A company incorporated outside the Colony which has delivered to the registrar the documents and particulars specified in paragraphs (a), (b), (c) and (d) of the last foregoing section shall have the same power to hold lands in the Colony as if it were a company incorporated under this Ordinance.

Balance sheet of company carrying on business in the Colony.

Proviso added by Ord. 39/45 p. 131
324. (1) Every company to which this Part of this Ordinance applies shall in every calendar year make out a balance sheet in such form, and containing such particulars and including such documents, as under the provisions of this Ordinance it would, if it had been a company within the meaning of this Ordinance, have been required to make out and lay before the company in general meeting, and deliver a copy of that balance sheet to the registrar for registration.

Ord. 64/33

(2) If any such balance sheet is not written in the English language, there shall be annexed to it a certified translation thereof.

Obligation to state name of company, whether limited, and country where incorporated.

325. Every company to which this Part of this Ordinance applies shall—

- (a) in every prospectus inviting subscription for its shares or debentures in the Colony state the country in which the company is incorporated; and
- (b) conspicuously exhibit on every place where it carries on business in the Colony the name of the company and the country in which the company is incorporated; and
- (c) cause the name of the company and of the country in which the company is incorporated to be stated in legible Roman letters in all bill-heads and letter paper, and in all notices, advertisements and other official publications of the company; and
- (d) if the liability of the members of the company is limited, cause notice of that fact to be stated in legible Roman letters in every such prospectus as aforesaid and in all bill-heads, letter paper, notices, advertisements and other official publications of the company in the Colony and to be affixed on every place where it carries on its business.

Service on company to which Part XII applies.

326. Any process or notice required to be served on a company to which this Part of this Ordinance applies shall be sufficiently served if addressed to any person whose name

has been delivered to the registrar under this Part of this Ordinance and left at or sent by post to the address which has been so delivered :

Provided that—

- (a) where any such company makes default in delivering to the registrar the name and address of a person resident in the Colony who is authorized to accept on behalf of the company service of process or notices ; or
- (b) if at any time all the persons whose names and addresses have been so delivered are dead or have ceased so to reside, or refuse to accept service on behalf of the company, or for any reason cannot be served,

a document may be served on the company by leaving it at or sending it by post to any place of business established by the company in the Colony .

327. If any company to which this Part of this Ordinance applies ceases to have a place of business in the Colony it shall forthwith give notice of the fact to the registrar, and as from the date on which notice is so given the obligation of the company to deliver any document to the registrar shall cease.

Registrar to be notified when company ceases to have place of business in the Colony.

328. If any company to which this Part of this Ordinance applies fails to comply with any of the foregoing provisions of this Part of this Ordinance the company, and every officer or agent of the company, shall be liable to a fine not exceeding fifty pounds, or, in the case of a continuing offence five pounds for every day during which the default continues.

Penalties.

329. For the purposes of this Part of this Ordinance—
the expression “certified” means certified in the prescribed manner to be a true copy or a correct translation ;

Interpretation of Part XII.

the expression “director” in relation to a company includes any person in accordance with whose directions or instructions the directors of the company are accustomed to act ;

the expression “place of business” includes a share transfer or share registration office ;

the expression “prospectus” has the same meaning as when used in relation to a company incorporated under this Ordinance.

PART XIII.

RESTRICTIONS ON SALE OF SHARES AND OFFERS OF SHARES
FOR SALE.

Provisions
with respect to
prospectuses
of foreign
companies
inviting
subscriptions
for shares or
offering shares
for sale.

330. (1) It shall not be lawful for any person—

(a) to issue, circulate or distribute in the Colony any prospectus offering for subscription shares in or debentures of a company incorporated or to be incorporated outside the Colony, whether the company has or has not established, or when formed will or will not establish, a place of business in the Colony, unless —

(i) before the issue, circulation or distribution of the prospectus in the Colony a copy thereof, certified by the chairman and two other directors of the company as having been approved by resolution of the managing body, has been delivered for registration to the registrar;

(ii) the prospectus states on the face of it that the copy has been so delivered;

(iii) the prospectus is dated;

(iv) the prospectus otherwise complies with this Part of this Ordinance; or

(b) to issue to any person in the Colony a form of application for shares in or debentures of such a company or intended company as aforesaid, unless the form is issued with a prospectus which complies with this Part of this Ordinance;

Provided that this provision shall not apply if it is shown that the form of application was issued in connexion with a bona fide invitation to a person to enter into an underwriting agreement with respect to the shares or debentures.

(2) This section shall not apply to the issue to existing members or debenture holders of a company of a prospectus or form of application relating to shares in or debentures of the company, whether an applicant for shares or debentures will or will not have the right to renounce in favour of other persons, but, subject as aforesaid, this section shall apply to a prospectus or form of application whether issued on or with reference to the formation of a company or subsequently.

(3) Where any document by which any shares in or debentures of a company incorporated outside the Colony are offered for sale to the public would, if the company

concerned had been a company within the meaning of this Ordinance, have been deemed by virtue of section 39 of this Ordinance to be a prospectus issued by the company, that document shall be deemed to be, for the purposes of this section, a prospectus issued by the company.

(4) An offer of shares or debentures for subscription or sale to any person whose ordinary business or part of whose ordinary business it is to buy or sell shares or debentures, whether as principal or agent, shall not be deemed an offer to the public for the purposes of this section.

(5) Section 38 of this Ordinance shall extend to every prospectus to which this section applies.

(6) Any person who is knowingly responsible for the issue, circulation or distribution of any prospectus, or for the issue of a form of application for shares or debentures, in contravention of the provisions of this section shall be liable to a fine not exceeding five hundred pounds.

(7) In this and the next following section the expression "prospectus," "shares" and "debentures" have the same meanings as when used in relation to a company incorporated under this Ordinance.

331. (1) In order to comply with this Part of this Ordinance a prospectus in addition to complying with the provisions of sub-paragraphs (ii) and (iii) of paragraph (a) of sub-section (1) of the last foregoing section must—

**Requirements
as to
prospectus**

(a) contain particulars with respect to the following matters—

- (i) the objects of the company;
- (ii) the instrument constituting or defining the constitution of the company;
- (iii) the enactments, or provisions having the force of an enactment, by or under which the incorporation of the company was effected;
- (iv) an address in the Colony where the said instrument, enactments or provisions, or copies thereof, and if the same are in a foreign language a translation thereof certified in the prescribed manner, can be inspected;
- (v) the date on which and the country in which the company was incorporated;
- (vi) whether the company has established a place of business in the Colony, and, if so, the address of its principal office in the Colony:

Provided that the provisions of sub-paragraphs (i), (ii), (iii) and (iv) of this paragraph shall not apply in the case of a prospectus issued more than two years after the date at which the company is entitled to commence business;

- (b) subject to the provisions of this section, state the matters specified in Part I of the Third Schedule to this Ordinance (other than those specified in paragraph 1 of the said Part I) and set out the reports specified in Part II of that Schedule subject always to the provisions contained in Part III of the said Schedule :

Provided that—

- (i) where any prospectus is published as a newspaper advertisement, it shall be a sufficient compliance with the requirement that the prospectus must specify the objects of the company if the advertisement specifies the primary object with which the company was formed; and
- (ii) in paragraph 3 of Part I of the said Third Schedule a reference to the constitution of the company shall be substituted for the reference to the articles; and
- (iii) paragraph 1 of Part III of that Schedule shall have effect as if the reference to the memorandum were omitted therefrom.

(2) Any condition requiring or binding any applicant for shares or debentures to waive compliance with any requirement of this section, or purporting to affect him with notice of any contract, document or matter not specifically referred to in the prospectus, shall be void.

(3) In the event of non-compliance with or contravention of any of the requirements of this section, a director or other person responsible for the prospectus shall not incur any liability by reason of the non-compliance or contravention, if—

- (a) as regards any matters not disclosed, he proves that he was not cognizant thereof; or
- (b) he proves that the non-compliance or contravention arose from an honest mistake of fact on his part; or

- (c) the non-compliance or contravention was in respect of matters which, in the opinion of the court dealing with the case, were immaterial or were otherwise such as ought, in the opinion of that court, having regard to all the circumstances of the case, reasonably to be excused :

Provided that, in the event of failure to include in a prospectus a statement with respect to the matters contained in paragraph 15 of Part I of the Third Schedule to this Ordinance, no director or other person shall incur any liability in respect of the failure unless it be proved that he had knowledge of the matters not disclosed.

- (4) Nothing in this section shall limit or diminish any liability which any person may incur under the general law or this Ordinance, apart from this section.

332. (1) It shall not be lawful for any person to go from house to house offering shares for subscription or purchase to the public or any member of the public.

Restrictions
on offering of
shares for
subscription
or sale.

In this sub-section the expression "house" shall not include an office used for business purposes.

(2) Subject as hereinafter provided in this sub-section, it shall not be lawful to make an offer in writing to any member of the public (not being a person whose ordinary business or part of whose ordinary business it is to buy or sell shares, whether as principal or agent) of any shares for purchase, unless the offer is accompanied by a statement in writing (which must be signed by the person making the offer and dated) containing such particulars as are required by this section to be included therein and otherwise complying with the requirements of this section, or, in the case of shares in a company incorporated outside the Colony, either by such a statement as aforesaid, or by such a prospectus as complies with this Part of this Ordinance :

Provided that the provisions of this sub-section shall not apply—

- (a) where the shares to which the offer relates are shares which are quoted on, or in respect of which permission to deal has been granted by, any recognized stock exchange in the Colony and the offer so states and specifies the stock exchange ; or

- (b) where the shares to which the offer relates are shares which a company has allotted or agreed to allot with a view to their being offered for sale to the public ; or
- (c) where the offer was made only to a person or persons with whom the person making the offer has been in the habit of doing regular business in the purchase or sale of shares.

(3) The written statement aforesaid shall not contain any matter other than the particulars required by this section to be included therein, and shall not be in characters less large or less legible than any characters used in the offer or in any document sent therewith.

(4) The said statement shall contain particulars with respect to the following matters—

- (a) whether the person making the offer is acting as principal or agent, and if as agent the name of his principal and an address in the Colony where that principal can be served with process ;
- (b) the date on which and the country in which the company was incorporated and the address of its registered or principal office in the Colony ;
- (c) the authorized share capital of the company and the amount thereof which has been issued, the classes into which it is divided and the rights of each class of shareholders in respect of capital, dividends and voting ;
- (d) the dividends, if any, paid by the company on each class of shares during each of the three financial years immediately preceding the offer, and if no dividend has been paid in respect of shares of any particular class during any of those years, a statement to that effect ;
- (e) the total amount of any debentures issued by the company and outstanding at the date of the statement, together with the rate of interest payable thereon ;
- (f) the names and addresses of the directors of the company ;
- (g) whether or not the shares offered are fully paid up and, if not, to what extent they are paid up ;
- (h) whether or not the shares are quoted on, or permission to deal therein has been granted by, any

recognized stock exchange in the Colony or elsewhere, and, if so, which, and, if not, a statement that they are not so quoted or that no such permission has been granted;

- (i) where the offer relates to units, particulars of the names and addresses of the persons in whom the shares represented by the units are vested, the date of and the parties to any document defining the terms on which those shares are held, and an address in the Colony where that document or a copy thereof can be inspected.

In this sub-section the expression "company" means the company by which the shares to which the statement relates were or are to be issued.

(5) If any person acts, or incites, causes or procures any person to act in contravention of this section, he shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding two hundred pounds or to both such imprisonment and fine, and in the case of a second or subsequent offence to imprisonment for a term not exceeding twelve months or to a fine not exceeding five hundred pounds or to both such imprisonment and fine.

(6) Where a person convicted of an offence under this section is a company (whether a company within the meaning of this Ordinance or not), every director and every officer concerned in the management of the company shall be guilty of the like offence unless he proves that the act constituting the offence took place without his knowledge or consent.

(7) In this section, unless the context otherwise requires, the expression "stock exchange" means an association of stockbrokers and jobbers; "stockbroker" means a member of a stock exchange whose business is to deal in securities for non-members who employ him in that behalf; and "jobber" means a member of a stock exchange who deals with other members as a principal; the expression "shares" means the shares of a company, whether a company within the meaning of this Ordinance or not, and includes debentures and units, and the expression "unit" means any right or interest (by whatever name called) in a share, and for the purposes of this section a person shall not in relation to a company be regarded as not being a member of the public by reason only that he is a holder of shares in the company or a purchaser of goods from the company.

(8) Where any person is convicted of having made an offer in contravention of the provisions of this section, the court before which he is convicted may order that any contract made as a result of the offer shall be void, and, where it makes any such order, may give such consequential directions as it thinks proper for the repayment of any money or the retransfer of any shares.

Where a court inferior to the Supreme Court makes an order under this sub-section (whether with or without consequential directions) an appeal against the order and the consequential directions, if any, shall lie to the Supreme Court.

PART XIV.

MISCELLANEOUS.

Prohibition of Partnerships with more than Twenty Members.

Prohibition of partnerships with more than twenty members.

333. No company, association or partnership consisting of more than twenty persons shall be formed for the purpose of carrying on any business (other than the business of banking) that has for its object the acquisition of gain by the company, association or partnership, or by the individual members thereof, unless it is registered as a company under this Ordinance, or is formed in pursuance of some Act of Parliament, or of letters patent.

144.

Provisions relating to Banks.

Prohibition of banking partnerships with more than ten members.

334. No company, association or partnership consisting of more than ten persons shall be formed for the purpose of carrying on the business of banking, unless it is registered as a company under this Ordinance, or is formed in pursuance of some Act of Parliament, or of letters patent.

On registration of banking company with limited liability, notice to be given to customers.

335. (1) Where a banking company proposes to register as a limited company, it shall, at least thirty days before so registering, give notice of its intention so to register to every person who has a banking account with the company, either by delivery of the notice to him, or by posting it to him at, or delivering it at, his last known address.

(2) If the company omits to give the notice required by this section, then, as between the company and the person for the time being interested in the account in respect of which the notice ought to have been given, and so far as respects the account down to the time at which notice is given, but not further or otherwise, the certificate of registration with limited liability shall have no operation.

Miscellaneous Offences.

336. If any person in any return, report, certificate, balance sheet or other document, required by or for the purposes of any of the provisions of this Ordinance specified in the Ninth Schedule hereto, wilfully makes a statement false in any material particular, knowing it to be false, he shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding two years, and shall also be liable to a fine in lieu of or in addition to such imprisonment as aforesaid. Penalty for false statement.

337. If any person, on examination on oath authorized under this Ordinance or in any affidavit or deposition in or about the winding up of any company or otherwise in or about any matter arising under this Ordinance, wilfully and corruptly gives false evidence, he shall be liable to imprisonment for a term which may extend to seven years and shall also be liable to a fine. Penalty on perjury.

338. If any person or persons trade or carry on business under any name or title of which "Limited," or any contraction or imitation of that word, is the last word, that person or those persons shall, unless duly incorporated with limited liability, be liable to a fine not exceeding five pounds for every day upon which that name or title has been used. Penalty for improper use of word "limited".

General Provisions as to Offences.

339. No court inferior to that of a subordinate court of the first class shall try any offence against this Ordinance. Cognizance of offences.

340. (1) Where by any enactment in this Ordinance it is provided that a company and every officer of the company who is in default shall be liable to a default fine, the company and every such officer shall, for every day during which the default, refusal or contravention continues, be liable to a fine not exceeding such amount as is specified in the said enactment, or, if the amount of the fine is not so specified, to a fine not exceeding five pounds. Provision with respect to default fines and meaning of "officer in default".

(2) For the purpose of any enactment in this Ordinance which provides that an officer of a company who is in default shall be liable to a fine or penalty, the expression "officer who is in default" means any director, manager, secretary or other officer of the company, who knowingly and wilfully authorizes or permits the default, refusal or contravention mentioned in the enactment.

Application
of fines.

341. The court imposing any fine under this Ordinance may direct that the whole or any part thereof shall be applied in or towards payment of the costs of the proceedings, or in or towards the rewarding the person on whose information or at whose suit the fine is recovered and subject to any such direction all fines under this Ordinance shall be paid into the Treasury.

Saving as
to private
prosecutors.

342. Nothing in this Ordinance relating to the institution of criminal proceedings by the Attorney General shall be taken to preclude any person from instituting or carrying on any such proceedings.

Saving for
privileged
communica-
tions.

343. Where proceedings are instituted under this Ordinance against any person by the Attorney General nothing in this Ordinance shall be taken to require any person who has acted as advocate for the defendant to disclose any privileged communication made to him in that capacity.

Service of Documents and Legal Proceedings.

Service of
documents.

344. (1) A document may be served on a company by leaving it at or sending it by post to the registered office of the company in the Colony.

(2) A document may be served on the registrar by leaving it at or sending it by post to his office.

Costs in
actions by
certain
limited
companies.

345. Where a limited company is plaintiff in any action or other legal proceeding, any judge having jurisdiction in the matter may, if it appears by credible testimony that there is reason to believe that the company will be unable to pay the costs of the defendant if successful in his defence, require sufficient security to be given for those costs, and may stay all proceedings until the security is given.

Power of
court to grant
relief in
certain cases.

346. (1) If in any proceeding for negligence, default, breach of duty, or breach of trust against a person to whom this section applies it appears to the court hearing the case that that person is or may be liable in respect of the negligence, default, breach of duty or breach of trust, but that he has acted honestly and reasonably, and that, having regard to all the circumstances of the case, including those connected with his appointment, he ought fairly to be excused for the negligence, default, breach of duty or breach of trust, that court may relieve him, either wholly or partly, from his liability on such terms as the court may think fit.

(2) Where any person to whom this section applies has reason to apprehend that any claim will or might be made against him in respect of any negligence, default, breach of duty or breach of trust, he may apply to the court for relief and the court on any such application shall have the same power to relieve him as under this section it would have had if it had been a court before which proceedings against that person for negligence, default, breach of duty or breach of trust had been brought.

(3) The persons to whom this section applies are the following—

- (a) directors of a company ;
- (b) managers of a company ;
- (c) officers of a company ;
- (d) persons employed by a company as auditors, whether they are or are not officers of the company.

347. Orders made by the Supreme Court under this Ordinance may be enforced in the same manner as orders made in an action or suit pending therein. Power to enforce orders.

348. (1) The Governor in Council may alter Table A, the form in the Sixth Schedule and the table of fees in the Eighth Schedule to this Ordinance, so that the amount of fees payable to the registrar under the said Eighth Schedule is not thereby increased, and may alter or add to Tables B, C, D, and E in the First Schedule, and the forms in the Fifth Schedule to this Ordinance. Power to alter tables and forms.

(2) Any such table or form, when altered, shall be published in the Gazette, and thenceforth shall have the same force as if it were included in one of the Schedules to this Ordinance, but no alteration made by the Governor in Council in Table A shall affect any company registered before the alteration, or repeal, as respects that company, any portion of that Table.

(3) In addition to the powers hereinbefore conferred by this section, the Governor in Council may make rules providing for all or any matters which by this Ordinance are to be prescribed by his authority.

Saving for Companies (Winding Up) Rules.

Saving for
Companies
(Winding Up)
Rules.

349. (1) Unless and until the Supreme Court shall make rules under the powers conferred by section 286 of this Ordinance, the Companies (Winding up) Rules, 1929, as amended by the Companies (Winding up) (Amendment) Rules, 1929, made under the Companies Act, 1929, of the Imperial Parliament, and the scale of winding up fees prescribed under the said Act, are declared to be in force in the Colony and shall be read with and considered part of this Ordinance :

Provided always that it shall be lawful for the Supreme Court by rule to amend or revoke any of the said rules : and,

Provided further that it shall be lawful for any court to construe the said rules with such verbal alteration not affecting the substance as may be deemed expedient to render the same applicable to any matters before the court, provided always that any such construction or alteration shall not be inconsistent with the provisions of this Ordinance.

Construction
of the court
to be final.

(2) In any proceedings taken in this Colony for the winding up of companies the decision of the court on the construction to be placed on any of the provisions of the said rules, with respect to practice and procedure shall be final, and no action, suit or other legal proceedings or process shall be brought, taken, issued or allowed in the Colony against any person in respect of any act or thing done or purporting to be done in pursuance of any order or direction of the court under the aforesaid rules.

Repeal and Savings.

Repeal.

No. 4 of 1927.

350. (1) The Companies Ordinance (Chapter 93 of the Revised Edition) as amended by the Companies (Amendment) Ordinance, 1927, is hereby repealed.

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(2) Without prejudice to the provisions of section 7 of the Interpretation and General Clauses Ordinance—

(a) nothing in this repeal shall affect—

(i) the incorporation of any company registered under the Ordinance hereby repealed ; nor

(ii) Table A in the First Schedule annexed to the Indian Companies Act, 1882, as applied to the Colony or in the First Schedule annexed to the Companies Ordinance or any part thereof so far as the same applies to any company existing at the commencement of this Ordinance ;

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- (b) any document referring to any former enactment relating to companies shall be construed as referring to the corresponding provision of this Ordinance;
- (c) any person appointed to any office under or by virtue of the former enactment relating to companies shall be deemed to have been appointed to that office under or by virtue of this Ordinance;
- (d) any register kept under the former enactment relating to companies shall be deemed part of the register to be kept under the corresponding provisions of this Ordinance;
- (e) all funds and accounts constituted under this Ordinance shall be deemed to be in continuation of the corresponding funds and accounts constituted under the former enactments relating to companies.

(3) All fees directed, resolutions passed and other things duly done under the enactments hereby repealed shall be deemed to have been directed, passed or done under this Ordinance.

(4) In this section the expression "former enactment relating to companies" means any enactment repealed by this Ordinance and the Indian Companies Act, 1882, as applied to the Colony.

351. The provisions of this Ordinance with respect to winding up shall not apply to any company of which the winding up has commenced before the commencement of this Ordinance, but every such company shall be wound up in the same manner and with the same incidents as if this Ordinance had not passed, and, for the purposes of the winding up, the Companies Ordinance shall be deemed to remain in full force.

**Saving of
pending
proceedings
for winding
up.**

Cap. 93.

SCHEDULES.

FIRST SCHEDULE.

(SECTIONS 2, 10, 115, 311, 348).

TABLE A.

REGULATIONS FOR MANAGEMENT OF A COMPANY LIMITED BY SHARES.

Preliminary.

1. In these regulations—

“the Ordinance” means the Companies Ordinance, 1933.

When any provision of the Ordinance is referred to, the reference is to that provision as modified by any law for the time being in force.

Unless the context otherwise requires, expressions defined in the Ordinance or any statutory modification thereof in force at the date at which these regulations become binding on the company, shall have the meanings so defined.

Shares.

2. Subject to the provisions, if any, in that behalf of the memorandum of association, and without prejudice to any special rights previously conferred on the holders of existing shares, any share may be issued with such preferred, deferred or other special rights or such restrictions, whether in regard to dividend, voting return of share capital or otherwise, as the company may from time to time by special resolution determine, and any preference share may, with the sanction of a special resolution, be issued on the terms that it is, or at the option of the company is liable, to be redeemed.

3. If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may be varied with the consent in writing of the holders of three-fourths of the issued shares of that class, or with the sanction of an extraordinary resolution passed at a separate general meeting of the holders of the shares of the class. To every such separate general meeting the provisions of these regulations relating to general meetings shall *mutatis mutandis* apply, but so that the necessary quorum shall be two persons at least holding or representing by proxy one-third of the issued shares of the class and that any holder of shares of the class present in person or by proxy may demand a poll.

4. Every person whose name is entered as a member in the register of members shall, without payment, be entitled to a certificate under the seal of the company specifying the share or shares held by him and the amount paid up thereon, provided that in respect of a share or shares held jointly by several persons the company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all.

5. If a share certificate is defaced, lost or destroyed, it may be renewed on payment of such fee, if any, not exceeding one shilling, and on such terms, if any, as to evidence and indemnity, as the directors think fit.

6. No part of the funds of the company shall directly or indirectly be employed in the purchase of, or in loans upon the security of, the company's shares, but nothing in this regulation shall prohibit transactions mentioned in the proviso to section 46 (1) of the Ordinance.

Lien.

7. The company shall have a lien on every share (not being a fully paid share) for all moneys (whether presently payable or not) called or payable at a fixed time in respect of that share, and the company shall also have a lien on all shares (other than fully paid shares) standing registered in the name of a single person for all moneys presently payable by him or his estate to the company; but the directors may at any time declare any share to be wholly or in part exempt from the provisions of this regulation. The company's lien, if any, on a share shall extend to all dividends payable thereon.

8. The company may sell, in such manner as the directors think fit, any shares on which the company has a lien, but no sale shall be made unless some sum in respect of which the lien exists is presently payable, nor until the expiration of fourteen days after a notice in writing, stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share, or the person entitled thereto by reason of his death or bankruptcy.

9. For giving effect to any such sale the directors may authorize some person to transfer the shares sold to the purchaser thereof. The purchaser shall be registered as the holder of the shares comprised in any such transfer and he shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

10. The proceeds of the sale shall be received by the company and applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue shall (subject to a like lien for sums not presently payable as existed upon the shares prior to the sale) be paid to the person entitled to the shares at the date of the sale.

Calls on Shares.

11. The directors may from time to time make calls upon the members in respect of any moneys unpaid on their shares provided that no call shall exceed one-fourth of the nominal amount of the share, or be payable at less than one month from the last call; and each member shall (subject to receiving at least fourteen days' notice specifying the time or times of payment) pay to the company at the time or times so specified the amount called on his shares.

12. The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

13. If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest upon the sum at the rate of eight per centum per annum from the day appointed for the payment thereof to the time of the actual payment, but the directors shall be at liberty to waive payment of that interest wholly or in part.

14. The provisions of these regulations as to the liability of joint holders and as to payment of interest shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share, or by way of premium, as if the same had become payable by virtue of a call duly made and notified.

15. The directors may make arrangements on the issue of shares for a difference between the holders in the amount of calls to be paid and in the times of payment.

16. The directors may, if they think fit, receive from any member willing to advance the same all or any part of the moneys uncalled and unpaid upon any shares held by him; and upon all or any of the moneys so advanced may (until the same would, but for such advance, become presently payable) pay interest at such rate (not exceeding, without the sanction of the company in general meeting, six per cent) as may be agreed upon between the member paying the sum in advance and the directors.

Transfer and Transmission of Shares.

17. The instrument of transfer of any share shall be executed by or on behalf of the transferor and transferee, and the transferor shall be deemed to remain a holder of the share until the name of the transferee is entered in the register of members in respect thereof.

18. Shares shall be transferred in the following form, or in any usual or common form which the directors shall approve—

I, A. B., of, in consideration of the sum of Sh. paid to me by C. D., of.....
, (hereinafter called "the said transferee") do hereby transfer to the said transferee the share (or shares) numbered in the undertaking called the.....
 Company, Limited, to hold unto the said transferee, subject to the several conditions on which I hold the same: and I, the said transferee, do hereby agree to take the said share (or shares) subject to the conditions aforesaid. As witness our hands the.....
 day of....., 19.....

Witness to the signatures of, etc.

19. The directors may decline to register any transfer of shares, not being fully paid shares, to a person of whom they do not approve, and may also decline to register any transfer of shares on which the company has a lien. The directors may also suspend the registration of transfers during the fourteen days immediately preceding the ordinary general meeting in each year. The directors may decline to recognize any instrument of transfer unless—

- (a) a fee not exceeding two shillings is paid to the company in respect thereof; and
- (b) the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer.

If the directors refuse to register a transfer of any shares, they shall within two months after the date on which the transfer was lodged with the company send to the transferee notice of the refusal.

20. The legal personal representative of a deceased sole holder of a share shall be the only persons recognized by the company as having any title to the share. In the case of a share registered in the names of two or more holders, the survivors or survivor, or the legal personal representatives of the deceased survivor, shall be the only persons recognized by the company as having any title to the share.

21. Any person becoming entitled to a share in consequence of the death or bankruptcy of a member shall, upon such evidence being produced as may from time to time be properly required by the directors, have the right, either to be registered as a member in respect of the share or, instead of being registered himself, to make such transfer of the share as the deceased or bankrupt person could have made; but the directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the share by the deceased or bankrupt person before the death or bankruptcy.

22. A person becoming entitled to a share by reason of the death or bankruptcy of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company.

Forfeiture of Shares.

23. If a member fails to pay any call or instalment of a call on the day appointed for payment thereof, the directors may, at any time thereafter during such time as any part of such call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.

24. The notice shall name a further day (not earlier than the expiration of fourteen days from the date of the notice) on or before which the payment required by the notice is to be made, and shall state that in the event of non-payment at or before the time appointed the shares in respect of which the call was made will be liable to be forfeited.

25. If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the directors to that effect.

26. A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the directors think fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the directors think fit.

27. A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall, notwithstanding, remain liable to pay to the company all moneys which, at the date of forfeiture, were presently payable by him to the company in respect of the shares, but his liability shall cease if and when the company receive payment in full of the nominal amount of the shares.

28. A statutory declaration in writing that the declarant is a director of the company, and that a share in the company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share. The company may receive the consideration, if any, given for the share on any sale or disposition thereof and may execute a transfer of the share in favour of the person to whom the share is sold or disposed of and he shall thereupon be registered as the holder of the share, and shall not be bound to see to the application of the purchase money, if any, nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.

29. The provisions of these regulations as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share, or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

Conversion of Shares into Stock.

30. The company may by ordinary resolution convert any paid-up shares into stock, and reconvert any stock into paid-up shares of any denomination.

31. The holders of stock may transfer the same, or any part thereof, in the same manner, and subject to the same regulations, as, and subject to which, the shares from which the stock arose might previously to conversion have been transferred, or as near thereto as circumstances admit; but the directors may from time to time fix the minimum amount of stock transferable, and restrict or forbid the transfer of fractions of that minimum, but the minimum shall not exceed the nominal amount of the shares from which the stock arose.

32. The holders of stock shall, according to the amount of the stock held by them, have the same rights, privileges and advantages as regards dividends, voting at meetings of the company and other matters as if they held the shares from which the stock arose, but no such privilege or advantage (except participation in the dividends and profits of the company) shall be conferred by any such aliquot part of stock as would not, if existing in shares, have conferred that privilege or advantage.

33. Such of the regulations of the company as are applicable to paid-up shares shall apply to stock, and the words "share" and "shareholder" therein shall include "stock" and "stockholder."

Alteration of Capital.

34. The company may from time to time by ordinary resolution increase the share capital by such sum, to be divided into shares of such amount, as the resolution shall prescribe.

35. Subject to any direction to the contrary that may be given by the company in general meeting all new shares shall, before issue, be offered to such persons as at the date of the offer are entitled to receive notices from the company of general meetings in proportion, as nearly as the circumstances admit, to the amount of the existing shares to which they are entitled. The offer shall be made by notice specifying the number of shares offered, and limiting a time, within which the offer, if not accepted, will be deemed to be declined, and after the expiration of that time, or on the receipt of an intimation from the person to whom the offer is made that he declines to accept the shares offered, the directors may dispose of those shares in such manner as they think most beneficial to the company. The directors may likewise so dispose of any new shares which (by reason of the ratio which the new shares bear to shares held by persons entitled to an offer of new shares) cannot, in the opinion of the directors, be conveniently offered under this article.

36. The new shares shall be subject to the same provisions with reference to the payment of calls, lien, transfer, transmission, forfeiture and otherwise as the shares in the original share capital.

37. The company may by ordinary resolution—

- (a) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;
- (b) sub-divide its existing shares, or any of them, into shares of smaller amount than is fixed by the memorandum of association subject, nevertheless, to the provisions of section 51 (1) (d) of the Ordinance;
- (c) cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person.

38. The company may by special resolution, reduce its share capital and any capital redemption reserve fund in any manner and with, and subject to, any incident authorized, and consent required, by law.

General Meetings.

39. A general meeting shall be held once in every calendar year at such time (not being more than fifteen months after the holding of the last preceding general meeting) and place as may be prescribed by the company in general meeting, or, in default, at such time in the third month following that in which the anniversary of the company's incorporation occurs, and at such place, as the directors shall appoint. In default of a general meeting being so held, a general meeting shall be held in the month next following, and may be convened by any two members in the same manner as nearly as possible as that in which meetings are to be convened by the directors.

40. The above-mentioned general meetings shall be called ordinary general meetings; all other general meetings shall be called extraordinary general meetings.

41. The directors may, whenever they think fit, convene an extraordinary general meeting, and extraordinary general meetings shall also be convened on such requisition, or, in default, may be convened by such requisitionists, as provided by section 114 of the Ordinance. If at any time there are not within the Colony sufficient directors capable of acting to form a quorum, any director or any two members of the company may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the directors.

Notice of General Meetings.

42. Subject to the provisions of section 117 (2) of the Ordinance relating to special resolutions, seven days' notice at the least (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given) specifying the place, the day and the hour of meeting and, in case of special business, the general nature of that business shall be given in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the company in general meeting, to such persons as are, under the regulations of the company, entitled to receive such notices from the company; but with the consent of all the members entitled to receive notice of some particular meeting, that meeting may be convened by such shorter notice and in such manner as those members may think fit.

43. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any member shall not invalidate the proceedings at any meeting.

Proceedings at General Meetings.

44. All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of sanctioning a dividend, the consideration of the accounts, balance sheets and the ordinary report of the directors and auditors, the election of directors and other officers in the place of those retiring by rotation, and the fixing of the remuneration of the auditors.

45. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business; save as herein otherwise provided, three members personally present shall be a quorum.

46. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week, at the same time and place, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the members present shall be a quorum.

47. The chairman, if any, of the board of directors shall preside as chairman at every general meeting of the company.

48. If there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting or is unwilling to act as chairman, the members present shall choose some one of their number to be chairman.

49. The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for ten days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

50. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded by at least three members present in person or by proxy entitled to vote or by one member or two members so present and entitled, if that member or those two members together hold not less than fifteen per cent of the paid-up capital of the company and, unless a poll is so demanded, a declaration by the chairman that a resolution has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of the proceedings of the company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.

51. If a poll is duly demanded it shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

52. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded, shall be entitled to a second or casting vote.

53. A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs.

Votes of Members.

54. On a show of hands every member present in person shall have one vote. On a poll every member shall have one vote for each share of which he is the holder.

55. In the case of joint holders the vote of the senior who tenders a vote whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders; and for this purpose seniority shall be determined by the order in which the names stand in the register of members.

56. A member of unsound mind, or in respect of whom an order has been made by any court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee, *curator bonis* or other person in the nature of a committee or *curator bonis* appointed by that court, and any such committee, *curator bonis*, or other person may, on a poll, vote by proxy.

57. No member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the company have been paid.

58. On a poll votes may be given either personally or by proxy.

59. The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorized in writing, or, if the appointor is a corporation, either under seal, or under the hand of an officer or attorney duly authorized. A proxy need not be a member of the company.

60. The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority shall be deposited at the registered office of the company not less than forty-eight hours before the time for holding the meeting or adjourned meeting, at which the person named in the instrument proposes to vote, and in default the instrument of proxy shall not be treated as valid.

61. An instrument appointing a proxy may be in the following form, or any other form which the directors shall approve:--

.....Company, Limited.

I, ..., of, in the district of, being a member of the..... Company, Limited, hereby appoint..... of....., as my proxy, to vote for me and on my behalf at the (*ordinary or extraordinary, as the case may be*) general meeting of the company to be held on the day of.....19....., and at any adjournment thereof.

Signed this.....day of....., 19.....

62. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.

Corporations acting by Representatives at Meetings.

63. Any corporation which is a member of the company may by resolution of its directors or other governing body authorize such person as it thinks fit to act as its representative at any meeting of the company or of any class of members of the company, and the person so authorized shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual member of the company.

Directors.

64. The number of the directors and the names of the first directors shall be determined in writing by a majority of the subscribers of the memorandum of association.

65. The remuneration of the directors shall from time to time be determined by the company in general meeting.

66. The qualification of a director shall be the holding of at least one share in the company.

Powers and Duties of Directors.

67. The business of the company shall be managed by the directors, who may pay all expenses incurred in getting up and registering the company, and may exercise all such powers of the company, as are not, by the Ordinance, or by these articles, required to be exercised by the company in general meeting, subject, nevertheless, to any regulation of these articles, to the provisions of the Ordinance, and to such regulations, being not inconsistent with the aforesaid regulations or provisions, as may be prescribed by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.

68. The directors may from time to time appoint one or more of their body to the office of managing director or manager for such term and at such remuneration (whether by way of salary, or commission, or participation in profits or partly in one way and partly in another) as they may think fit, and a director so appointed shall not, while holding that office, be subject to retirement by rotation, or taken into account in determining the rotation or retirement of directors; but his appointment shall be subject to determination *ipso facto* if he ceases from any cause to be a director, or if the company in general meeting resolve that his tenure of the office of managing director or manager be determined.

69. The amount for the time being remaining undischarged of moneys borrowed or raised by the directors for the purposes of the company (otherwise than by the issue of share capital) shall not at any time exceed the issued share capital of the company without the sanction of the company in general meeting.

70. The directors shall cause minutes to be made in books provided for the purpose—

- (a) of all appointments of officers made by the directors;
- (b) of the names of the directors present at each meeting of the directors and of any committee of the directors;
- (c) of all resolutions and proceedings at all meetings of the company, of the directors, and of committees of directors,

and every director present at any meeting of directors or committee of directors shall sign his name in a book to be kept for that purpose.

The Seal.

71. The seal of the company shall not be affixed to any instrument except by the authority of a resolution of the board of directors, and in the presence of a director and of the secretary or such other person as the directors may appoint for the purpose; and that director and the secretary or other person as aforesaid shall sign every instrument to which the seal of the company is so affixed in their presence.

Disqualification of Directors.

72. The office of director shall be vacated, if the director—

- (a) ceases to be a director by virtue of section 142 of the Ordinance; or
- (b) without the consent of the company in general meeting holds any other office of profit under the company except that of managing director or manager; or
- (c) becomes bankrupt in this Colony or in any other territory which is declared to be a reciprocating territory under section 147 of the Bankruptcy Ordinance, 1930; or
- (d) becomes prohibited from being a director by reason of any order made under sections 213 or 269 of the Ordinance; or
- (e) is found lunatic or becomes of unsound mind; or
- (f) resigns his office by notice in writing to the company; or
- (g) is directly or indirectly interested in any contract with the company or participates in the profits of any contract with the company; or
- (h) is punished with imprisonment for a term exceeding six months without the option of a fine:

Provided, however, that a director shall not vacate his office by reason of his being a member of any corporation which has entered into contracts with or done any work for the company if he shall have declared the nature of his interest in manner required by section 150 of the Ordinance, but the director shall not vote in respect of any such contract or work or any matter arising thereout, and if he does so vote his vote shall not be counted.

Rotation of Directors.

73. At the first ordinary general meeting of the company the whole of the directors shall retire from office, and at the ordinary general meeting in every subsequent year one-third of the directors for the time being or, if their number is not three or a multiple of three, then the number nearest one-third shall retire from office.

74. The directors to retire in every year shall be those who have been longest in office since their last election but as between persons who became directors on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.

75. A retiring director shall be eligible for re-election.

76. The company at the general meeting at which a director retires in manner aforesaid may fill up the vacated office by electing a person thereto and in default the retiring director shall be deemed to have been re-elected unless at such meeting it is resolved not to fill up such vacated office.

77. The company may from time to time in general meeting increase or reduce the number of directors, and may also determine in what rotation the increased or reduced number is to go out of office.

78. Any casual vacancy occurring in the board of directors may be filled up by the directors, but the person so chosen shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

79. The directors shall have power at any time, and from time to time, to appoint a person as an additional director who shall retire from office at the next following ordinary general meeting, but shall be eligible for election by the company at that meeting as an additional director.

80. The company may by extraordinary resolution remove any director before the expiration of his period of office, and may by an ordinary resolution appoint another person in his stead. The person so appointed shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

Proceedings of Directors.

81. The directors may meet together for the despatch of business, adjourn, and otherwise regulate their meetings, as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the chairman shall have a second or casting vote. A director may, and the secretary on the requisition of a director shall, at any time summon a meeting of the directors.

82. The quorum necessary for the transaction of the business of the directors may be fixed by the directors, and unless so fixed shall when the number of directors exceeds three be three, and when the number of directors does not exceed three, be two.

83. The continuing directors may act notwithstanding any vacancy in their body but, if and so long as their number is reduced below the number fixed by or pursuant to the regulations of the company as the necessary quorum of directors, the continuing directors may act for the purpose of increasing the number of directors to that number, or of summoning a general meeting of the company, but for no other purpose.

84. The directors may elect a chairman of their meetings and determine the period for which he is to hold office; but if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the directors present may choose one of their number to be chairman of the meeting.

85. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit; any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the directors.

86. A committee may elect a chairman of its meetings; if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the members present may choose one of their number to be chairman of the meeting.

87. A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in case of an equality of votes the chairman shall have a second or casting vote.

88. All acts done by any meeting of the directors or of a committee of directors, or by any person acting as a director shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such director or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

Dividends and Reserve.

89. The company in general meeting may declare dividends, but no dividend shall exceed the amount recommended by the directors.

90. The directors may from time to time pay to the members such interim dividends as appear to the directors to be justified by the profits of the company.

91. No dividend shall be paid otherwise than out of profits.

92. Subject to the rights of persons, if any, entitled to shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid on the shares, but if and so long as nothing is paid up on any of the shares in the company dividends may be declared and paid according to the amounts of the shares. No amount paid on a share in advance of calls shall, while carrying interest, be treated for the purpose of this article as paid on the share.

93. The directors may, before recommending any dividend, set aside out of the profits of the company such sums as they think proper as a reserve or reserves which shall, at the discretion of the directors, be applicable for meeting contingencies, or for equalizing dividends, or for any other purpose to which the profits of the company may be properly applied, and pending such application may, at the like discretion, either be employed in the business of the company or be invested in such investments (other than shares of the company) as the directors may from time to time think fit.

94. If several persons are registered as joint holders of any share, any one of them may give effectual receipts for any dividend or other moneys payable on or in respect of the share.

95. Any dividend may be paid by cheque or warrant sent through the post to the registered address of the member or person entitled thereto or in the case of joint holders to any one of such joint holders at his registered address or to such person and such address as the member or person entitled or such joint holders as the case may be may direct. Every such cheque or warrant shall be made payable to the order of the person to whom it is sent or to the order of such other person as the member or person entitled or such joint holders as the case may be may direct.

96. No dividend shall bear interest against the company.

Accounts.

97. The directors shall cause proper books of account to be kept with respect to—

All sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place;

All sales and purchases of goods by the company; and

The assets and liabilities of the company.

98. The books of account shall be kept at the registered office of the company, or at such other place or places as the directors think fit, and shall always be open to the inspection of the directors.

99. The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the company or any of them shall be open to the inspection of members not being directors, and no member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by law or authorized by the directors or by the company in general meeting.

100. The directors shall from time to time in accordance with section 123 of the Ordinance, cause to be prepared and to be laid before the company in general meeting such profit and loss accounts, balance sheets and reports as are referred to in that section.

101. The profit and loss account shall show, arranged under the most convenient heads, the amount of gross income, distinguishing the several sources from which it has been derived, and the amount of gross expenditure, distinguishing the expenses of the establishment, salaries and other like matters. Every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting and, in cases where any item of expenditure which may in fairness be distributed over several years has been incurred in any one year, the whole amount of such item shall be stated, with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

102. A copy of every balance sheet (including every document required by law to be annexed thereto) which is to be laid before the company in general meeting together with a copy of the auditor's report shall not less than seven days before the date of the meeting be sent to all persons entitled to receive notices of general meetings of the company.

Audit.

103. Auditors shall be appointed and their duties regulated in accordance with sections 132, 133 and 134 of the Ordinance.

Notices.

104. A notice may be given by the company to any member either personally or by sending it by post to him to his registered address, or (if he has no registered address within the Colony) to the address, if any, within the Colony supplied by him to the company for the giving of notices to him.

Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice, and unless the contrary is proved to have been effected at the time at which the letter would be delivered in the ordinary course of post.

105. If a member has no registered address within the Colony and has not supplied to the company an address within the Colony for the giving of notices to him, a notice addressed to him and advertised in a newspaper circulating the neighbourhood of the registered office of the company shall be deemed to be duly given to him at noon on the day on which the advertisement appears.

106. A notice may be given by the company to the joint holders of a share by giving the notice to the joint holder named first in the register of members in respect of the share.

107. A notice may be given by the company to the persons entitled to a share in consequence of the death or bankruptcy of a member by sending it through the post in a prepaid letter addressed to them by name, or by the title of representatives of the deceased, or receiver of the bankrupt, or by any like description, at the address, if any, within the Colony supplied for the purpose by the persons claiming to be so entitled, or (until such an address has been so supplied) by giving the notice in any manner in which the same might have been given if the death or bankruptcy had not occurred.

108. Notice of every general meeting shall be given in some manner hereinbefore authorized to (a) every member except those members who (having no registered address within the Colony) have not supplied to the company an address within the Colony for the giving of notices to them, and also to (b) every person entitled to a share in consequence of the death or bankruptcy of a member, who, but for his death or bankruptcy would be entitled to receive notice of the meeting. No other person shall be entitled to receive notices of general meetings.

TABLE B.

SECTIONS 13 AND 348.

FORM OF MEMORANDUM OF ASSOCIATION OF A COMPANY LIMITED BY SHARES.

1st. The name of the company is "The Eastern Steam Packet Company, Ltd."

2nd. The registered office of the company will be situate in Nairobi.

3rd. The objects for which the company is established are, "the conveyance of passengers and goods in ships or boats between such places as the company may from time to time determine, and the doing all such other things as are incidental or conducive to the attainment of the above object."

4th. The liability of the members is limited.

5th. The share capital of the company is ten thousand pounds divided into one thousand shares of ten pounds each.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Name, Addresses, and Descriptions of Subscribers.		Number of shares taken by each Subscriber.
1.	John Jones, of....., merchant	200
2.	John Smith, of....., „	25
3.	Thomas Green, of....., „	30
4.	John Thompson, of....., „	40
5.	Caleb White, of....., „	15
6.	Andrew Brown, of....., „	5
7.	Cæsar White, of....., „	10

Total shares taken 325

Dated the day of, 19.....

Witness to the above signatures,

A.B.,

Sixth Avenue, Nairobi

TABLE C.

SECTIONS 13 AND 348.

FORM OF MEMORANDUM AND ARTICLES OF ASSOCIATION OF A COMPANY LIMITED
BY GUARANTEE, AND NOT HAVING A SHARE CAPITAL.*Memorandum of Association.*

1st. The name of the company is "The Mombasa School Association, Limited."

2nd. The registered office of the company will be situate in Mombasa.

3rd. The objects for which the company is established are the carrying on a school for boys in the District of Mombasa and the doing all such other things as are incidental or conducive to the attainment of the above object.

4th. The liability of the members is limited.

5th. Every member of the company undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before he ceases to be a member, and the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding ten pounds.

WE, the several persons whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association.

Names, Addresses and Description of Subscribers.

1. John Jones, of....., Schoolmaster.
2. John Smith, of....., "
3. Thomas Green, of....., "
4. John Thompson, of....., "
5. Caleb White, of....., "
6. Andrew Brown, of....., "
7. Caesar White, of....., "

Dated the.....day of.....19.....

Witness to the above signatures,

A.B.,

Salim Road, Mombasa.

ARTICLES OF ASSOCIATION TO ACCOMPANY PRECEDING MEMORANDUM OF
ASSOCIATION.*Preliminary.*

1. In these regulations—

"the Ordinance" means the Companies Ordinance, 1933.

When any provision of the Ordinance is referred to the reference is to such provision as modified by any law for the time being in force.

Unless the context otherwise requires, expressions defined in the Ordinance or any statutory modification thereof in force at the date at which these regulations become binding on the company, shall have the meanings so defined.

Members.

2. The number of members with which the company proposes to be registered is five hundred, but the directors may from time to time register an increase of members.

3. The subscribers to the memorandum of association and such other persons as the directors shall admit to membership shall be members of the company.

General Meetings.

4. The first general meeting shall be held at such time, not being less than one month nor more than three months after the incorporation of the company, and at such place, as the directors may determine.

5. A general meeting shall be held once in every calendar year at such time (not being more than fifteen months after the holding of the last preceding general meeting) and place as may be prescribed by the company in general meeting or, in default, at such time in the third month following that in which the anniversary of the company's incorporation occurs, and at such place as the directors shall appoint. In default of a general meeting being so held, a general meeting shall be held in the month next following, and may be convened by any two members in the same manner as nearly as possible as that in which meetings are to be convened by the directors.

6. The above-mentioned general meetings shall be called ordinary general meetings; all other general meetings shall be called extraordinary general meetings.

7. The directors may, whenever they think fit, convene an extraordinary general meeting, and extraordinary general meetings shall also be convened on such requisition or, in default, may be convened by such requisitionists, as provided by section 114 of the Ordinance. If at any time there are not within the Colony sufficient directors capable of acting to form a quorum, any director or any two members of the company may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the directors.

Notice of General Meetings.

8. Subject to the provisions of section 117 (2) of the Ordinance relating to special resolutions, seven days' notice at the least (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given) specifying the place, the day and the hour of meeting and, in case of special business, the general nature of that business shall be given in manner hereinafter mentioned,

or in such other manner, if any, as may be prescribed by the company in general meeting, to such persons as are, under the regulations of the company, entitled to receive such notices from the company; but with the consent of all the members entitled to receive notice of some particular meeting, that meeting may be convened by such shorter notice and in such manner as those members may think fit.

9. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any member shall not invalidate the proceedings at any meeting.

Proceedings at General Meetings.

10. All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of the consideration of the accounts, balance sheets and the ordinary report of the directors and auditors, the election of directors and other officers in the place of those retiring by rotation, and the fixing of the remuneration of the auditors.

11. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business; save as herein otherwise provided, three members personally present shall be a quorum.

12. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week, at the same time and place, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the members present shall be a quorum.

13. The chairman, if any, of the board of directors shall preside as chairman at every general meeting of the company.

14. If there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting or is unwilling to act as chairman, the members present shall choose some one of their number to be chairman.

15. The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for ten days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

16. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded by at least two

members present in person or by proxy entitled to vote and unless a poll is so demanded, a declaration by the chairman that a resolution has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of the proceedings of the company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.

17. If a poll is duly demanded it shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

18. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded, shall be entitled to a second or casting vote.

19. A poll demanded on the election of a chairman, or on a question of adjournment, shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs.

Votes of Members.

20. Every member shall have one vote.

21. A member of unsound mind, or in respect of whom an order has been made, by any court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee, *curator bonis* or other person in the nature of a committee or *curator bonis* appointed by that court, and any such committee, *curator bonis*, or other person may, on a poll, vote by proxy.

22. No member shall be entitled to vote at any general meeting unless all moneys presently payable by him to the company have been paid.

23. On a poll votes may be given either personally or by proxy.

24. The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorized in writing or, if the appointor is a corporation, either under the seal, or under the hand of an officer or attorney so authorized. A proxy need not be a member of the company.

25. The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority shall be deposited at the registered office of the company not less than forty-eight hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, and in default the instrument of proxy shall not be treated as valid.

26. An instrument appointing a proxy may be in the following form, or any other form which the directors shall approve—

Company, Limited.

I, ..., of, in the District of, being a member of the Company, Limited, hereby appoint, of, as my proxy to vote for me and on my behalf at the (*ordinary or extraordinary, as the case may be*) general meeting of the company to be held on the day of, 19....., and at any adjournment thereof.

Signed this day of, 19.....

27. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.

Corporations acting by Representatives at Meetings.

28. Any corporation which is a member of the company may by resolution of its directors or other governing body authorize such person as it thinks fit to act as its representative at any meeting of the company and the person so authorized shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual member of the company.

Directors.

29. The number of directors and the names of the first directors shall be determined in writing by a majority of the subscribers to the memorandum.

30. The remuneration of the directors shall from time to time be determined by the company in general meeting.

Powers and Duties of Directors.

31. The business of the company shall be managed by the directors, who may pay all expenses incurred in getting up and registering the company, and may exercise all such powers of the company as are not, by the Ordinance, or by these articles, required to be exercised by the company in general meeting, subject nevertheless to any regulation of these articles, to the provisions of the Ordinance, and to such regulations, being not inconsistent with the aforesaid regulations or provisions, as may be prescribed by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.

32. The directors shall cause minutes to be made in books provided for the purpose—

(a) of all appointments of officers made by the directors;

(b) of the names of the directors present at each meeting of the directors and of any committee of the directors;

(c) of all resolutions and proceedings at all meetings of the company, and of the directors, and of committees of directors, and every director present at any meeting of directors or committee of directors shall sign his name in a book to be kept for that purpose.

The Seal.

33. The seal of the company shall not be affixed to any instrument except by the authority of a resolution of the board of directors, and in the presence of a director and of the secretary or such other person as the directors may appoint for the purpose; and that director and the secretary or other person as aforesaid shall sign every instrument to which the seal of the company is so affixed in their presence.

Disqualifications of Directors.

34. The office of director shall be vacated, if the director—
- (a) without the consent of the company in general meeting holds any other office of profit under the company; or
 - (b) becomes bankrupt; or
 - (c) becomes prohibited from being a director by reason of any order made under sections 213 or 269 of the Ordinance;
 - (d) is found lunatic or becomes of unsound mind; or
 - (e) resigns his office by notice in writing to the company;
 - (f) is directly or indirectly interested in any contract with the company and fails to declare the nature of his interest in manner required by section 150 of the Ordinance;
 - (g) is punished with imprisonment for a term exceeding six months without the option of a fine.

A director shall not vote in respect of any contract in which he is interested or any matter arising thereout, and if he does so vote his vote shall not be counted.

Rotation of Directors.

35. At the first ordinary general meeting of the company the whole of the directors shall retire from office, and at the ordinary general meeting in every subsequent year one-third of the directors for the time being or, if their number is not three or a multiple of three, then the number nearest one-third, shall retire from office.

36. The directors to retire in every year shall be those who have been longest in office since their last election but as between persons who became directors on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.

37. A retiring director shall be eligible for re-election.

38. The company at the general meeting at which a director retires in a manner aforesaid may fill up the vacated office by electing a person thereto and in default the retiring director shall be deemed to have been re-elected unless at such meeting it is resolved not to fill up such vacated office.

39. The company may from time to time in general meeting increase or reduce the number of directors, and may also determine in what rotation the increased or reduced number is to go out of office.

40. Any casual vacancy occurring in the board of directors may be filled up by the directors but the person so chosen shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

41. The directors shall have power at any time, and from time to time, to appoint a person as an additional director who shall retire from office at the next following ordinary general meeting, but shall be eligible for election by the company at that meeting as an additional director.

42. The company may by extraordinary resolution remove any director before the expiration of his period of office, and may by an ordinary resolution appoint another person in his stead. The person so appointed shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

Proceedings of Directors.

43. The directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings, as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the chairman shall have a second or casting vote. A director may, and the secretary on the requisition of a director shall, at any time summon a meeting of the directors.

44. The quorum necessary for the transaction of the business of the directors may be fixed by the directors, and unless so fixed shall, when the number of directors exceed three, be three and shall, when the number of directors does not exceed three, be two.

45. The continuing directors may act notwithstanding any vacancy in their body but, if and so long as their number is reduced below the number fixed by or pursuant to the regulations of the company as the necessary quorum of directors, the continuing directors may act for the purpose of increasing the number of directors to that number, or of summoning a general meeting of the company, but for no other purpose.

46. The directors may elect a chairman of their meetings and determine the period for which he is to hold office; but, if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the directors present may choose one of their number to be chairman of the meeting.

47. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit; any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on them by the directors.

48. A committee may elect a chairman of its meetings; if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the members present may choose one of their number to be chairman of the meeting.

49. A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in case of an equality of votes the chairman shall have a second or casting vote.

50. All acts done by any meeting of the directors or of a committee of directors, or by any person acting as a director shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

Accounts.

51. The directors shall cause proper books of account to be kept with respect to—

all sums of money received and expended by the company and the matter in respect of which the receipt and expenditure takes place; all sales and purchases of goods by the company; and the assets and liabilities of the company.

52. The books of account shall be kept at the registered office of the company, or at such other place or places as the directors think fit, and shall always be open to the inspection of the directors.

53. The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the company or any of them shall be open to the inspection of members not being directors, and no member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by statute or authorized by the directors or by the company in general meeting.

54. The directors shall from time to time in accordance with section 123 of the Ordinance, cause to be prepared and to be laid before the company in general meeting such profit and loss accounts, balance sheets and reports as are referred to in that section.

55. The profit and loss account shall show, arranged under the most convenient heads, the amount of gross income, distinguishing the several sources from which it has been derived, and the amount of gross expenditure, distinguishing the expenses of the establishment, salaries and other like matters. Every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting and, in cases where any item of expenditure which may in fairness be distributed over several years has been incurred in any one year, the whole amount of such item shall be stated, with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

56. A copy of every balance sheet (including every document required by law to be annexed thereto) which is to be laid before the company in general meeting together with a copy of the auditor's report shall not less than seven days before the date of the meeting be sent to all persons entitled to receive notices of general meetings of the company.

Audit.

57. Auditors shall be appointed and their duties regulated in accordance with sections 132, 133 and 134 of the Ordinance.

Notices.

58. A notice may be given by the company to any member either personally or by sending it by post to him to his registered address, or (if he has no registered address within the Colony) to the address, if any, within the Colony supplied by him to the company for the giving of notices to him.

Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

59. If a member has no registered address within the Colony and has not supplied to the company an address within the Colony for the giving of notices to him, a notice addressed to him and advertised in a newspaper circulating in the neighbourhood of the registered office of the company, shall be deemed to be duly given to him on the day on which the advertisement appears.

60. Notice of every general meeting shall be given in some manner hereinbefore authorized to every member except those members who (having no registered address within the Colony) have not supplied to the company an address within the Colony for the giving of notices to them. No other persons shall be entitled to receive notices of general meetings.

Names, Addresses and Description of Subscribers.

1.	John Jones, of.....	Schoolmaster.
2.	John Smith, of.....	„
3.	Thomas Green, of.....	„
4.	John Thompson, of.....	„
5.	Caleb White, of.....	„
6.	Andrew Brown, of.....	„
7.	Cæsar White, of.....	„

Dated the.....day of.....19.....

Witness to the above signatures,

A.B.,

Sixth Avenue, Naircibi.

TABLE D.

SECTIONS 13 AND 348.

MEMORANDUM AND ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY
GUARANTEE, AND HAVING A SHARE CAPITAL.*Memorandum of Association.*

1st. The name of the company is "The Highland Hotel Company, Limited."

2nd. The registered office of the company will be situate in Nakuru.

3rd. The objects for which the company is established are "the facilitating travelling in the Highlands of Kenya, by providing hotels and conveying by sea and by land for the accommodation of travellers, and the doing of all such other things as are incidental or conducive to the attainment of the above object."

4th. The liability of the members is limited.

5th. Every member of the company undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company, contracted before he ceases to be a member, and the costs, charges and expenses of winding up the same and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required, not exceeding twenty pounds.

6th. The share capital of the company shall consist of twenty-five thousand pounds, divided into five thousand shares of five pounds each.

WE, the several persons whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, Addresses and Description of Subscribers.		Number of shares taken by each Subscriber.
1. John Jones, of.....	merchant	200
2. John Smith, of.....	"	25
3. Thomas Green, of.....	"	30
4. John Thompson, of.....	"	40
5. Caleb White, of.....	"	15
6. Andrew Brown, of.....	"	5
7. Cæsar White, of.....	"	10

Total shares taken 325

Dated the day of.....19.....

Witness to the above signatures,

A.B.,

Donald Avenue, Nakuru.

ARTICLES OF ASSOCIATION TO ACCOMPANY PRECEDING MEMORANDUM OF
ASSOCIATION.

1. The Articles of Tables A set out in the First Schedule to the Companies Ordinance, 1933, shall be the articles of association of the company and apply to the company.

Names, Addresses and Description of Subscribers.

1. John Jones, of....., merchant.
2. John Smith, of....., „
3. Thomas Green, of....., „
4. John Thompson, of....., „
5. Caleb White, of....., „
6. Andrew Brown, of....., „
7. Cæsar White, of....., „

Dated the.....day of.....19.....

Witness to the above signatures.

A.B.,

Donald Avenue, Nakuru.

TABLE E.

SECTIONS 13 AND 348.

MEMORANDUM AND ARTICLES OF ASSOCIATION OF AN UNLIMITED COMPANY
HAVING A SHARE CAPITAL.*Memorandum of Association.*

- 1st. The name of the company is "The Patent Stereotype Company."
 2nd. The registered office of the company will be situate in Kisumu.
 3rd. The objects for which the company is established are "the working of a patent method of founding and casting stereotype plates, of which method John Smith, of Koru, is the sole patentee, and the doing of all such things as are incidental or conducive to the attainment of the above objects."

WE, the several persons whose names are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, Addresses and Description of Subscribers.	Number of shares taken by each Subscriber.
1. John Jones, of....., merchant	3
2. John Smith, of....., „	2
3. Thomas Green, of....., „	1
4. John Thompson, of....., „	2
5. Caleb White, of....., „	2
6. Andrew Brown, of....., „	1
7. Abel Brown, of....., „	1

Total shares taken 12

Dated the.....day of.....19.....

Witness to the above signatures,

A.B.,

Corporation Street, Kisumu.

ARTICLES OF ASSOCIATION TO ACCOMPANY THE PRECEDING MEMORANDUM OF
ASSOCIATION.

1. The share capital of the company is one thousand pounds divided into twenty shares of fifty pounds each.
2. The company may by special resolution—
- (a) increase the share capital by such sum to be divided into shares of such amount as the resolution may prescribe;
 - (b) consolidate its shares into shares of a larger amount than its existing shares;
 - (c) sub-divide its shares into shares of a smaller amount than its existing shares;
 - (d) cancel any shares which at the date of the passing of the resolution have not been taken or agreed to be taken by any person;
 - (e) reduce its share capital in any way.

3. The Articles of Table A set out in the First Schedule to the Companies Ordinance, 1933 (other than Articles 30, 31, 32, 33, 34, 37 and 38), company, deemed to be incorporated with these articles and shall apply to the company.

Names, Addresses and Descriptions of Subscribers.

1. John Jones, of....., merchant.
2. John Smith, of....., „
3. Thomas Green, of....., „
4. John Thompson, of....., „
5. Caleb White, of....., „
6. Andrew Brown, of....., „
7. Abel Brown, of....., „

Dated the.....day of.....19.....

A.B.,

Corporation Street, Kisumu.

SECOND SCHEDULE.

(SECTION 28).

FORM OF STATEMENT IN LIEU OF PROSPECTUS TO BE DELIVERED TO REGISTRAR
BY A PRIVATE COMPANY ON BECOMING A PUBLIC COMPANY.

THE COMPANIES ORDINANCE, 1933.

Statement in lieu of Prospectus delivered for registration by

(Insert the name of the Company).

Pursuant to section 28 of the Companies Ordinance, 1933.

Delivered for registration by	Sh.
The nominal share capital of the Company ...	Shares of Sh. each
Divided into	Shares of Sh. each
	Shares of Sh. each
	Shares of Sh. each
Amount (if any) of above capital which consists of redeemable preference shares.	
The date on or before which these shares are, or are liable, to be redeemed.	
Names, descriptions and addresses of directors or proposed directors.	
Amount of shares issued	Shares
Amount of commissions paid in connexion therewith.	
Amount of discount, if any, allowed on the issue of any shares, or so much thereof as has not been written off at the date of the statement.	

Unless more than one year has elapsed since the date on which the Company was entitled to commence business—

Amount of preliminary expenses ...

Amount paid to any promoter ...

Consideration for the payment ...

If the share capital of the Company is divided into different classes of shares, the right of voting at meetings of the Company conferred by, and the rights in respect of capital and dividends attached to, the several classes of shares respectively.

Number and amount of shares and debentures issued within the two years preceding the date of this statement as fully or partly paid up otherwise than for cash or agreed to be so issued at the date of this statement.

Consideration for the issue of those shares or debentures.

Names and addresses of Vendors of Property (1) purchased or acquired by the Company within the two years preceding the date of this statement, or (2) agreed or proposed to be purchased or acquired by the Company.

Amount (in cash, shares or debentures) paid or payable to each separate vendor.

Amount paid or payable in cash, shares or debentures for any such property, specifying the amount paid or payable for goodwill.

Dates of, and parties to, every material contract (other than contracts entered into in the ordinary course of business or entered into more than two years before the delivery of this statement).

Time and place at which the contracts or copies thereof may be inspected.

Names and addresses of the auditors of the Company.

Full particulars of the nature and extent of the interest of every director in any property purchased or acquired by the Company within the two years preceding that the date of this statement or proposed to be purchased or acquired by the Company, or,

Sh.
Name of promoter
Amount: Sh.
Consideration:

1. shares of Sh.
fully paid.
2. shares upon which
Sh. per share
credited as paid.
3. debenture Sh.
4. Consideration:

Total purchase price:
Sh.
Cash ... Sh.
Shares ... Sh.
Debentures Sh.
Goodwill ... Sh.

where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares, or otherwise, by any person either to induce him to become or to qualify him as, a director, or otherwise for services rendered or to be rendered to the Company by him or by the firm.

Rates of the dividends (if any) paid by the Company in respect of each class of shares in the Company in each of the three financial years immediately preceding the date of this statement or since the incorporation of the Company, whichever period is the shorter.

Particulars of the cases in which no dividends have been paid in respect of any class of shares in any of these years.

If any of the unissued shares or debentures are to be applied in the purchase of any business the amount, as certified by the persons by whom the accounts of the business have been audited, of the net profits of the business in respect of each of the three financial years immediately preceding the date of this statement, provided that in the case of a business which has been carried on for less than three years and the accounts of which have only been made up in respect of two years or one year, the above requirement shall have effect as if references to two years or one year, as the case may be, were substituted for references to three years, and in any such case the statement shall say how long the business to be acquired has been carried on.

(Signatures of the persons above-named as directors or proposed directors or of their agents authorized in writing).

Date....., 19.....

.....

NOTE.—In this Form the expression “vendor” includes a vendor as defined in Part III of the Third Schedule to this Ordinance, and the expression “financial year” has the meaning assigned to it in that part of the said Schedule.

THIRD SCHEDULE.

(SECTIONS 36 AND 331.)

PART I.

MATTERS REQUIRED TO BE STATED IN PROSPECTUS.

1. Except where the prospectus is published as a newspaper advertisement, the contents of the memorandum, with the names, descriptions and addresses of the signatories, and the number of shares subscribed for by them respectively.

2. The number of founders or management or deferred shares, if any, and the nature and extent of the interest of the holders in the property and profits of the company.

3. The number of shares, if any, fixed by the articles as the qualification of a director, and any provision in the articles as to the remuneration of the directors.

4. The names, description and addresses of the directors or proposed directors and of the managers or proposed managers (if any).

5. Where shares are offered to the public for subscription particulars as to—

(i) the minimum amount which, in the opinion of the directors, must be raised by the issue of those shares in order to provide the sums or, if any part thereof is to be defrayed in any other manner, the balance of the sums, required to be provided in respect of each of the following matters—

(a) the purchase price of any property purchased or to be purchased which is to be defrayed in whole or in part out of the proceeds of the issue;

(b) any preliminary expenses payable by the company, and any commission so payable to any person in consideration of his agreeing to subscribe for, or of his procuring or agreeing to procure subscriptions for, any shares in the company;

(c) the repayment of any moneys borrowed by the company in respect of any of the foregoing matters;

(d) working capital; and

(ii) the amounts to be provided in respect of the matters aforesaid otherwise than out of the proceeds of the issue and the sources out of which those amounts are to be provided.

6. The amount payable on application and allotment on each share and, in the case of a second or subsequent offer of shares, the amount offered for subscription on each previous allotment made within the two preceding years, the amount actually allotted, and the amount, if any, paid on the shares so allotted.

7. The number and amount of shares and debentures which within the two preceding years have been issued, or agreed to be issued, as fully or partly paid up otherwise than in cash, and in the latter case the extent

to which they are so paid up, and in either case the consideration for which those shares or debentures have been issued or are proposed or intended to be issued.

8. The names and addresses of the vendors of any property purchased or acquired by the company, or proposed so to be purchased or acquired, which is to be paid for wholly or partly out of the proceeds of the issue offered for subscription by the prospectus, or the purchase or acquisition of which has not been completed at the date of issue of the prospectus, and the amount payable in cash, shares or debentures, to the vendor, and where there is more than one separate vendor, or the company is a sub-purchaser, the amount so payable to each vendor.

9. The amount, if any, paid or payable as purchase money in cash, shares or debentures, for any such property as aforesaid, specifying the amount, if any, payable for goodwill.

10. The amount, if any, paid within the two preceding years, or payable, as commission (but not including commission to sub-underwriters) for subscribing or agreeing to subscribe, or procuring or agreeing to procure subscriptions, for any shares in, or debentures of, the company, or the rate of any such commission.

11. The amount or estimated amount of preliminary expenses.

12. The amount paid within the two preceding years or intended to be paid to any promoter, and the consideration for any such payment.

13. The dates of and parties to every material contract, not being a contract entered into in the ordinary course of the business carried on or intended to be carried on by the company or a contract entered into more than two years before the date of issue of the prospectus, and a reasonable time and place at which any such material contract or a copy thereof may be inspected.

14. The names and addresses of the auditors, if any, of the company.

15. Full particulars of the nature and extent of the interest, if any, of every director in the promotion of, or in the property proposed to be acquired by, the company, or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares or otherwise by any person either to induce him to become, or to qualify him as a director, or, otherwise for services rendered by him or by the firm in connexion with the promotion or formation of the company.

16. If the prospectus invites the public to subscribe for shares in the company and the share capital of the company is divided into different classes of shares, the right of voting at meetings of the company conferred by, and the rights in respect of capital and dividends attached to, the several classes of shares respectively.

17. In the case of a company which has been carrying on business, or of a business which has been carried on for less than three years, the length of time during which the business of the company or the business to be acquired, as the case may be, has been carried on.

PART II.

REPORTS TO BE SET OUT IN PROSPECTUS.

1. A report by the auditors of the company with respect to the profits of the company in respect of each of the three financial years immediately preceding the issue of the prospectus, and with respect to the rates of the dividends, if any, paid by the company in respect of each class of shares in the company in respect of each of the said three years, giving particulars of each such class of shares on which such dividends have been paid and particulars of the cases in which no dividends have been paid in respect of any class of shares in respect of any of those years and, if no accounts have been made up in respect of any part of the period of three years ending on a date three months before the issue of the prospectus, containing a statement of that fact.

2. If the proceeds, or any part of the proceeds, of the issue of the shares or debentures are or is to be applied directly or indirectly in the purchase of any business, a report made by accountants who shall be named in the prospectus upon the profits of the business in respect of each of the three financial years immediately preceding the issue of the prospectus.

PART III.

PROVISIONS APPLYING TO PARTS I AND II OF SCHEDULE.

1. The provisions of this Schedule with respect to the memorandum and the qualification, remuneration and interest of directors, the names, descriptions and addresses of directors or proposed directors, and the amount or estimated amount of the preliminary expenses, shall not apply in the case of a prospectus issued more than two years after the date at which the company is entitled to commence business.

2. Every person shall for the purpose of this Schedule be deemed to be a vendor who has entered into any contract, absolute or conditional, for the sale or purchase, or for any option of purchase, of any property, to be acquired by the company, in any case where—

- (a) the purchase money is not fully paid at the date of the issue of the prospectus;
- (b) the purchase money is to be paid or satisfied wholly or in part out of the proceeds of the issue offered for subscription by the prospectus;
- (c) the contract depends for its validity or fulfilment on the result of that issue.

3. Where any property to be acquired by the company is to be taken on lease, this Schedule shall have effect as if the expression "vendor" included the lessor, and the expression "purchase money" included the consideration for the lease, and the expression "sub-purchaser" included a sub-lessee.

4. For the purposes of paragraph 8 of Part I of this Schedule where the vendors or any of them are a firm, the members of the firm shall not be treated as separate vendors.

5. If in the case of a company which has been carrying on business, or of a business which has been carried on for less than three years, the accounts of the company or business have only been made up in respect of two years or one year, Part II of this Schedule shall have effect as if references to two years or one year, as the case may be, were substituted for references to three years.

6. The expression "financial year" in Part II of this Schedule means the year in respect of which the accounts of the company or of the business, as the case may be, are made up, and where by reason of any alteration of the date on which the financial year of the company or business terminates the accounts of the company or business have been made up for a period greater or less than a year, that greater or less period shall for the purpose of the said Part of this Schedule be deemed to be a financial year.

FOURTH SCHEDULE.

(SECTION 41).

FORM OF STATEMENT IN LIEU OF PROSPECTUS TO BE DELIVERED TO REGISTRAR BY A COMPANY WHICH DOES NOT ISSUE A PROSPECTUS OR WHICH DOES NOT GO TO ALLOTMENT ON A PROSPECTUS ISSUED.

THE COMPANIES ORDINANCE, 1933.

Statement in lieu of Prospectus delivered for registration by

(Insert the name of the company).

Pursuant to section 41 of the Companies Ordinance, 1933.

Delivered for registration by	Sh.
The nominal share capital of the Company.	Shares of Sh. each
Divided into	Shares of Sh. each
	Shares of Sh. each
Amount (if any) of above capital which consists of redeemable preference shares.	Shares of Sh. each
The date on or before which these shares are, or are liable, to be redeemed.	
Names, descriptions and addresses of directors, or proposed directors.	
If the share capital of the Company is divided into different classes of shares, the right of voting at meetings of the Company conferred by, and the rights in respect of capital and dividends attached to, the several classes of shares respectively.	

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Number and amount of shares and debentures agreed to be issued as fully or partly paid up otherwise than in cash.

The consideration for the intended issue of those shares and debentures.

Names and addresses of vendors of property purchased or acquired, or proposed to be purchased or acquired by the Company.

Amount (in cash, shares or debentures) payable to each separate vendor.

Amount (if any) paid or payable (in cash or shares or debentures) for any such property, specifying amount (if any) paid or payable for goodwill.

Amount (if any) paid or payable as commission for subscribing or agreeing to subscribe or procuring or agreeing to procure subscriptions for any shares or debentures in the Company; or

Rate of the commission

The number of shares (if any) which persons have agreed for a commission to subscribe absolutely.

Estimated amount of preliminary expenses.

Amount paid or intended to be paid to any promoter.

Consideration for the payment

Dates of, and parties to, every material contract (other than contracts entered into in the ordinary course of the business intended to be carried on by the Company or entered into more than two years before the delivery of this statement).

Time and place at which the contracts or copies thereof may be inspected.

Names and addresses of the auditors of the Company (if any).

Full particulars of the nature and extent of the interest of every director in the promotion of or in the property proposed to be acquired by the Company, or, where the interest of such a director consists in being a partner in a firm, the nature and extent

1. shares of Sh.....
fully paid.

2. shares upon which
Sh. per share
credited as paid.

3. debenture

4. Consideration:

Total purchase price:

Sh.....

Cash Sh.....

Shares Sh.....

Debentures Sh.....

Goodwill ... Sh.....

Amount paid:

Amount payable:

Rate per cent:

Sh.

Name of promoter:

Amount: Sh.

Consideration:

of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares, or otherwise, by any person either to induce him to become, or to qualify him as, a director, or otherwise for services rendered by him or by the firm in connexion with the promotion or formation of the Company.

If it is proposed to acquire any business, the amount, as certified by the persons by whom the accounts of the business have been audited, of the net profits of the business in respect of each of the three financial years immediately preceding the date of this statement, provided that in the case of a business which has been carried on for less than three years and the accounts of which have only been made up in respect of two years or one year, the above requirement shall have effect as if references to two years or one year, as the case may be, were substituted for references to three years, and in any such case the statement shall say how long the business to be acquired has been carried on.

(Signatures of the persons above-named as directors or proposed directors, or of their agents authorized in writing).

Date....., 19.....

NOTE.—In this Schedule the expression “vendor” includes a vendor as defined in Part III of the Third Schedule to this Ordinance, and the expression “financial year” has the meaning assigned to it in that Part of the said Schedule.

FIFTH SCHEDULE. (SECTIONS 108 AND 348).

FORM OF ANNUAL RETURN OF A COMPANY HAVING A SHARE CAPITAL.

Annual Return of the Company, Limited, made up to the.....day of....., 19..... (being the fourteenth day after the date of the first or only ordinary general meeting in 19.....).

The address of the registered office of the company is as follows:—

Summary of Share Capital and Shares.

Nominal Share Capital: Sh. divided into*	{ Shares of Sh..... each.
Total number of shares taken up* to the..... day of, 19..., being the date of the return (which number must agree with the total shown in the list as held by existing members).	{ Shares of Sh..... each.
Number of shares issued subject to payment wholly in cash.	
Number of shares issued as fully paid up other- wise than in cash.	
Number of shares issued as partly paid up to the extent of per share otherwise than in cash.	
†Number of shares (if any) issued at a discount.	
Total amount of discount on the issue of shares which has not been written off at the date of this Return.	Sh.....
‡There has been called up on each of..... shares.	Sh.....
‡There has been called up on each of..... shares.	Sh.....
‡There has been called up on each of..... shares.	Sh.....
§Total amount of calls received, including pay- ments on application and allotment.	Sh.....
Total amount (if any) agreed to be considered as paid on shares which have been issued as fully paid up otherwise than in cash.	Sh.....
Total amount (if any) agreed to be considered as paid on shares which have been issued as partly paid up to the extent of per share otherwise than in cash.	Sh.....
Total amount of calls unpaid	Sh.....

* Where there are shares of different kinds or amounts (e.g. Preference and Ordinary, or Sh. 20 and Sh. 1) state the number and nominal values separately.

† If the shares are of different kinds, state them separately.

‡ Where various amounts have been called, or there are shares of different kinds, state them separately.

§ Include what has been received on forfeited as well as on existing shares.

Total amount of the sums (if any) paid by way of commission in respect of any shares or debentures or allowed by way of discount in respect of any debentures since the date of the last Return. Sh.....

Total number of shares forfeited

Total amount paid (if any) on shares forfeited. Sh.....

Total amount of shares for which share warrants to bearer are outstanding. Sh.....

Total amount of share warrants to bearer issued and surrendered respectively since the date of the last Return. Issued: Sh.
Surrendered: Sh.

Number of shares comprised in each share warrant to bearer.

Total amount of the indebtedness of the Company in respect of all mortgages and charges of the kind which are required to be registered with the Registrar of Companies under the Companies Ordinance, 1933. Sh.....

Copy of last audited Balance Sheet of the Company.

NOTE.—Except where the Company is a “Private Company” within the meaning of section 27 of the Companies Ordinance, 1933, this Return must include a written copy, certified by a Director or by the Manager or Secretary of the Company to be a true copy, of the last balance sheet which has been audited by the Company’s auditors (including every document required by law to be annexed thereto) together with a copy of the report of the auditors thereon (certified as aforesaid), and if any such balance sheet is in a foreign language there must also be annexed to it a translation thereof in English certified in the prescribed manner to be a correct translation. If the said last balance sheet did not comply with the requirements of the law as in force at the date of the audit with respect to the form of balance sheets there must be made such additions to and corrections in the said copy as would have been required to be made in the said balance sheet in order to make it comply with the said requirements, and the fact that the said copy has been so amended must be stated thereon.

Private Company.

Certificates to be given by a Private Company.

(a) I certify that the Company has not since the date of the *last Annual Return issued any invitation to the public to subscribe for any shares or debentures of the Company.

(Signature),

(State whether Director or Secretary).

(b) Should the number of members of the Company exceed fifty the following certificate is also required—

I certify that the excess of members of the Company above fifty consists wholly of persons who are in the employment of the Company and/or of persons who, having been formerly in the employment of the Company were while in such employment, and have continued after the determination of such employment to be, members of the Company.

(Signature),

(State whether Director or Secretary).

NOTE.—Banking companies must add a list of all their places of business.

The Return must be signed at the end by a Director or by the Manager or Secretary of the Company.

Delivered for filing by.....

Particulars of the †Directors of the.....
Company, Limited, at the date of the Annual Return.

‡The present Christian name or names and surname	Any former Christian name or names or surname	Nationality	Nationality of origin (if other than the present nationality)	Usual residential address	§Other business occupation, if any. If none, state so.

*In the case of the first Annual Return strike out the words "last Annual Return" and substitute therefor the words "Incorporation of the Company".

†"Director" includes any person who occupies the position of a Director by whatever name called and any person in accordance with whose directions or instructions the Directors of a Company are accustomed to act.

‡In the case of a Corporation its corporate name and registered or principal office should be shown.

§In the case of an individual who has no business occupation but holds any other directorship or directorships particulars of that directorship or of some one of those directorships must be entered.

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List of Persons holding Shares in the day of Company, Limited, on the 19....., and of Persons who have held Shares therein at any time since the date of the last Return, or (in the case of the first Return) of the incorporation of the Company, showing their Names and Addresses, and an Account of the Shares so held.

N.B.—If the names in this list are not arranged in alphabetical order, an index sufficient to enable the name of any person in the list to be readily found must be annexed to this list.

Folio in Register Ledger, containing particulars	Names, Addresses and Occupations			Account of Shares				Remarks	
	SurnameChristian name	Address	Occupation	*Number of Shares held by existing Members at date of Return†	†Particulars of Shares Transferred since the date of the last Return, or (in the case of the first Return) of the incorporation of the Company, by persons who are still Members		†Particulars of Shares Transferred since the date of the last Return, or (in the case of the first Return) of the incorporation of the Company by persons who have ceased to be Members		
					Number†	Date of Registration of Transfer	Number†		Date of Registration of Transfer

(Signature).....

(State whether Director or Manager or Secretary)

*The aggregate Number of Shares held, and not the Distinctive Numbers, must be stated, and the column must be added up throughout so as to make one total to agree with that stated in the Summary to have been taken up.

†When the Shares are of different classes these columns may be subdivided so that the number of each class held, or transferred, may be shown separately. Where any Shares have been converted into Stock the amount of Stock held by each member must be shown.

‡The date of Registration of each Transfer should be given as well as the Number of Shares transferred on each date. The Particulars should be placed opposite the name of the Transferor, and not opposite that of the Transferee, but the name of the Transferee may be inserted in the "Remarks" column immediately opposite the particulars of each Transfer.

SIXTH SCHEDULE.

(SECTION 131).

FORM OF STATEMENT TO BE PUBLISHED BY BANKING AND INSURANCE COMPANIES
AND DEPOSIT, PROVIDENT OR BENEFIT SOCIETIES.

*The share capital of the company is....., divided
into.....shares of..... each.

The number of shares issued is.....

Calls to the amount of.....shillings per share have been made,
under which the sum of.....shillings has been received.

The liabilities of the company on the first day of January (or July)
were—

Debts owing to sundry persons by the company:

On judgment, Sh.....

On specialty, Sh.....

On notes or bills, Sh.....

On simple contracts, Sh.....

On estimated liabilities, Sh.....

The assets of the company on that day were—

Government securities (stating them).

Bills of exchange and promissory notes, Sh.....

Cash at the bankers, Sh.....

Other securities, Sh.....

SEVENTH SCHEDULE.

(SECTION 256).

PROVISIONS WHICH DO NOT APPLY IN THE CASE OF A WINDING UP SUBJECT TO
SUPERVISION OF THE COURT.

Section 180.—Statement of Companies' affairs to be submitted to Official
Receiver.

Section 181.—Report by Official Receiver.

Section 182.—Power of Court to appoint Liquidator.

Section 183.—Appointment and powers of provisional Liquidator.

Section 184.—Appointment, style, etc., of Liquidators.

Section 185.—Provisions where person other than Official Receiver is
appointed Liquidator.

Section 186.—Provisions as to Liquidators.

Section 187 (except sub-section (5)).—General provisions as to Liquidators.

Section 191.—Exercise and control of Liquidators' powers.

Section 192.—Books to be kept by Liquidator.

* If the company has no share capital, the portion of the statement relating
to capital and shares must be omitted.

- Section 193.—Audit of Liquidators' accounts in winding up.
 Section 194.—Control of Registrar over Liquidators.
 Section 195.—Release of Liquidators.
 Section 196.—Meeting of creditors and contributories to determine whether committee of inspection shall be appointed.
 Section 197.—Constitution and proceedings of committee of inspection.
 Section 205.—Appointment of special manager.
 Section 212.—Power to order public examination of promoters, directors, etc.
 Section 213.—Power to restrain fraudulent persons from managing companies.
 Section 286 (2).—Delegation to Liquidator of certain powers of court.
 Section 288.—Power to appoint Official Receiver as receiver for debenture holders or creditors.

EIGHTH SCHEDULE.

(SECTIONS 294, 307, AND 348).

TABLE OF FEES TO BE PAID TO THE REGISTRAR.

I—BY A COMPANY HAVING A SHARE CAPITAL.

	Sh.	Cts.
For registration of a company whose nominal share capital does not exceed Sh. 40,000	40	00
For registration of a company whose nominal share capital exceeds Sh. 40,000, the following fees, regulated according to the amount of nominal share capital (that is to say)—		Sh. Cts.
For every Sh. 20,000 of nominal share capital, or part of Sh. 20,000, up to Sh. 100,000	20	00
For every Sh. 20,000 of nominal share capital, or part of Sh. 20,000, after the first Sh. 100,000, up to Sh. 2,000,000	5	00
For every Sh. 20,000 of nominal share capital, or part of Sh. 20,000, after the first Sh. 2,000,000	1	00
For registration of any increase of share capital made after the first registration of the company, the same fees per Sh. 20,000, or part of Sh. 20,000, as would have been payable if the increased share capital had formed part of the original share capital at the time of registration:		
Provided that no company shall be liable to pay in respect of nominal share capital, on registration or afterwards, any greater amount of fees than Sh. 1,000, taking into account in the case of fees payable on an increase of share capital after registration the fees paid on registration.		
For registration of any existing company, except such companies as are by this Ordinance exempted from payment of fees in respect of registration under this Ordinance, the same fee as is charged for registering a new company.		

	Sh.	Cts.
For registering any document by this Ordinance required or authorized to be registered or required to be delivered, sent or forwarded to the registrar other than the memorandum or the abstract required to be delivered to the registrar by a receiver or manager or the statement required to be sent to the registrar by the liquidator in a winding up in the Colony	5	00
For making a record of any fact by this Ordinance required or authorized to be recorded by the registrar	5	00

II.—BY A COMPANY NOT HAVING A SHARE CAPITAL.

For registration of a company whose number of members as stated in the articles does not exceed 20	40	00
For registration of a company whose number of members, as stated in the articles of association, exceeds 20 but does not exceed 100	100	00
For registration of a company whose number of members as stated in the articles exceeds 100 but is not stated to be unlimited, a fee of Sh. 100 with an additional Sh. 5 for every additional 50 members or less after the first 100.		
For registration of a company in which the number of members is stated in the articles to be unlimited	400	00
For registration of any increase on the number of members made after the registration of the company in respect of every 50 members, or less than 50 members, of that increase	5	00
Provided that no company shall be liable to pay on the whole a greater fee than Sh. 400 in respect of its number of members, taking into account the fee paid on the first registration of the company.		
For registration of any existing company, except such companies as are by this Ordinance exempted from payment of fees in respect of registration under this Ordinance, the same fee as is charged for registering a new company.		
For registering any document by this Ordinance required or authorized to be registered or required to be delivered, sent or forwarded to the registrar, other than the memorandum or the abstract required to be delivered to the registrar by a receiver or manager or the statement required to be sent to the registrar by the liquidator in a winding up in the Colony	5	00
For making a record of any fact by this Ordinance required or authorized to be recorded by the registrar	5	00

III.—BY A COMPANY TO WHICH PART XII OF THIS ORDINANCE APPLIES.

For registering a certified copy of the charter, statutes or memorandum and articles of the company or other instrument constituting or defining the constitution of the company ...	100	00
For registering any other document required to be delivered to the registrar under Part XII of this Ordinance	5	00

NINTH SCHEDULE.

(SECTION 336).

PROVISION REFERRED TO IN SECTION 336 OF THE ORDINANCE.

Provisions relating to—

- Section 16.—Conclusiveness of certificate of incorporation.
- Section 36.—Specific requirements as to particulars in prospectus.
- Section 41.—Prohibition of allotment in certain cases unless statement in lieu of prospectus delivered to registrar.
- Section 43.—Return as to allotments.
- Section 79.—Registration of charges created by company.
- Section 80 (1).—Duty of company to register charges created by company.
- Section 81.—Duty of company to register charges existing on property acquired.
- Section 90.—Application of Part IV to companies incorporated outside the Colony.
- Section 95.—Restriction on commencement of business.
- Section 108 (3) (n) (o).—The particulars as to directors and indebtedness of the company.
- Section 113.—Statutory meeting and statutory report.
- Section 134 (1) (2).—Auditors' report and right to information and explanations.
- Section 141.—Restrictions on appointment or advertisement of director.
- Section 246.—Notice by liquidator of his appointment.
- Section 291.—Delivery to registrar of accounts of receivers and managers.
- Section 322.—Documents, etc., to be delivered to registrar by companies carrying on business in the Colony.
- Section 322.—Return to be delivered to registrar where documents, etc altered.
- Section 324.—Balance sheet of company carrying on business in the Colony.
- Section 325.—Obligation to state name of company, etc.

ORDINANCE No. XXIX of 1933

Assented to in His Majesty's name this twenty-second day of August, 1933.

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

[22ND AUGUST, 1933.] Date of assent.

An Ordinance to Amend the Penal Code.

22nd August, 1933

Date of
commencement.

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

1. This Ordinance may be cited as "the Penal Code (Amendment) (No. 2) Ordinance, 1933," and shall be read as one with the Penal Code, hereinafter referred to as "the Principal Ordinance."

Short title.

No. 10 of 1930.

2. Section 26 of the Principal Ordinance is hereby amended by inserting the words "for an offence against this Code or against any other law" after the word "imprisonment" in the first line of sub-section (1) and in the first line of sub-section (3) of the section.

Amendment of
section 26 of
the Principal
Ordinance.

ORDINANCE No. XXX of 1933

Assented to in His Majesty's name this twenty-second day of August, 1933.

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

Date of assent. [22ND AUGUST, 1933.]

An Ordinance to Amend the Kenya and Uganda Railway Ordinance, 1927.

Date of commencement. 22nd August, 1933

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

Short title. 1. This Ordinance may be cited as “the Kenya and Uganda Railway (Amendment) Ordinance, 1933,” and shall be read as one with the Kenya and Uganda Railway Ordinance, 1927, hereinafter referred to as “the Principal Ordinance.”

Repeal and replacement of section 49 (a) of the Principal Ordinance. 2. Paragraph (a) of section 49 of the Principal Ordinance is hereby repealed and the following substituted therefor:—
“ (a) trespasses upon a railway or upon any harbour or ship or being a trespasser refuses to leave after being warned to do so by any servant; ”.

ORDINANCE No. XXXI of 1933

Assented to in His Majesty's name this twenty-second day of August, 1933.

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

[22ND AUGUST, 1933.] Date of assent.

An Ordinance to Amend the Native Tribunals Ordinance, 1930.

22nd August, 1933

Date of commencement.

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

1. This Ordinance may be cited as " the Native Tribunals (Amendment) Ordinance, 1933," and shall be read as one with the Native Tribunals Ordinance, 1930, hereinafter referred to as " the Principal Ordinance."	Short title. No. 39 of 1930.
2. Section 33 of the Principal Ordinance is hereby amended by substituting the words " a district officer " for the words " the district commissioner."	Amendment of section 33 of the Principal Ordinance.
3. Section 34 of the Principal Ordinance is hereby amended by substituting the words " a district officer " for the words " the district commissioner " in sub-sections (1) and (2) of the section, and by substituting the words " district officer " for the words " district commissioner " in sub-sections (3) and (4) of the section.	Amendment of section 34 of the Principal Ordinance.
4. Section 37 of the Principal Ordinance is hereby amended by substituting the words " district officer " for the words " district commissioner."	Amendment of section 37 of the Principal Ordinance.
5. Section 43 of the Principal Ordinance is hereby amended by substituting the word " following " for the word " folowing " in the second line of the section.	Amendment of section 43 of the Principal Ordinance.

ORDINANCE No. XXXII of 1933

Assented to in His Majesty's name this twenty-second day of August, 1933.

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

Date of assent.

[22ND AUGUST, 1933.]

An Ordinance to Amend the Fire Inquiry Ordinance, 1929.

Date of commencement.

22nd August, 1933

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

Short title.

1. This Ordinance may be cited as “the Fire Inquiry (Amendment) Ordinance, 1933,” and shall be read as one with the Fire Inquiry Ordinance, 1929, hereinafter called “the Principal Ordinance”.

No. 33 of 1929.

Amendment of section 10 of the Principal Ordinance.

2. Section 10 of the Principal Ordinance is hereby amended by the insertion of the words “record his finding in writing and shall” after the word “aforesaid” which occurs in the second line thereof, and by the insertion of the words “(including the finding)” after the word “proceedings” wherever that word occurs in the said section.

ORDINANCE No. XXXIII of 1933

Assented to in His Majesty's name this twenty-second day of August, 1933.

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

[22ND AUGUST, 1933.] Date of assent.

An Ordinance to Legalize the Payment of a Gratuity and a Reduced Pension to Captain Ernest John Sharland, Member of the Most Excellent Order of the British Empire.

22nd August, 1933

Date of commencement.

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

1. This Ordinance may be cited as “ the Sharland Pension Ordinance, 1933.” Short title.

2. Anything in the European Officers' Pensions Ordinance, 1927, and the European Officers' Pensions (Consolidation) Regulations, 1930, to the contrary notwithstanding, it shall be lawful for the Treasurer to pay out of the revenue of the Colony to Captain Ernest John Sharland, Member of the Most Excellent Order of the British Empire, such gratuity and reduced pension as would have been payable to him if he had exercised his option to receive a gratuity and a reduced pension in manner provided by Regulation 16 of the European Officers' Pensions (Consolidation) Regulations, 1930. Payment of gratuity and reduced pension to Capt. E. J. Sharland.

*Repealed by
Ord. 54/34*

ORDINANCE No. XXXIV of 1933

Assented to in His Majesty's name this twenty-fifth day of August, 1933.

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

Date of assent.

[25TH AUGUST, 1933.]

An Ordinance to Amend the Coffee Industry Ordinance, 1932.

Date of commencement.

31st December, 1932

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

Short title.

1. This Ordinance may be cited as "the Coffee Industry (Amendment) Ordinance, 1933," and shall be read as one with the Coffee Industry Ordinance, 1932 (hereinafter called "the Principal Ordinance"), and shall be deemed to have come into operation on the 31st day of December, 1932.

No. 50 of 1932

Amendment of section 3 (2) of the Principal Ordinance.

2. Sub-section (2) of section 3 of the Principal Ordinance is hereby amended by the deletion of the word "first" which appears in the fifth line thereof and the substitution therefor of the word "second".

ORDINANCE No. XXXV of 1933

Assented to in His Majesty's name this twenty-fifth day of August, 1933.

H. M.-M. MOORE,

Acting Governor.

[Signature] 25TH AUGUST, 1933.

Date of assent.

An Ordinance to Amend the Forest Ordinance.

25th August, 1933

Date of commencement.

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

1. This Ordinance may be cited as " the Forest (Amendment) Ordinance, 1933 ", and shall be read as one with the Forest Ordinance (Chapter 149 of the Revised Edition), hereinafter referred to as " the Principal Ordinance ".

Short title.

2. Section 39 of the Principal Ordinance is hereby repealed and the following section substituted therefor:—

Repeal and replacement of section 39 of the Principal Ordinance.

39. (1) Subject to the approval of the Governor on the recommendation of the Conservator, every forest guard enrolled on or before the thirty-first day of December, 1932, shall, after nine years' continuous good service, be exempt from payment of poll tax in respect of himself for his life, or alternatively, he shall be exempt from the payment of hut tax in respect of one hut for life;

Exemption from hut or poll tax or gratuities in lieu thereof.

Provided that any forest guard, to whom exemption from paying poll tax or hut tax has been granted under this sub-section, may, on discharge after continuous good service extending to a period of twelve years and at his option exercisable at the time of such discharge, be paid in lieu of such exemption a gratuity of ten pounds.

(2) Subject to the approval of the Governor on the recommendation of the Conservator, every forest guard enrolled on or after the first day of January, 1933, shall be granted, on discharge after continuous good service extending to a period of twelve years, in addition to any other gratuity payable on discharge under the provisions of this Ordinance, a gratuity of ten pounds.

ORDINANCE No. XXXVI of 1933

Assented to in His Majesty's name this twenty-fifth day of August, 1933.

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

Date of assent.

[25TH AUGUST, 1933.]

An Ordinance to Apply a Sum of Money for the Service of the Year ending the 31st day of December, 1933.

Date of commencement.

25th August, 1933

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

Short title.

1. This Ordinance may be cited as “the 1933 Appropriation Ordinance, 1933.”

Public revenue charged.

2. The Public Revenue for the year 1933, and other funds of the Colony and Protectorate of Kenya are hereby charged towards the service of the year ending the 31st day of December, one thousand nine hundred and thirty-three, with the sum of three million, two hundred and twenty-two thousand, two hundred and ten pounds.

Application of money granted.

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

Treasurer's authority for payment.

4. The Treasurer of the Colony and Protectorate of Kenya is hereby authorized and required from time to time upon the warrant or order of the Governor to pay out of the Revenue and other funds of the Colony and Protectorate of Kenya, for the several services specified in the Schedule, the said sum of three million, two hundred and twenty-two thousand, two hundred and ten pounds, which will come in course of payment during the year ending on the 31st day of December, one thousand nine hundred and thirty-three.

Repeal.
No. 47 of
1932.

5. The 1933 Appropriation Ordinance, 1932, is hereby repealed.

SCHEDULE.		£
I.	His Excellency the Governor	15,471
II.	Administration	244,987
IIa.	Administration Extraordinary	1,715
III.	Agricultural Department	136,125
IIIa.	Agricultural Department Extraordinary	3,550
IV.	Audit Department	21,157
V.	Coast Agency	5,423
VI.	Conference of East African Governors... ..	1,925
VII.	Customs Department	47,165
VIII.	Education Department	181,954
VIIIa.	Education Department Extraordinary	50
IX.	Forest Department	33,910
X.	Game Department	9,679
XA.	Income Tax Administration	5,070
Xb.	Income Tax Administration Extraordinary	230
XI.	Interest	3,500
XII.	Judicial Department	32,709
XIII.	Legal Department	8,006
XIV.	Local Government: Contributions to Local Authorities	86,315
XV.	Medical Department	215,116
XVa.	Medical Department Extraordinary	50
XVI.	Military	142,200
XVIa.	Military Extraordinary	1,291
XVIB.	Mining and Geological Department	9,637
XVII.	Miscellaneous Services	77,973
XVIIa.	Miscellaneous Services Extraordinary... ..	4,067
XVIII.	Pensions and Gratuities... ..	151,297
XIX.	Police	131,920
XX.	Post Office and Telegraphs	218,342
XXa.	Post Office and Telegraphs Extraordinary	5,350
XXI.	Printing and Stationery	27,853
XXII.	Prisons	46,126
XXIII.	Public Debt Funded	995,500
XXIV.	Public Works Department	87,401
XXV.	Public Works Recurrent	126,650
XXVI.	Registrar General's Department	5,503

No. XXXVI

1933 Appropriation

1933

SCHEDULE—*Contd.*

£

XXVII.	Rent and Interest to H.H. the Sultan of Zanzibar	16,000
XXVIII.	Secretariat and Legislative Council ...	19,480
XXIX.	Statistical Departments	21,134
XXX.	Survey and Registration Department	31,776
XXXI.	Trade and Information Office	3,800
XXXII.	Treasury	22,900
XXXIIa.	Treasury Extraordinary	200
XXXIII.	Public Works Extraordinary	13,533
XXXIV.	Colonial Development Fund	8,170
Total Expenditure		<u>£3,222,210</u>

Replaced by
H.C. Act 10/49

353

ORDINANCE No. XXXVII of 1933

Assented to in His Majesty's name this twenty-fifth day of August, 1933.

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

[25TH AUGUST, 1933.] Date of assent.

An Ordinance to Amend the Customs Revenue Allocation Ordinance, 1927.

25th August, 1933

Date of commencement.

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

1. This Ordinance may be cited as "the Customs Revenue Allocation (Amendment) Ordinance, 1933," and shall be read as one with the Customs Revenue Allocation Ordinance, 1927, hereinafter referred to as "the Principal Ordinance." Short title No. 10 of 1927.

2. The long title of the Principal Ordinance is hereby amended by the insertion after the word "Customs" of the words "and Excise". Amendment to long title.

3. Section 1 of the Principal Ordinance is hereby amended by the insertion after the word "Customs" of the words "and Excise". Amendment of section 1 of the Principal Ordinance.

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

(a) by the insertion after the words "respect of" in the sixth line thereof of the words "Customs and Excise";

(b) by the insertion after the word "Customs" in the second line of paragraph 9 of the definition of "Gross revenue" of the words "or Excise".

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

"3. There shall be payable annually to the Government of the Uganda Protectorate a sum which bears the same proportion to the net revenue collected by the combined department as the net total duty collected on goods retained in the Uganda Protectorate bears to the net total duty collected." Amount of Customs and Excise Revenue payable to Uganda.

— All the words added by Ord. 46/35—

ORDINANCE No. XXXVIII of 1933

*Amended by
Ord. 7/34*

Assented to in His Majesty's name this twenty-fifth day of August, 1933.

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

Date of assent.

[25TH AUGUST, 1933.]

An Ordinance to Impose and Collect a Tax on Imported Packages.

Date of commencement.

M. Dec. 1933.

By Notice

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

Short title.

S.N. 733/33.

1. This Ordinance may be cited as "the Tax on Imported Packages Ordinance, 1933", and shall come into operation upon such date as the Governor may by notice in the Gazette appoint.

Interpretation.

2. For the purpose of this Ordinance the term "package" shall mean any cask, case, bale, bundle, shook, parcel or other unit in which goods are imported and shall extend to parcels and packets containing goods imported through the post.

No. 25 of 1926.

Other terms used in this Ordinance shall have the meaning assigned to them in the Customs Management Ordinance, 1926.

Tax to be paid on imported packages.

3. Subject to the provisions of section 4 of this Ordinance, there shall be charged, levied, collected and paid at the time of importation a tax of twenty-five cents on every package imported into the territory.

Exemptions.

4. The provisions of this Ordinance shall not apply to the following goods and classes of goods :—

- (a) goods imported by or on behalf of the Governments of Kenya, Uganda or Tanganyika Territory or the Kenya and Uganda Railways and Harbours Administration and as such exempted from payment of Customs duties under the provisions of the laws relating to the Customs;
- (b) goods exempted from payment of Customs duties under the provisions of Item 153 of the Schedule to the Customs Tariff Ordinance, 1930;

No. 1 of 1930.

- (c) baggage and effects imported and accompanied by passengers;
- (d) goods declared in transit or transshipment;
- (e) goods imported from the Uganda Protectorate or the Tanganyika Territory;
- (f) letters, newspapers, books, samples, trade circulars and the like and periodicals imported through the post;
- (g) timber, tiles, bricks, coal, cement clinker, oil and other goods which in the opinion of the Commissioner of Customs are deemed to be imported in bulk.

5. In cases of manifest error of fact or patent misconception of the law, a refund of the tax paid under this Ordinance may be allowed, provided claim to such refund is made within six months from the date of over-payment. Power to make refund.

6. The revenue derived under this Ordinance shall be allocated between the Colony and the Uganda Protectorate in the proportion in which the revenue of the combined Customs Department is allocated in accordance with the provisions of the Customs Revenue Allocation Ordinance, 1927. Amount of revenue payable to Uganda.
No. 10 of 1927.

7. The Governor in Council may make Rules :— Power to make Rules.

- (a) for securing the payment of the tax imposed by this Ordinance;
- (b) generally for carrying into effect the provisions of this Ordinance.

8. Any person acting or attempting to act in contravention of this Ordinance or of any Rules made thereunder shall be liable to a penalty not exceeding fifty pounds or in default of payment to imprisonment for a period not exceeding three months; and if the payment of tax has been avoided by such contravention such person shall be liable to an additional penalty not exceeding three times the amount of the tax so avoided and in default of payment to imprisonment for a period not exceeding three months. Penalty.

9. This Ordinance shall continue in force until the thirty-first day of December, One thousand nine hundred and thirty-four, and shall then expire : Duration of Ordinance.

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

ORDINANCE No. XXXIX of 1933

Assented to in His Majesty's name this twenty-fifth day of August, 1933.

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

Date of assent.

[25TH AUGUST, 1933.]

An Ordinance to Amend the Stamp Ordinance.

Date of
commencement.

25th August, 1933

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

Short title.

1. This Ordinance may be cited as " the Stamp (Amendment) Ordinance, 1933," and shall be read as one with the Stamp Ordinance (Chapter 57 of the Revised Edition), hereinafter referred to as " the Principal Ordinance ".

Amendment of
First Schedule
to the
Principal
Ordinance.
No. 13 of 1927.

2. The First Schedule to the Principal Ordinance, as amended by the Stamp (Amendment) Ordinance, 1927, is hereby further amended by the deletion of paragraphs (b) and (c) of Article 11 and the substitution therefor of the following :—

Description of Instrument.	Proper stamp-duty. Sh. cts.
(b) Where payable otherwise than on demand, but not more than—	
60 days or 2 months after date or sight for every fifty pounds or fractional part thereof ...	1 00
90 days or 3 months after date or sight for every fifty pounds or fractional part thereof ...	1 50
120 days or 4 months after date or sight for every fifty pounds or fractional part thereof ...	2 00
150 days or 5 months after date or sight for every fifty pounds or fractional part thereof ...	2 50
180 days or 6 months after date or sight for every fifty pounds or fractional part thereof ...	3 00
Above 180 days for every fifty pounds or fractional part thereof ...	5 00
When a bill of exchange is so drawn that the person to whom it is addressed may at his option pay the amount of the bill either on demand or at a determinable future time, such a bill shall for the purposes of payment of duty be deemed to be payable at a de- terminable future time and not on demand.	
EXEMPTION.	
Renewal or extension by endorsement or re-accept- ance if such extension does not extend beyond the period covered by the duty paid and affixed.	

1933

Stamp

No. XXXIX

3. The First Schedule to the Principal Ordinance is hereby amended by adding the following Article as Article 51A :—

Amendment of
First Schedule
to the
Principal
Ordinance.

<i>Description of Instrument.</i>	<i>Proper Stamp-duty Sh. cts.</i>
51A. Registration of a company or of additional share capital of a company.	
(a) On registration of a company; for every £100 of nominal share capital or part of £100 ...	10 00
(b) On registration of any increase of share capital made after the first registration of the company; for every £100 or part of £100 of the increase of capital authorized ...	10 00

Expend 358 31-12-34

*Included in
Ord. 1/34.*

ORDINANCE No. XL of 1933

Assented to in His Majesty's name this sixth day of
September, 1933

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

Date of assent.

[6TH SEPTEMBER, 1933.]

**An Ordinance to make Provision for the Levy of
a Non-Native Poll Tax at a Rate Graduated
According to the Taxpayer's Income.**

Date of
commencement.

6th September, 1933

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

Short Title.

1. This Ordinance may be cited as "the Non-Native Poll
Tax Ordinance, 1933".

Interpretation.

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

"collector" means a person appointed by the Treasurer
to be a collector for any area or areas of the Colony ;

~~"due date" means the time appointed for payment of the
tax in accordance with the provisions of this Ordinance ;~~

"final date" - see Ord. 1/34
"taxable income" means the aggregate amount of the
income of any taxpayer from all the sources specified in
section 4 remaining after allowing the appropriate deductions
and exemptions under this Ordinance ;

"taxpayer" means an individual liable to tax under this
Ordinance ;

"year of assessment" means the period of twelve months
commencing on the 1st day of January, 1933, and each suc-
ceeding period of twelve months.

(2) An individual shall be deemed to attain the age of
eighteen on the eighteenth anniversary of his birth.

(3) (i) ~~An individual~~ shall be deemed to be resident in
the Colony for the purposes of this Ordinance for any year
of assessment in which—

Replaced by

Ord. 1/34

(a) he comes to the Colony intending to stay more than
six months ; or

(b) he is in the Colony for a period or periods amounting in all to six months or more during that year of assessment; or

(c) he is absent from the Colony for some temporary purpose for a period or periods amounting in all to more than six months during that year of assessment, but was deemed to be resident in the Colony during the two years preceding that year of assessment, or would have been deemed to be so resident if this Ordinance had always been in force.

(ii) For the purposes of this sub-section a temporary purpose is one which at the time of the departure from the Colony is ~~not expected to result in an absence from the Colony of more than twelve months.~~

3. (1) The Treasurer of the Colony shall be charged with the due administration of this Ordinance.

Treasurer to
administer
Ordinance.

(2) The Treasurer may from time to time give general or special instructions to collectors as to the performance of their duties, and may direct or authorize them to refer to him for decision any questions of doubt or difficulty in connexion with their duties.

(3) All or any of the powers and duties conferred or imposed by this Ordinance on a collector may be exercised or performed by the Treasurer.

4. ~~There shall be charged levied and collected in manner~~ hereinafter mentioned a non-native poll tax (hereinafter referred to as "the tax") for the year of assessment commencing on the 1st day of January, 1933, and for each subsequent year, assessed on every non-native male or female resident in the Colony (hereinafter referred to as "the taxpayer") at the rate applicable to his taxable income accruing in, derived from or received in the Colony in respect of—

Levy of
poll tax.

- (a) gains or profits from any trade, adventure in the nature of trade, business, profession, vocation or employment;
- (b) dividends, interests or discounts;
- (c) any pension, allowance, charge or annuity;
- (d) ~~rents, royalties, premiums and any other profit arising from property.~~

Exemptions.

5. There shall be exempted from the payment of the tax under this Ordinance—

- (a) every person who has not attained the age of eighteen;
- (b) every female whose taxable income does not exceed £120 per annum;
- (c) ~~every non-resident person.~~

Ord. 1/34.
Tax to be levied in respect of year of assessment.

6. The tax shall be charged, levied and collected for each year of assessment upon the taxpayer by reference to his taxable income ascertained in accordance with the rules contained in the Second Schedule for the year immediately preceding the year of assessment.

Special periods of assessment.

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

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

Rates of tax.

8. The tax shall be charged at the following rates:—

						S ^d .
Where the taxable income does not exceed £100						30
Where the taxable income exceeds—						
£100 but does not exceed	£200	..	..	..		40
£200	£300	..	..	..		60
£300	£400	..	..	..		80
£400	£500	..	..	..		100
£500	£600	..	..	..		140
£600	£700	..	..	..		180
£700	£800	..	..	..		220
£800	£900	..	..	..		260
£900	£1,000	..	..	..		300
£1,000	£1,100	..	..	..		340
£1,100	£1,200	..	..	..		380
£1,200	£1,300	..	..	..		420
£1,300	£1,400	..	..	..		460
£1,400	£1,500	..	..	..		500
£1,500	£2,000	..	..	..		1,000
£2,000	£2,500	..	..	..		1,500

1933

Non-Native Poll Tax

No. XL

Where the taxable income exceeds—				Sh.
£2,500 but does not exceed	£3,000	..	..	2,000
£3,000	"	"	£3,500	2,500
£3,500	"	"	£4,000	3,000
£4,000	"	"	£5,000	4,000
£5,000	"	"	£6,000	5,000
£6,000	"	"	£7,000	6,000
£7,000	"	"	£8,000	7,000
£8,000	"	"	£9,000	8,000
£9,000	"	"	£10,000	9,000
£10,000 ..	..	..	..	10,000

9. ~~Subject to the provisions of section 11 of this Ordinance~~ the tax shall be due and payable on the 30th day of June in each year : Date tax payable.

Provided that for the year 1933 the tax shall be due and payable on the 8th day of November, 1933. Date tax payable for 1933.

10. On or before the due date in each year every taxpayer who is in the Colony shall submit to the collector a return of income in the form in the First Schedule and shall at the same time pay to a collector the tax due in accordance with such return. Submission of return of income.

11. Any person who—

- (a) comes to the Colony after the due date in any year ; or
- (b) having left the Colony before the due date in any year subsequently returns to the Colony ; or
- (c) attains the age of eighteen years after the due date in any year ;

and has not already made a return under section 10 and paid tax in accordance therewith shall make a return of his taxable income and pay the tax in accordance with such return within three months of his so coming to or returning to the Colony or of his so attaining the age of eighteen.

12. All returns and payments of tax shall be made to a collector of the area in which the taxpayer resides or carries on business. Tax of persons coming or returning to Colony and of persons attaining the age of 18 after due date.

13. Where a collector is satisfied that any taxpayer owing to his insufficient knowledge of the English language or by reason of physical disability is unable to make a return of taxable income in writing he may permit such taxpayer to make a verbal return of taxable income and to pay the tax due thereon, but every such verbal return shall be recorded in writing and authenticated by the thumb print of the taxpayer. Tax to be paid to collector of area.

Verbal returns.

or by other satisfactory means of identification. Such record shall for all the purposes of this Ordinance be deemed to be a return of taxable income made by the taxpayer.

Powers of collector.

14. When a taxpayer has made a return and paid tax as provided in section 10 or section 11 of this Ordinance the collector shall receive the tax so paid and give a receipt therefor, and may thereafter—

- (a) accept the amount so paid in full satisfaction of the tax; or
- (b) refuse to accept the return, and to the best of his judgment determine the amount of the taxable income of the taxpayer and assess him accordingly.

Collector may determine tax when taxpayer fails to make return.

15. (1) Where a taxpayer has not made a return of taxable income or having made a return has not paid the tax according to such return by the ~~due~~ ^{fixed} date a collector may:—

- (a) by notice call upon him to make a return within a time to be limited by such notice; or
- (b) by notice call upon him to pay tax in accordance with his return within a time to be limited by such notice.

(2) If on the expiry of the time so limited the taxpayer has not made a return and paid tax in accordance therewith the collector may according to the best of his judgment determine the amount of the taxable income of such taxpayer and assess him accordingly.

Power to call for books, etc.

16. For the purpose of obtaining full information in respect of any individual's income a collector may give notice to such individual requiring him within the time limited by such notice, which time shall not be less than twenty-one days from the date of such notice, to attend personally before him and to produce for examination any books, documents, ~~accounts and returns~~ which the collector may deem necessary.

Tax to be paid within one month of the date of service of notice of amount of tax.

17. Where a collector has according to the best of his judgment determined the amount of the taxable income of a taxpayer and has assessed him accordingly notice of the amount of tax so assessed shall be served upon the taxpayer, and the amount of such tax together with any penalty due thereon in accordance with section 18 shall be due and payable within one month of the date of service of such notice.

1933

Non-Native Poll Tax

No. XL

18. ~~(1) If a return of taxable income is not made or tax~~ in accordance therewith is not paid by the due date there shall be added a penalty equal to twenty per centum of the amount thereof, and such penalty shall be deemed to be part of the tax and shall be recoverable accordingly. Penalty added when return not made or tax not paid.

(2) Where tax or additional tax is declared to be due from a taxpayer under section 14, 15 or 17 such taxpayer shall be liable to pay in addition to the tax or additional tax so declared to be due a penalty equal to twenty per centum of the sum so declared to be due.

19. The Governor may remit the whole or any part of any penalty under section 18 if he is satisfied that failure to pay tax by the due date was due to poverty or to causes beyond the taxpayer's control or to any other good and sufficient reason. Governor's power to remit penalty.

20. (1) Every employer when required to do so by notice from a collector shall, within the time limited by the notice, prepare and deliver for any year a return containing— Obligations of employers.

(a) the names and places of residence of all non-native persons employed by him; and

(b) the payments and allowances made to those non-native persons in respect of that employment,

and the provisions of this Ordinance with respect to the failure to deliver returns or particulars in accordance with a notice from a collector shall apply to any such return.

(2) Where the employer is a body of persons the manager or other principal officer shall be deemed to be the employer for the purposes of this section, and any director of a company or person engaged in the management of a company shall be deemed to be a person employed.

21. A collector may give notice in writing to any person requiring him within the time limited by such notice to furnish a return containing the name of every inmate or lodger who is at the date of the notice resident in his house, hotel or institution and has been so resident, except for temporary absences, throughout the preceding three months. Return of inmates and lodgers.

22. (1) Any individual who is dissatisfied with the amount at which he is assessed, or claims that he is not liable to tax, may within seven days of being notified of such assessment Objections to assessment and appeals to Supreme Court

give notice in writing to the collector who made the assessment specifying his objections ~~and~~ if such objections be disallowed such person may appeal to the Supreme Court.

(2) The appeal shall be presented within twenty-one days from the date of notification of such disallowance.

(3) No appeal under this section shall be entertained unless the tax due and payable according to the assessment and any penalty added thereto are deposited with the collector :

Provided that where the Supreme Court is satisfied that it is inequitable to call upon the appellant to make such deposit the Supreme Court may absolve the appellant from the requirement of this sub-section, or may call upon him to deposit with the collector such sum as to the Court may appear reasonable.

(4) The Supreme Court may on appeal confirm, amend or cancel any assessment and order a refund of tax paid or an additional payment of tax to such extent as the circumstances require. The Supreme Court shall send a copy of its decision to the collector and to the appellant.

(5) The proceedings of the Supreme Court shall be heard *in camera* if so required by the appellant.

(6) The costs of the appeal shall be in the discretion of the Supreme Court.

Rules govern-
ing appeals.

(7) The Supreme Court may make rules governing such appeals and providing for the method of tendering evidence and prescribing the procedure to be followed.

Onus of proof
on appellant.

23. (1) In any appeal under this Ordinance the onus of proving that the assessment complained of is excessive shall be on the appellant.

(2) As from the date of the receipt of the notice of objection mentioned in sub-section (1) of section 22 until the date on which the objector receives notice of the decision of the collector or the final determination of his appeal (if any) by the Supreme Court time shall not be deemed to run against such objector as regards liability to penalty under section 18 of this Ordinance.

Tax deemed
to be a debt
due to Govern-
ment.

24. (1) Tax due shall be deemed to be a debt due to Government and may be sued for and recovered according to law at the suit of the Treasurer or of a collector with full costs of suit.

(2) A certificate under the hand of the Treasurer or a collector stating the amount of tax with which the defendant has been assessed shall be evidence that such amount is due and payable by such defendant.

(3) In any action or proceeding for the recovery of any tax it shall not be competent for the defendant to question the correctness of any assessment:

Provided that—

- (a) notice of assessment specifying the tax payable has been served upon the defendant; and
- (b) the period allowed to the defendant within which to appeal from such assessment has elapsed.

25. The Treasurer or a person authorized by him in that behalf may remit the tax wholly or in part on the ground of the poverty of the person liable to pay the same and the Treasurer may also for like reasons refund the tax paid or any part thereof. Power to remit tax.

26. If it be proved to the satisfaction of the Treasurer that any person for any year of assessment has paid tax in excess of the amount with which he is properly taxable such person shall be entitled to have the amount so paid in excess refunded. Refund of excess payment of tax.

27. (1) Every person having any official duty or being employed in the administration of this Ordinance shall regard and deal with all documents, information, returns, assessment lists or copies thereof relating to the income or items of income of any taxpayer as secret and confidential. Official secrecy.

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

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

(b) otherwise than for the purpose of this Ordinance, shall be guilty of an offence.

Service and
delivery of
notices.

28. (1) Every notice under this Ordinance may be served by being sent through registered post, or left—

- (a) where the Treasurer is the addressee, at the Treasury, Nairobi;
- (b) where the collector is the addressee, at the office of the collector;
- (c) where any other person is the addressee, at the usual place or last known place of abode or business of such person.

(2) In the event of a notice being served through the post the notice shall be deemed to have been served not later than the seventh day succeeding the day on which the notice would have been received in the ordinary course by post and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and posted.

Free postage.

29. All returns, additional information and resulting correspondence relating to any matter under this Ordinance shall, if marked with the words " Non-Native Poll Tax " and when addressed to the Treasurer or a collector, be transmitted by the Postal Department free of postage.

Rules.

30. The Governor in Council may make rules generally for carrying out the provisions of this Ordinance and, in particular, for all or any of the following purposes, that is to say :—

- (a) Prescribing the duties of all persons engaged or employed in the administration of this Ordinance.
- (b) Prescribing any deductions which may be allowed in the ascertainment of taxable incomes.
- (c) Prescribing the forms of returns, claims, statements and notices under this Ordinance and by whom the same shall be made and the time and the mode of making and furnishing the same.
- (d) Providing for the deduction of tax from the salary of any person in the public service or the service of the Railways and Harbours Administration in such instalments as shall ensure the payment of tax by the due date.
- (e) Prescribing any such matters as are authorized by this Ordinance to be prescribed.

31. Where any individual chargeable with tax under this Ordinance has paid non-native poll tax under the Non-Native Poll Tax Ordinance for the year 1933, a deduction shall be made from the tax payable by him under this Ordinance of the amount so paid as non-native poll tax: Provided that no such deduction shall be allowed unless the receipt for the non-native poll tax is surrendered at the time of payment of the tax under this Ordinance, or the collector in his sole discretion is otherwise satisfied that non-native poll tax has been paid, and that no deduction shall be allowed in respect of any penalty incurred under the said Ordinance.

Set-off of non-native poll tax paid.
Cap. 52.

32. Any person guilty of an offence against this Ordinance for which no other penalty is specifically provided shall be liable on summary conviction before a magistrate of the first or second class to a fine not exceeding fifty pounds, and in default of payment to imprisonment for any term not exceeding three months.

Penalties for offences.

33. Every person who—

- (a) fails to comply with the requirements of a notice given to him under this Ordinance; or
- (b) without sufficient cause fails to attend in answer to a notice issued to him under this Ordinance or having attended fails to answer any questions lawfully put to him;

Penalty for failure to comply with notice, etc.

shall be guilty of an offence and shall be liable on summary conviction before a magistrate of the first or second class to a fine not exceeding fifty pounds, and in default of payment to imprisonment for any term not exceeding three months.

34. (1) Every person who without reasonable excuse—

- (a) makes an incorrect return by omitting or understating any income of which he is required by this Ordinance to make a return; or
- (b) gives any incorrect information in relation to any matter or thing affecting his liability to tax;

Penalty for making incorrect returns, etc.

shall be guilty of an offence and shall on summary conviction by a magistrate of the first or second class be liable to a fine not exceeding the total of one hundred pounds and double the amount of tax which has been undercharged in consequence of such incorrect return or information, or would have been so

undercharged if the return or information had been accepted as correct and in default of payment to imprisonment for any term not exceeding six months.

(2) No person shall be liable to any penalty under this section unless the complaint concerning such offence was made in the year of assessment in respect of or during which the offence was committed or within three years after the expiration thereof.

(3) The Treasurer may compound any offence under this section and may before judgment stay or compound any proceedings thereunder.

Penal
provisions
relating to
fraud, etc.

35. (1) Any person who wilfully with intent to evade or to assist any other person to evade tax—

- (a) omits from a return made under this Ordinance any income which should be included; or
- (b) makes any false statement or entry in any return made under this Ordinance; or
- (c) gives any false answer whether verbally or in writing to any question or request for information asked or made in accordance with the provisions of this Ordinance; or
- (d) prepares or maintains or authorizes the preparation or maintenance of any false books of account or other records or falsifies or authorizes the falsification of any books of account or records; or
- (e) makes use of any fraud, art, or contrivance whatsoever or authorizes the use of any such fraud, art or contrivance,

shall be guilty of an offence, and shall for each such offence be liable on summary conviction by a magistrate of the first or second class to a fine not exceeding the total of two hundred pounds and treble the amount of tax for which he is liable under this Ordinance for the year of assessment in respect of or during which the offence was committed, or to imprisonment for any term not exceeding six months, or to both such fine and imprisonment.

(2) The Treasurer may compound any offence under this section and may before judgment stay or compound any proceedings thereunder.

1933

Non-Native Poll Tax

No. XL

36. The institution of proceedings for, or the imposition of a penalty, fine, or term of imprisonment under this Ordinance shall not relieve any person from liability to payment of any tax for which he is or may be liable.

Tax to be payable notwithstanding proceedings for penalties, etc.

37. No prosecution in respect of an offence under section 32, section 33, section 34 or section 35 of this Ordinance may be commenced except at the instance of or with the sanction of the Treasurer.

Prosecution to be with the sanction of the Treasurer.

38. The provisions of this Ordinance shall not affect any criminal proceedings under any other Ordinance or law.

Savings for criminal proceedings.

39. (1) This Ordinance shall continue in force until the thirty-first day of December, 1934, and shall then expire :

Duration of Ordinance.

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

(2) The Non-Native Poll Tax Ordinance is hereby repealed, but on the expiry of this Ordinance the provisions of the said Non-Native Poll Tax Ordinance shall revive and be of full force and effect.

Repeal.
Cap. 52

FIRST SCHEDULE.

Station.....

I, (name).....
of (address).....
(trade, profession or occupation).....
state that my taxable income calculated in accordance with the provisions of the Non-Native Poll Tax Ordinance, 1933, did not exceed £..... for the year ending 31st December, 193..... and I tender Sh....., being the amount of tax payable by me.

.....
Signature

Date.....

SECOND SCHEDULE.

RULES FOR ASCERTAINING TAXABLE INCOME.

1. All outgoings and expenses wholly and exclusively incurred in the production of the income may be deducted, including—

- (a) sums paid by way of interest upon any money borrowed where the collector is satisfied that the interest was payable on capital employed in acquiring the income;
- (b) rent paid by any tenant of land or buildings occupied by him for the purpose of acquiring the income;
- (c) any sum expended for repair of premises, plant and machinery employed in acquiring the income or for the renewal, repair or alteration of any implement, utensil or article so employed;
- (d) such other deductions as may be prescribed by any rule made under this Ordinance;
- (e) actual bad debts.

Nos. 57 and 58
of 1931.

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

3. In ascertaining the taxable income of any public officer or other employee of the Government or of the Railways and Harbours Administration, no account shall be taken of any amount which such officer or employee receives as an allowance in lieu of free quarters.

4. A deduction shall be allowed in respect of—

- (a) the official emoluments of the Governor;
- (b) the official emoluments of members of the permanent consular services of foreign countries;
- (c) the official emoluments of persons in the permanent service of the Imperial Government or a Dominion Government;
- (d) pensions granted in respect of wounds and disability caused in war.

5. No deduction in ascertaining the taxable income shall be allowed in respect of—

- (a) domestic or private expenses;
 - (b) any disbursements or expenses not being money wholly and exclusively paid or expended for the purpose of acquiring the income;
 - (c) any capital withdrawn or any sum employed or intended to be employed as capital;
 - (d) any capital employed in improvements;
 - (e) any sum recoverable under an insurance or contract of indemnity;
 - (f) rent of or cost of repairs to any premises or part of premises not paid or incurred for the purpose of producing the income;
 - (g) reserves for bad debts;
 - (h) salary drawn as leave pay during absence from the Colony.
-

*Repealed with
Ord. 63/34*

ORDINANCE No. XLI of 1933

Assented to in His Majesty's name this sixth day of September, 1933.

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

Date of assent.

[6TH SEPTEMBER, 1933.]

An Ordinance to Provide for the Licensing of Certain Trades, Professions and Occupations within the Colony and to Fix the Licence Fees Payable.

Date of commencement.

6th September, 1933

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

Short title.

1. This Ordinance may be cited as "the Licensing Ordinance, 1933".

Interpretation.

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

"advocate" means a practising advocate who is resident in the Colony;

"business" includes any trade, or industry, but does not include the practice of a profession;

"commercial traveller" means a person who travels in the Colony soliciting orders for goods on behalf of another person, but does not include a person employed as a traveller by a person or firm licensed under this Ordinance;

"profession" means the profession of an advocate, accountant, architect, auditor, dentist, engineer, estate agent, geologist, land agent, managing agent, quantity surveyor, secretary, surveyor, veterinary surgeon and visiting agent;

"native" means any native of Africa not of European or Asiatic origin and includes a Swahili and a Somali;

"shipping company" means any person or body of persons, incorporated or unincorporated, carrying on, either as principal or agent, the business of carrying goods or passengers overseas in mechanically propelled vessels, but the term does not include passenger agents or shipping companies engaged solely in coasting trade within the meaning of the Shipping Ordinance, 1930, or the agents of such shipping companies;

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1933

Licensing

No. XLI

"banker" means any company, person or body of persons, British or foreign, whether incorporated or not, and whether registered in the Colony or not, engaged in the business of banking in the Colony who shall be declared by the Governor in Council by notice to be a banker for the purposes of this Ordinance but shall not include an exchange banker or a business firm issuing letters of credit;

"exchange banker" means a person who carries on for profit the business of operating in foreign currency outside the Colony but shall not include a money changer;

"manufacturer" means a person manufacturing any articles, the gross receipts derived from the manufacture of which during the twelve months immediately preceding the date upon which the liability to take out the licence arose exceeded five thousand pounds;

"oil company" means any person or body of persons, incorporated or unincorporated, carrying on, either as principal or agent, the business of importation and wholesale distribution of dangerous petroleum or petroleum as defined by the Indian Petroleum Act, 1899, as applied to the Colony.

3. (1) No person shall carry on in the Colony, whether as principal or agent, any business not being exempted from the operation of this Ordinance, unless he holds a licence (in this Ordinance referred to as a trading licence), for the time being in force authorizing him to do so, or so carry on any such business in any place other than that specified in his licence.

Prohibition on carrying on business without a licence.

(2) A licence shall authorize the holder to carry on the business or profession described in the licence and, except in the case of a licence to carry on the business of a banker, or a shipping company or an oil company or an insurance company or insurance underwriters or the profession of architect or quantity surveyor or surveyor, any other business or profession in respect of which a lower fee is payable under this Ordinance, but shall not authorize the carrying on of any business or profession for which any licence or permit is required by any other Ordinance.

(3) If any person contravenes the provisions of this section, he shall be liable for a first offence to a fine not exceeding fifty pounds or in default of payment to imprisonment for any term not exceeding two months, and for a second or subsequent offence to a fine not exceeding two hundred and fifty pounds or in default of payment to imprisonment for a term not exceeding six months.

Prohibition on
exercising a
profession
without a
licence.

4. (1) No person shall practise any profession for gain unless he holds a licence (in this Ordinance referred to as "a professional licence") for the time being in force authorizing him to do so.

(2) If any person contravenes the provisions of this section he shall be liable for each offence to a fine not exceeding twenty-five pounds or in default of payment to imprisonment for any term not exceeding one month.

(3) Where two or more members of a firm practise a profession each of the said members shall take out a separate licence in his own name.

(4) Nothing in this Ordinance contained shall be deemed to confer on the holder of any licence under this Ordinance the right to practise any profession which he is not qualified by law to practise.

(5) Subject to the provisions of the two succeeding sub-sections a person shall not be deemed to be practising a profession merely by reason of receiving a salary for the practise of such profession.

(6) No person other than a person employed in the service of Government or of the Railways and Harbours Administration or a person solely employed by a municipal council or board shall practise as an advocate, whether in receipt of a salary or not, unless he is duly licensed under this Ordinance.

Hawkers'
licences.

5. (1) No person shall hawk goods in the Colony unless he holds a licence in the form set out in the Schedule hereto (in this Ordinance referred to as a hawker's licence) for the time being in force authorizing him to do so.

(2) There shall be paid for a hawker's licence the fee of ten shillings per month.

(3) Subject to the provisions of sub-section (4) of this section where any person employs servants to hawk goods on his account such person shall be liable to take out a licence for each such servant and to pay the fees therefor.

(4) A hawker shall not transfer his licence to any person, provided that a servant may travel with his master's licence and trade for his benefit and provided that a separate licence shall be taken out for each servant if more than one is employed, as provided in sub-section (3) of this section.

(5) Every person required by this section to be provided with a hawker's licence shall carry the same with him and shall produce the same on the demand of any district or police officer or native authority.

(6) For the purposes of this section a "hawker" means any person who goes from place to place selling goods or exposing goods for sale.

(7) The provisions of this section shall not apply to—

- (a) any commercial traveller;
- (b) any person hawking only goods in respect of which no licence under this Ordinance is required for the sale thereof in a store;
- (c) any person selling goods in any market legally established;
- (d) any person selling fish, fruit, milk, victuals, firewood or newspapers;
- (e) any person licensed as a hawker under any municipal by-law unless such person hawks goods outside the area within which he is by such licence authorized to hawk them.

6. (1) The following businesses and professions are exempt from the operation of this Ordinance—

- (a) the business of a planter, farmer, stock raiser, market gardener, or dairyman, who is not a manufacturer of goods for consumption in the Colony;
- (b) a business for which a licence is required under any law for the time being in force relating to intoxicating liquor;
- (c) the business of any person who holds a licence under the Kenya Cotton Ordinance;
- (d) the business of letting rickshaws for hire;
- (e) the business of mining under the authority of a prospecting right, an exclusive prospecting licence, a claim or a mining lease granted under the Mining Ordinance, 1931, or the Oil Production Ordinance 1924, or any legislation substituted therefor;
- (f) domestic industries carried on by natives;
- (g) dhobies;
- (h) Asiatic, Arab and native eating houses;

Cap. 154.

No. 1 of 1931.
No. 11 of 1924.

- (i) itinerant barbers;
- (j) tailors, not using their own cloth;
- (k) artisans, shoemakers, blacksmiths and tinsmiths, not having working premises of their own;
- (l) schoolmasters and managers of schools.

(2) The Governor may exempt any business or profession or any person carrying on any business or practising any profession from the operation of this Ordinance either generally or in any area, or may in any such case reduce the fee payable under this Ordinance by any such business, profession or person, if in his opinion such exemption or reduction is desirable in the interests of the community or by reason of the business, profession or person being liable to another fee, such exemption or reduction is equitable.

Fees for
licences

7. (1) Trading licences and professional licences shall be of the following kinds and subject to the provisions of subsections (4) and (5) of this section the annual fee for each licence shall be that set opposite to the description of such licence, or such other fee as the Governor with the consent of the Legislative Council, signified by Resolution, may prescribe :—

Sh.

(a) A licence to carry on the business of a whole-sale trader, including importation or exportation from or to places outside the Colony—	
For the principal or only place of business or where the business is not carried on at any defined premises	600
For each subsidiary place of business	300
(b) A licence to carry on the business of a whole-sale trader not including importation or exportation from or to places outside the Colony—	
For each place of business or where the business is not carried on at any defined premises	300
(c) A licence to carry on the business of a retail trader—	
For each place of business or where the business is not carried on at any defined premises	450

	Sh.
Provided that where the value of the goods on hand for the year preceding the date of taking out the licence has not exceeded at any place of business £150 at any one time the fee shall be ...	30
(d) A licence to carry on the business of a banker—	
For the principal or only place of business ...	4,000
For each branch ...	500
(e) A licence to carry on the business of a shipping company or agency (including branches) ...	1,000
(f) A licence to carry on the business of a commercial traveller ...	300
(g) A licence to carry on the business of a turf commission agent or turf accountant for each individual carrying on such business whether alone or in partnership with another person or persons or as the director of a company ...	500
(h) A licence to carry on the business of manufacturer ...	600
(i) A licence to carry on the business of an oil company (including branches) ...	4,000
(j) A licence to carry on the business of an insurance company or insurance underwriters payable by each separate insurance company or separate group of underwriters operating through a head office, branch office, agency or sub-agency—	
Life (including bond investment and industrial assurance) ...	200
The receiving or collecting of life assurance renewal premiums in respect of life assurance contracts entered into and in force in a place outside the Colony and which by the nature of the contract it is obligatory on the company or underwriters to continue to receive until such contract expires, becomes void or otherwise determines shall not for the purposes of this section be deemed to be carrying on the business of insurance.	
Fire or other perils written in conjunction with fire ...	200

	<i>Sh.</i>
Marine (including transit insurance of any kind other than personal baggage insurance)	100
Accident (including burglary, personal baggage, personal accident and sickness, employers' liability and third party risks, guarantee, live stock, motor and plate glass)	200
Insurance business generally	500
(k) A licence to distribute electric power and light for gain, unless specifically exempted by the Governor in Council—	
For the principal or only place of business ...	4,000
For each branch	500
(l) A licence to carry on the business of a temperance hotel or lodging-house, for each person for whom sleeping accommodation is provided	15
(m) A licence to carry on the business of an assayer	300
(n) A licence to carry on the business of an exchange banker	600
(o) A licence to carry on the business of a commission agent or manufacturer's agent ...	300
(p) A licence to carry on any other business ...	100
(q) A licence to practise any profession	300
(2) For the purposes of this section the importation or exportation from or to the Uganda Protectorate and/or the Tanganyika Territory shall not be deemed to be importation or exportation from or to places outside the Colony within the meaning of this section.	
(3) Trading licences and professional licences shall be taken out on the second day of January in each year and shall expire on the 31st day of December next following.	
(4) Where a licence is issued after the thirtieth day of June in any year, the fee for the licence shall be one-half of the fee specified in sub-section (1) of this section, and where a licence is issued after the thirtieth day of September in any year, the fee for that licence shall be one-quarter of the fee specified in that sub-section. This sub-section shall not apply to a licence to carry on the business of a commercial traveller.	

(5) The Governor may remit the whole or part of any fee payable under this Ordinance on the grounds of the poverty of the person liable to pay such fee.

8. In respect of the year 1933 the following provisions shall apply in substitution for those of sub-sections (3) and (4) of section 7 :—

Special provisions for year 1933.

(a) Trading licences and professional licences shall be taken out on or before the first day of October, 1933, and shall expire on the 31st day of December, 1933, and there shall be payable for every such licence one-half of the fee specified in sub-section (1) of section 7.

(b) Any person applying for a trading licence in 1933 shall be entitled to set off against the cost of such licence one-half of any fee paid by him in respect of a licence issued to him for the year 1933 under the Traders Licensing Ordinance, provided that at the time of applying for such set-off he surrenders to the licensing authority such licence issued under the Traders Licensing Ordinance.

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Cap. 58.

9. Licences shall be issued by the Treasurer or his duly authorized representative : Provided that licences to practise as an advocate shall be issued by a registrar or deputy registrar of the Supreme Court.

Licensing authority.

10. (1) Every application for a trading licence or a professional licence and every such licence shall be in the form contained in the Schedule to this Ordinance.

Forms of trading licences and applications.

(2) Every application for a trading or a professional licence shall be signed by the owner, manager or authorized representative of the business or by the person proposing to practise the profession : Provided that a trading licence may be issued without written application if the applicant applies in person for the issue of the trading licence and the licensing authority is satisfied that the applicant has not sufficient knowledge of the English language to be able to apply in writing.

11. (1) When a licence is surrendered, then—

Surrender of licences.

- (a) if the licence has six months or more to run, one-third of the fee paid shall be returned to the licensee.
- (b) if the licence has less than six and more than three months to run, one-sixth of the fee paid shall be returned to the licensee.

(2) This section shall not apply to a professional licence or to a licence to carry on the business of a commercial traveller.

Transfer of
trading
licence.

12. A trading licence may by endorsement of a licensing officer and on payment of a fee of five shillings be transferred to different premises.

Duplicate
licences.

13. A licensing authority on being satisfied that a licence issued by him under this Ordinance has been lost or destroyed and on payment to him of a fee of five shillings, shall issue a duplicate licence to the licensee.

Exhibition
and production
of licences.

14. (1) Every trading licence shall be exhibited in a prominent place in the premises to which it relates or, if the business is not carried on in definite premises, such licence shall be kept at the place where the person carrying on the business usually resides.

(2) Every professional licence shall be kept on the premises where the person practising the profession usually resides.

(3) Every licence issued under this Ordinance shall be produced for inspection to any administrative or police officer or licensing authority on reasonable notice being given by him.

(4) Any person who contravenes any of the provisions of this section shall be guilty of an offence against this Ordinance.

Appointment
of Licensing
Commissioners.

15. (1) The Governor may from time to time by order appoint the Treasurer and any other persons employed in the public service (to be styled "the Licensing Commissioners" and in this Ordinance referred to as "the Commissioners") to superintend the licensing of businesses and professions under this Ordinance.

(2) The Commissioners may from time to time give general or special directions to licensing officers as to the performance of their duties, and may direct or authorize any question of doubt or difficulty in connexion with their duties to be referred to the Commissioners for decision.

(3) Any direction or decision of the Commissioners shall be observed and given effect to by licensing officers, but shall not be binding on any court.

Penalties.

16. Any person who is guilty of an offence against this Ordinance shall, if no other penalty is imposed by this Ordinance, be liable for each offence to a fine not exceeding ten pounds and in default of payment to imprisonment for a term not exceeding one month.

17. The Traders Licensing Ordinance (Chapter 58 of the Revised Edition), as amended by the Traders Licensing (Amendment) Ordinance, 1932, is hereby repealed. Repealed.
No. 1 of 1932.

SCHEDULE.

COLONY AND PROTECTORATE OF KENYA.

THE LICENSING ORDINANCE, 1933.

Application for a Trading Licence.

1. Name of applicant
2. Name of the business
3. Address of the business
4. Is the business a branch of another business in the Colony?
5. What is the exact nature of the business?.....
6. Does the business include wholesale trading?.....
7. Is the business that of retail trading only?.....
8. Does the business include importation from or exportation to places beyond the Colony?.....

I apply for a trading licence for the business described above.

.....
Signature of Applicant.

NOTE.—The licensing authority shall give the applicant any information or assistance which may reasonably be required for the completion of this form.

COLONY AND PROTECTORATE OF KENYA.

THE LICENSING ORDINANCE, 1933.

Trading Licence.

Station.....

Licence is hereby granted to
.....to carry on the business of.....
.....on the premises situated at
being the place of business for which a fee of Shillings (*in words*) has been paid.

This licence expires on the 31st day of December, 19.....

Fee paid Sh.

Date.....

.....
Licensing Authority.

WARNING.—This licence does not authorize the licensee to carry on any business for which a licence or permit is required by any other Ordinance.

COLONY AND PROTECTORATE OF KENYA.

THE LICENSING ORDINANCE, 1933.

Application for Professional Licence.

Name of Applicant
 Profession
 I am practising as a
 I am employed as a by
 Address
 Date

.....
Signature of Applicant.

COLONY AND PROTECTORATE OF KENYA.

THE LICENSING ORDINANCE, 1933.

Professional Licence.

Station

Licence is hereby granted to
 to practise the profession of.....

This licence expires on the 31st day of December, 19.....

Fee paid Sh.

Date

.....
Licensing Authority.

COLONY AND PROTECTORATE OF KENYA.

THE LICENSING ORDINANCE, 1933.

Hawker's Licence.

Station

Licence is hereby granted to
 to hawk goods in the Colony during the month of

This licence expires on the day of,
 19.....

Fee paid Sh.

Date

.....
Licensing Authority.

ORDINANCE No. XLII of 1933

Assented to in His Majesty's name this sixth day of September, 1933.

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

[6TH SEPTEMBER, 1933.] Date of assent.

An Ordinance to Amend the Public Travel and Access Roads Ordinance.

6th September, 1933

Date of commencement.

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

1. This Ordinance may be cited as "the Public Travel and Access Roads (Amendment) Ordinance, 1933," and shall be read as one with the Public Travel and Access Roads Ordinance (Chapter 113 of the Revised Edition), hereinafter called "the Principal Ordinance."

Short title.

2. Section 14 of the Principal Ordinance as amended by the Revised Edition of the Laws (Operation) Ordinance, 1926, is hereby repealed and the following is substituted therefor:—

Repeal and replacement of section 14 of the Principal Ordinance. No. 7 of 1926.

14. (1) When the said road of access has been granted and constructed the applicant, which term shall for the purposes of this section include his successor in title, shall have leave at all times to use the said road of access.

Right of way over road of access.

(2) Save for the purposes of section 11 of this Ordinance the said road of access shall not be deemed to be a public road, provided that the applicant shall at his own cost erect, at the point where the road of access joins a public road, a notice board, of a design approved by the district board, bearing the words "private road" legibly painted or inscribed thereon, and shall maintain the same efficiently to the satisfaction of the district board.

(3) Should the said road of access pass through an existing fenced enclosure the district board in its discretion may require the applicant to provide, erect and maintain to its satisfaction a fence or fences of approved design, and shall apportion the cost of such fencing and its maintenance between the parties interested as it shall deem fit.

(4) If the said road of access shall pass through any wall, fence or barrier existing at the date of application the district board may require the applicant to provide, erect and maintain to its satisfaction a gate of approved design where the road passes through the wall, fence or barrier.

(5) The applicant shall at all times maintain the said road of access, and all works ancillary thereto, in a good and efficient state of repair to the satisfaction of the district board, and, for the purpose of such maintenance, the applicant, his servants or his agents shall have leave to enter at all times upon the said road of access: Provided always, that as little damage or inconvenience as possible shall be caused by such entry to the owner or occupier of the land over which the said road of access passes, and that such right of entry shall be subject to such conditions as the district board may impose in granting the order for constructing the said road of access.

(6) If the applicant shall fail or neglect to carry out the requirements of the district board under sub-sections (2), (3), (4) and (5), of this section, the district board may carry out the necessary work and recover the cost from the applicant in any competent court.

(7) The owner or occupier of any land through which the road of access passes shall have the right to use the road of access at all times:

Provided that the district board may at its sole discretion require such owner or occupier to pay to the applicant a proportionate share of the cost of the maintenance of the road.

(8) If the owner or occupier of land, other than an owner or occupier through which the road of access passes, desires to use the road of access, he may apply to the district board for authority to use it, and the district board may grant such application on such terms and conditions as it may see fit, or may refuse the application.

Application
of
Ordinance.

3. (1) This Ordinance shall only apply to roads of access constituted after the coming into operation of this Ordinance: Provided that, where a road of access is in existence at the time of the coming into operation of this Ordinance, the district board may, on the application of the applicant or his successor in title or of any of the owners or occupiers of land over which

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Public Travel and Access Roads

No. XLII

the said road of access passes, give notice in three consecutive issues of the Gazette, and in three consecutive issues of a newspaper circulating in the Colony, that the provisions of this Ordinance shall apply to such road of access as from a date to be named in such notice, not being less than one month from the date of the first publication of such notice, and thereupon all the provisions of this Ordinance shall apply accordingly. Such notice shall clearly describe the position of such road of access, and shall give a clear and accurate description thereof.

(2) The district board shall apportion all costs incidental to such application between the parties concerned.

4. Notwithstanding anything in this Ordinance contained, where a road of access granted either before or after the commencement of this Ordinance passes over, in whole or in part, any right of way over which the public are entitled to pass, such public right of way shall not be extinguished by the granting of such road of access.

Public rights
of way not to
be
extinguished.

ORDINANCE No. XLIII of 1933

Assented to in His Majesty's name this sixth day of September, 1933.

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

Date of assent.

[6TH SEPTEMBER, 1933.]

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

Date of commencement.

6th September, 1933

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

Short title

1. This Ordinance may be cited as "the Widows' and Orphans' Pension (Amendment) Ordinance, 1933," and shall be read as one with the Widows and Orphans Pension Ordinance (Chapter 34 of the Revised Edition), hereinafter called "the Principal Ordinance."

2. The Principal Ordinance is hereby amended by the insertion after section 4 thereof of the following section :—

Officers in services common to more than one East African Government.

"4A. (1) Subject to the approval of the Secretary of State first obtained it shall be lawful for the Governor from time to time by notice to declare that, notwithstanding the provisions of this Ordinance, the posts specified in the notice, being posts of which the salaries are provided wholly or partly by more than one of the British Dependencies in East Africa, shall be deemed for the purpose of this Ordinance to be either—

- (i) posts in the service of the Colony; or
- (ii) posts not in the service of the Colony.

(2) The provisions of section 5 (3) of this Ordinance shall not apply to any officer holding a post so declared to be in the service of the Colony, who shall for the purposes of section 5 (1) of this Ordinance be deemed to be in receipt of salary from the funds of the Colony equal to the total salary of the post from whatever source it is drawn.

(3) Any notice issued under this ^{section} ~~scheme~~ shall have retrospective effect as regards any post to the date from which the holder for the time being thereof entered the East African Service.

(4) If the holder of any post declared by notice under this section to be in the service of the Colony has not been required prior to the notice to contribute to the scheme, he may, within three months of the date on which the notice concerning his post is issued or such later date as the Governor may in any special case allow, elect to be exempted either from the requirement to contribute thereto or from his liability to make contributions in respect of service prior to the date upon which the notice is issued. The date of the election shall be deemed to be the date of the receipt of the written notification addressed either to the Colonial Secretary in the Colony or to the Crown Agents for the Colonies. Any election duly exercised shall be irrevocable."

ORDINANCE No. XLIV of 1933

Assented to in His Majesty's name this sixth day of
September, 1933.

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

Date of assent.

[6TH SEPTEMBER, 1933.]

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

Date of
commencement.

6th September, 1933

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

Short title.

1. This Ordinance may be cited as "the Money-lenders (Amendment) Ordinance, 1933," and shall be read as one with the Money-lenders Ordinance, 1932, hereinafter referred to as "the Principal Ordinance".

No. 45 of 1932.

Amendment of
section 2 of the
Principal
Ordinance.

2. Section 2 of the Principal Ordinance is hereby amended by the deletion of the word "mortgage" which occurs in the definition of "money-lender", and the substitution therefor of the words "chattels transfer, or on mortgage or charge of immovable property".

ORDINANCE No. XLV of 1933

Assented to in His Majesty's name this sixth day of September, 1933.

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

[6TH SEPTEMBER, 1933.] *Date of assent.*

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

6th September, 1933

Date of commencement.

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

1. This Ordinance may be cited as “ the Local Government (Municipalities) (Amendment) Ordinance, 1933,” and shall be read as one with the Local Government (Municipalities) Ordinance, 1928, hereinafter referred to as “ the Principal Ordinance.”

Short title.

No. 19 of 1928.

2. Sub-section (1) of section 16 of the Principal Ordinance is hereby amended by the deletion of the words “ after every annual election or nomination of councillors ” which occur in the fifth line thereof and the substitution thereof of the words “ after the thirtieth day of June in each year.”

Amendment of section 16 of the Principal Ordinance.

3. Section 18 of the Principal Ordinance is hereby repealed, and the following section is substituted therefor :—

Repeal and replacement of section 18 of the Principal Ordinance.

“ 18. At the first meeting of a Municipal Board held after the 1st day of October, 1933, the Chairman and Deputy Chairman of the Board shall be elected in the manner provided in section 16 of the election of Mayor and Deputy Mayor of a Municipal Council, and all the provisions of section 16 shall apply to the offices of Chairman and Deputy Chairman of a Municipal Board equally as to the offices of Mayor and Deputy Mayor of a Municipal Council, provided that the District Commissioner shall be Chairman of the Municipal Board of Mombasa.”

Chairman and Deputy Chairman of Municipal Boards.

Amendment of
section 41 of
the Principal
Ordinance.

4. Section 41 of the Principal Ordinance is hereby amended by inserting the following sub-section immediately after sub-section (4) :—

“(4A) No councillor or his partner or his employer or employee, or any company of which a councillor is a director shall act for the council for reward as an auditor.”

Amendment of
section 52 of
the Principal
Ordinance.

5. Section 52 of the Principal Ordinance is hereby amended by deleting paragraphs (29) and (34A) thereof, and substituting therefor the following :—

“(29) To establish, erect, maintain and control plant for the manufacture of by-products and to purchase animals for the purpose of conversion into by-products and to sell all by-products resulting from the carrying on of any works which the council is authorized to carry on.”

No. 26 of 1928.

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

Provided that—

(a) the right of any person to ply for hire within the municipality with any public vehicle or motor vehicle for the unexpired period of any licence issued prior to the coming into force of this sub-section shall not be affected;

- (b) the right of any person to carry for hire or reward passengers departing to or arriving from any place outside the limits of the municipality shall not be affected by this sub-section ;
- (c) the powers of the council under this sub-section shall not be exercised in respect of any such service established, maintained or carried on by any person or corporation under an agreement entered into with the council unless and until the terms of such agreement have received the approval of the Governor ;
- (d) before any resolution to prohibit the carrying on by any person or corporation of any such service is made by the council, notice of the intention to introduce a motion for this purpose shall be given by publication in the Gazette and in at least one newspaper circulating within the municipality. Such notice shall be given once in each week for four succeeding weeks, and any objections received shall be laid before the council at the meeting appointed to consider the motion and copies thereof shall be forwarded to the Governor : Provided further that all the provisions of this paragraph shall apply to any resolution to extend any period of prohibition already existing ;
- (e) the council shall have power to revoke any prohibition imposed under this sub-section upon the termination of an agreement entered into under this sub-section.

Any person (other than a person or corporation with whom the council has entered into an agreement under this sub-section) who carries on any service of motor omnibuses or other vehicles drawn or propelled by animal, mechanical or electrical power for the carriage of passengers, or who plies for hire or reward any public vehicle or motor vehicle carrying any passengers, if such public vehicle or motor vehicle be licensed to carry more than six passengers, without the consent of the council, shall be liable on conviction to a fine not exceeding one

hundred pounds or to imprisonment for a period not exceeding six months, and, in addition to a fine not exceeding ten pounds in respect of each and every day upon which he contravenes the provisions of this sub-section."

and by inserting after the word " museums " in paragraph (10) the words " agricultural and horticultural societies " and by inserting the following paragraph as paragraph (10B) :—

"(10B) To make grants of money, subject to the consent of the Governor, towards the establishment and maintenance of road, air, postal or telegraphic services, within or without the municipality, for the purpose of improving the amenity of the municipality."

Repeal
No. ~~32~~ of 1932. **6.** The Local Government (Municipalities) (Amendment) Ordinance, 1932, is hereby repealed.

ORDINANCE No. XLVI of 1933

Assented to in His Majesty's name this sixth day of September, 1933.

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

[6TH SEPTEMBER, 1933.] Date of assent.

An Ordinance to Amend the Entertainments Tax Ordinance, 1931.

6th September, 1933

Date of commencement.

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

1. This Ordinance may be cited as "the Entertainments Tax (Amendment) Ordinance, 1933," and shall be read as one with the Entertainments Tax Ordinance, 1931, hereinafter referred to as "the Principal Ordinance."

Short title

No. 56 of 1931.

2. Section 3 of the Principal Ordinance is hereby amended by the deletion of the words "is one shilling" which appear in the seventh line thereof and the substitution therefor of the following words "is not less than seventy-five cents and does not exceed one shilling."

Amendment of section 3 of the Principal Ordinance.

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

Repeal and replacement of section 8 of the Principal Ordinance.

"8. (1) Entertainments tax shall not be charged on payments for admission to any entertainment where the Treasurer is satisfied—

Exemption of certain forms of entertainment.

(a) that the whole of the net proceeds are devoted to philanthropic or charitable purposes; or

(b) that the entertainment is of a wholly educational character (any question as to whether an entertainment is of a wholly educational character or not shall be referred to the Director of Education, whose decision on the point shall be final); or

(c) that the entertainment is provided for artistic, literary or scientific purposes by a society, institution or committee not conducted or established for profit; or

- (d) that the entertainment is an agricultural, horticultural or poultry exhibition held under the auspices of a society or association approved by the Director of Agriculture; or
- (e) (i) that the entertainment is provided by or on behalf of a school or other educational institution; and
- (ii) that the school or institution is not conducted or established for profit; and
- (iii) that the entertainment is provided solely for the purpose of promoting some object in connexion with the school or institution.

(2) Where an application for exemption is made under paragraph (a) of sub-section (1) of this section the Treasurer may call for a detailed statement of account and may in arriving at the net proceeds disallow expenditure on any item which in his judgment is inadmissible. and if the person or body of persons promoting the entertainment do not accept such decision of the Treasurer full tax on such entertainment shall be payable immediately."

Entertain-
ments Tax
Commissioners.

4. (1) The Treasurer and the Attorney General are hereby constituted Entertainments Tax Commissioners (hereinafter called "the Commissioners") for the purposes of this section.

(2) The Commissioners may waive the payment of entertainments tax on payment for admission to any entertainment in respect of which the Treasurer is not empowered to grant exemption under section 8 of the Principal Ordinance.

ORDINANCE No. XLVII of 1933

Assented to in His Majesty's name this sixth day of September, 1933.

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

[6TH SEPTEMBER, 1933.] Date of assent.

An Ordinance to Amend the Civil Procedure Ordinance, 1924.

6th September, 1933

Date of commencement.

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

1. This Ordinance may be cited as " the Civil Procedure (Amendment) (No. 2) Ordinance, 1933," and shall be read as one with the Civil Procedure Ordinance, 1924, hereinafter referred to as " the Principal Ordinance ".	Short title. No. 3 of 1924.
2. Section 11 of the Principal Ordinance, as repealed and replaced by the Civil Procedure (Amendment) Ordinance, 1933, is hereby amended by the insertion of the words " or in a case where the plaintiff is a native, not exceeding Sh. 3,000 " after the expression " Sh. 1,500 " which occurs in the twenty-seventh line thereof.	Amendment of section 11 of the Principal Ordinance. No. 13 of 1933.
3. Section 50 of the Principal Ordinance is hereby repealed and the following is substituted therefor:— " 50. (1) Where assets are held by any court and more persons than one have before the receipt of such assets by such court lodged applications in court for the execution of decrees for the payment of money issued against the same judgment debtor and have not obtained satisfaction thereof, the assets, after deducting the costs of realization, shall be distributed amongst such decree holders in accordance with the priorities of the lodging of their several applications: Provided that where any property is sold subject to a mortgage or charge, the mortgagee or encumbrancer shall not be entitled to share in any surplus arising from such sale.	Repeal and replacement of section 50 of the Principal Ordinance. Distribution of assets.

(2) Every application for execution of a decree shall, at the time of lodgment, be endorsed by the court, or by a duly authorized officer of the court, with a note of the day upon which and the hour at which such lodgment has been effected.

(3) Nothing in this section shall affect any right of the Government."

ORDINANCE No. XLVIII of 1933

Assented to in His Majesty's name this sixth day of September, 1933.

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

[6TH SEPTEMBER, 1933.] Date of assent.

An Ordinance to Supply a Further Sum of Money for the Service of the Year ended the Thirty-first day of December, 1932.

6th September, 1933

Date of commencement.

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

1. This Ordinance may be cited as " the 1932 Supplementary Appropriation Ordinance, 1933." Short title.

2. The Public Revenue for the period 1st January to 31st December, 1932, and other funds of the Colony and Protectorate of Kenya are hereby charged towards the service of the period 1st January to 31st December, 1932, with a further sum of eighty-five thousand, three hundred and thirty-two pounds and seventy-one cents, in addition to the sums provided by the 1932 Appropriation Ordinance, 1931. Public Revenue charged. No. 54 of 1931.

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

4. The Treasurer of the Colony and Protectorate of Kenya is hereby given authority for having paid out of the Revenue and other funds of the Colony and Protectorate of Kenya, for the several services specified in the Schedule, the said sum of eighty-five thousand, three hundred and thirty-two pounds and seventy-one cents, which have come in course of payment during the period 1st January to 31st December, 1932. Treasurer's authority for payment.

SCHEDULE.

<i>No. of Head.</i>	<i>£ Sh. cts.</i>
IIa. Administration Extraordinary ...	155 5 18
IIIa. Agricultural Department Extraordinary	21,396 4 78
VI. Conference of East African Governors	127 5 98
XVIa. Military Extraordinary	3,036 8 46
XVIIa. Miscellaneous Services Extraordinary	40,497 3 82
XVIII. Pensions and Gratuities ...	16,835 7 92
XXXIV. Colonial Development Fund ...	3,284 4 57
<i>Total ...</i>	<u>£85,332 0 71</u>

ORDINANCE No. XLIX of 1933

Assented to in His Majesty's name this twenty-first day
of December, 1933.

J. BYRNE,
Governor.

[21ST DECEMBER, 1933.] Date of assent.

An Ordinance to Amend the Sale of Wheat Ordinance, 1930.

21st December, 1933

Date of
commencement.

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

1. This Ordinance may be cited as " the Sale of Wheat (Amendment) Ordinance, 1933," and shall be read as one with the Sale of Wheat Ordinance, 1930, hereinafter referred to as " the Principal Ordinance." Short title.
No. 42 of 1930.

2. The following section is hereby inserted in the Principal Ordinance immediately after section 9 :—

"9A. An agency shall have power to call upon any miller to produce such books, returns, accounts and documents, and to give such information as the agency may think necessary in order to satisfy itself as to the quantity of wheat delivered to or received by the miller and the amount of flour milled by the miller. Any miller who refuses or neglects to produce any such book, return, account or document, or to give such information shall be guilty of an offence against this Ordinance."

Power to
agency to call
for books,
returns, etc.,
from millers.

3. Section 15 of the Principal Ordinance is hereby amended by deleting paragraphs (a) and (c) thereof, and substituting therefor the following :— Amendment of
section 15 of
the Principal
Ordinance.

"(a) the sale of wheat for export from the Colony to a place outside Uganda or Tanganyika Territory;"

"(c) the sale of wheat for consumption by animals, provided that such sale is made with the permission of an agency;"

ORDINANCE No. L of 1933

Assented to in His Majesty's name this twenty-first day
of December, 1933.

J. BYRNE,
Governor.

Date of assent.

[21ST DECEMBER, 1933.]

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

Date of
commencement.

21st December, 1933

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

Short title.

1. This Ordinance may be cited as “ the Trading in Unwrought Precious Metals (Amendment) Ordinance, 1933,” and shall be read as one with the Trading in Unwrought Precious Metals Ordinance, 1933, hereinafter referred to as “the Principal Ordinance”.

No. 2 of 1933.

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

2. Sub-section (1) of section 3 of the Principal Ordinance is hereby amended by inserting the word “or” after the semi-colon at the end of paragraphs (a), (b) and (c) in the fourth, fifth and ninth lines respectively thereof.

Amendment of
section 5 of
the Principal
Ordinance.

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

“ (3) The Commissioner may, without assigning a reason, refuse to issue a licence.

(4) The Commissioner may revoke a licence—

(a) upon the conviction of the holder thereof for an offence under this Ordinance ;

(b) for any other reason with the approval of the Governor in Council :

Provided that on revocation the Commissioner may refund such part of the fee as he thinks just.”

ORDINANCE No. LI of 1933

Assented to in His Majesty's name this twenty-first day of December, 1933.

J. BYRNE,
Governor.

[21ST DECEMBER, 1933.] Date of assent.

An Ordinance to Amend the Arms and Ammunition Ordinance, 1925.

21st December, 1933

Date of
commencement.

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

1. This Ordinance may be cited as "the Arms and Ammunition (Amendment) (No. 2) Ordinance, 1933", and shall be read as one with the Arms and Ammunition Ordinance, 1925, hereinafter referred to as "the Principal Ordinance".

Short title.
No. 2 of 1925.

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

Repeal and
replacement
of section 14
of the
Principal
Ordinance.

"14. The holder of a licence to bear a rifle, shotgun, revolver, pistol or any other specified description of arm may, for a temporary purpose, borrow an arm and ammunition, of any calibre, of the description so specified in his licence from any person duly licensed in respect thereof, and may lawfully bear such arm and ammunition."

Arms lent for
a temporary
purpose.

ORDINANCE No. LII of 1933

Assented to in His Majesty's name this twenty-first day of December, 1933.

J. BYRNE,
Governor.

Date of assent.

[21ST DECEMBER, 1933.]

An Ordinance to Amend the Registration of Titles Ordinance.

Date of commencement.

21st December, 1933

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

Short title.

1. This Ordinance may be cited as "the Registration of Titles (Amendment) Ordinance, 1933," and shall be read as one with the Registration of Titles Ordinance (Chapter 142 of the Revised Edition), hereinafter referred to as "the Principal Ordinance."

Amendment of section 46 of the Principal Ordinance.

2. Section 46 of the Principal Ordinance is hereby amended by the addition at the end thereof of the following :—

"Such charge when registered shall (subject to any provisions to the contrary therein contained) render subject to the security thereof the same property as would have been affected by a legal mortgage had the lands comprised in the charge not been registered under this Ordinance and had the transaction been effected by a legal mortgage instead of by such charge."

Amendment of section 66 of the Principal Ordinance.

3. Section 66 of the Principal Ordinance is hereby amended by the addition of the following sub-section :—

"(3) A charge created by the deposit of documents when registered shall render subject to the security thereof the same property as would have been affected by an equitable mortgage had the lands comprised in the charge not been registered under this Ordinance and had the transaction been effected by an equitable mortgage instead of by such charge."

1933

Registration of Titles

No. LII

4. Form U in the First Schedule to the Principal Ordinance is hereby repealed and the following Form is substituted therefor :—

Replacement
of Form U
in the First
Schedule to the
Principal
Ordinance.

Form U.

MEMORANDUM OF CHARGE BY DEPOSIT OF TITLE.

To the Registrar of Titles,

.....

Document of Title No.....was deposited by me
with.....by way of charge on
the.....day of....., 19.....

Dated this.....day of....., 193.....

(Signature of Chargor).....

Signed in the presence of.....

Received the above quoted Document of Title.

(Signature of Chargee).....

Signed in the presence of.....

5. Form V in the First Schedule to the Principal Ordinance is hereby repealed and the following Form is substituted therefor :—

Replacement
of Form V
in the First
Schedule to the
Principal
Ordinance.

Form V.

MEMORANDUM OF DISCHARGE OF CHARGE BY DEPOSIT OF TITLE.

To the Registrar of Titles,

.....

The Charge by deposit of Document of Title No.....
was discharged on the.....day of.....,
19.....

Dated this.....day of....., 193.....

(Signature of Chargee).....

Signed in the presence of.....

ORDINANCE No. LIII of 1933

Assented to in His Majesty's name this twenty-first day of December, 1933.

J. BYRNE,
Governor.

Date of assent.

[21ST DECEMBER, 1933.]

An Ordinance to Amend the Bills of Exchange Ordinance, 1927.

Date of commencement.

21st December, 1933

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

Short title.

1. This Ordinance may be cited as "the Bills of Exchange (Amendment) Ordinance, 1933" and shall be read as one with the Bills of Exchange Ordinance, 1927, hereinafter called "the Principal Ordinance."

No. 7 of 1927.

Application to bankers' drafts.

2. Sections 76 to 82 of the Principal Ordinance shall apply to a banker's draft as if the draft were a cheque.

For the purposes of this section the expression "banker's draft" means a draft payable on demand drawn by or on behalf of a bank upon itself whether payable at the head office or some other office of the bank.

ORDINANCE No. LIV of 1933

Assented to in His Majesty's name this twenty-first day
of December, 1933.

J. BYRNE,
Governor.

[21ST DECEMBER, 1933.] Date of assent.

An Ordinance to Amend the Drugs and Poisons Ordinance.

21st December, 1933

Date of
commencement.

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

1. This Ordinance may be cited as "the Drugs and Poisons (Amendment) Ordinance, 1933," and shall be read as one with the Drugs and Poisons Ordinance (Chapter 120 of the Revised Edition), hereinafter referred to as "the Principal Ordinance."

Short title.

2. Section 26 of the Principal Ordinance is hereby amended by the addition of the following sub-section :—

Amendment
of section 26
of the
Principal
Ordinance.

(10) Metallic mercury and the cyanides of the alkali metals to be used exclusively in mining operations, if the person selling or keeping open shop is duly licensed under Rules made by the Governor in that behalf.

ORDINANCE No. LV of 1933

Assented to in His Majesty's name this twenty-first day of December, 1933.

J. BYRNE,
Governor.

Date of assent.

[21ST DECEMBER, 1933.]

An Ordinance to Amend the Bankruptcy Ordinance, 1930.

Date of commencement.

21st December, 1933

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

Short title.

1. This Ordinance may be cited as “the Bankruptcy (Amendment) Ordinance, 1933”, and shall be read as one with the Bankruptcy Ordinance, 1930, hereinafter referred to as “the Principal Ordinance”.

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

2. Sub-section (1) of section 18 of the Principal Ordinance is hereby amended by the addition after the words “signed by him” of the words “or by an agent specifically authorised by him for the purpose”.

Amendment of section 22 (10) of the Principal Ordinance.

3. Sub-section (10) of section 22 of the Principal Ordinance is hereby amended and shall be read as if a comma were substituted for a full stop at the end thereof, and as if the following words were added thereto :—

“or by the Official Receiver, save in the case where he himself is acting as trustee.”

Repeal and replacement of section 162 of the Principal Ordinance.

4. Section 162 of the Principal Ordinance is hereby repealed and the following is substituted therefor :—

Bankruptcy Rules, 1927, applied.

“162. The Bankruptcy Rules, 1927, made under the Ordinance repealed by this Ordinance, and the scale of fees prescribed under section 119 of such repealed Ordinance shall remain in force in the Colony and shall be deemed to be Rules made and fees prescribed under this Ordinance: Provided that such Rules and scale of fees may be altered or revoked either wholly, partially or in any particular by Rules made by the Rules Committee or by the Chief Justice as the case may be,

1933

Bankruptcy

No. LV

and it shall be lawful for the Court to construe the said Rules with such verbal alterations not affecting the substance as may be deemed necessary to render the same applicable to local circumstances and to any matters before the Court, provided always that any such construction or alteration shall not be inconsistent with the provisions of this Ordinance."

ORDINANCE No. LVI of 1933

Assented to in His Majesty's name this thirtieth day of December, 1933.

J. BYRNE,
Governor.

Date of assent.

[30TH DECEMBER, 1933.]

An Ordinance to Amend the Legislative Council Ordinance.

Date of
commencement

30th December, 1933

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

Short title.

1. This Ordinance may be cited as "the Legislative Council (Amendment) Ordinance, 1933", and shall be read as one with the Legislative Council Ordinance (Chapter 24 of the Revised Edition), hereinafter referred to as "the Principal Ordinance."

Cap. 24.

Repeal and
replacement of
section 14 of
the Principal
Ordinance.

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

Dissolution
and general
election.

"14. Subject always to the power of the Governor to dissolve the Legislative Council at any time by Proclamation, the Council shall be dissolved on the completion of a period of three years from the date of each general election and a general election shall be held on the first convenient date after the dissolution of the Council. For the purposes of this Ordinance the date of a general election shall be the date of the nomination day referred to in section 15."

Repeal and
replacement of
section 15 of
the Principal
Ordinance.
Nomination
day.

3. Section 15 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

"15. As soon as may be after the dissolution of each Legislative Council the Governor shall by notification in the Gazette appoint a convenient date, to be known as nomination day, which shall be not less than twenty-one days after the publication of such notification. In such notification the Governor shall further appoint a place in each of the electoral areas referred to in section 3 for the nomination of candidates for that electoral area."

4. The following section shall be inserted as section 15A between sections 15 and 16 of the Principal Ordinance :—

“15A. A member elected at a general election shall hold his seat, subject to the provisions of this Ordinance, for a period of three years thereafter, or until the dissolution of the Council to which he is elected, whichever is the sooner.”

Election to be for three years.

5. Section 16 of the Principal Ordinance is hereby amended by deleting the words “Such elections” in the first line thereof and by substituting therefor the word “Elections”.

Amendment of section 16 of the Principal Ordinance

6. Section 17 of the Principal Ordinance is hereby amended by the deletion of the words “a date for the election of a member” in the first and second lines thereof and the substitution therefor of the words “a nomination day.”

Amendment of section 17 of the Principal Ordinance

7. Section 19 of the Principal Ordinance is hereby amended by deleting the last six lines thereof and by substituting therefor the following :—

Amendment of section 19 of the Principal Ordinance

“Provided that if any elected member shall have been absent from the Colony for a period of twelve consecutive months the Governor shall declare the seat to be vacant.”

8. The following section shall be inserted as section 19A between sections 19 and 20 in the Principal Ordinance :—

“19A. Whenever, from any cause, other than the dissolution of Council, a seat in any electoral area shall become vacant the Governor shall in manner provided by section 15 appoint a day and place for the nomination of candidates for such electoral area and, subject to the provisions of section 17, shall direct that a member be elected to fill the vacancy in accordance with the provisions of this Ordinance and of any Rules made hereunder. Any member so elected or who has been nominated in accordance with the provisions of section 17, shall hold his seat, subject to the provisions of this Ordinance, until the dissolution of the Council to which he is so elected or nominated.”

By-elections.

Repeal and
replacement of
Part A of
Schedule I
to the
Principal
Ordinance.

9. Part A of Schedule I to the Principal Ordinance is hereby repealed and the following substituted therefor:—

SCHEDULE I.

PART A.

ELECTORAL AREAS.

1. Nairobi North.
2. Nairobi South.
3. Mombasa.
4. Coast.
5. Nyanza.
6. Rift Valley.
7. Trans Nzoia.
8. Uasin Gishu.
9. Aberdare.
10. Ukamba.
11. Kiambu.

DESCRIPTION OF THE BOUNDARIES OF THE ELECTORAL AREAS.

1. *Nairobi, North.*

Commencing at the junction of the Getathuru and Nairobi Rivers;

thence bounded by the Nairobi River down-stream to its junction with the Ngong River;

thence by that river up-stream to its junction with the Kenya and Uganda Railway;

thence by the Kenya and Uganda Railway (up-line) to its intersection with the eastern boundary of Kiambu Native Reserve at Kabete Station;

thence generally northerly by that Native Reserve boundary to the Getathuru River;

thence by that river down-stream to the point of commencement.

2. *Nairobi, South.*

Commencing at the junction of the Kenya and Uganda Railway with the Ngong River;

thence by that river up-stream to its junction with the Mtioni River;

thence by that river up-stream to a bridge on the Nairobi-Ngong Road;

thence by a line northerly to a beacon at the south-western corner of L.R. No. 189 A.R. (Government Farm extension), which beacon is on the Kiambu Native Reserve boundary;

thence generally northerly by that Native Reserve boundary to its intersection with the Kenya and Uganda Railway at Kabete Station;

thence by that railway (down-line) to the point of commencement.

3. Mombasa.

This area comprises the whole of the Island of Mombasa.

4. Coast.

Commencing at the intersection of the Engare Len or Rombo River with the Kenya-Tanganyika boundary;

thence bounded easterly by the northern boundary of Teita Administrative District, as defined by Proclamation No. 54 dated 25th day of February, 1924, to its most eastern corner;

thence north-easterly and north-westerly by the south-eastern and north-eastern boundaries of Kitui Administrative District, as defined in the aforementioned Proclamation, to its most northern corner;

thence by a line north-easterly to a point near the southern end of the Lorian Swamp where the Lak Dera intersects the line of latitude 1° north;

thence easterly by that line of latitude, to its intersection with the western boundary of Italian Somaliland;

thence southerly by a part of the western and south-easterly by the south-western boundary of Italian Somaliland to the shores of the Indian Ocean;

thence generally south-westerly by the shores of the Indian Ocean to its intersection with the Kenya-Tanganyika boundary;

thence north-westerly and generally northerly by the Kenya-Tanganyika boundary to the point of commencement.

All the islands within the Protectorate with the exception of the Island of Mombasa, form part of the Coast Electoral Area.

5. *Nyanza.*

Commencing at the mouth of the Sio River;

thence bounded north-easterly by the Uganda Protectorate boundary to the highest point of Mount Elgon;

thence by a straight line north-easterly to the source of the Swam (or Suam) River;

thence by that river down-stream to the point where it emerges from the crater;

thence south-easterly by the south-western boundary of the Trans Nzoia Administrative District, as defined by Proclamation No. 54 dated 25th day of February, 1924, to where the Kabisi and Nzoia Rivers join at the most southerly point of L.R. No. 5336;

thence south-easterly, south-westerly and easterly by part of the generally western boundary of the Uasin Gishu District, as defined by the aforementioned Proclamation, to the trigonometrical beacon Osorongai;

thence by a line bearing $85^{\circ} 11'$ for about 17,941 feet to a beacon;

thence bearing approximately $187^{\circ} 21'$ for about 5,944 feet to a beacon;

thence bearing approximately $112^{\circ} 36'$ for about 2,244 feet to a beacon;

thence bearing approximately $187^{\circ} 11'$ for about 3,800 feet to a beacon on the south-eastern of the two summits of the hill "Kaikomor";

thence bearing approximately $176^{\circ} 11'$ for about 5,054 feet to a beacon;

thence bearing approximately $161^{\circ} 34'$ for about 6,168 feet to a beacon;

thence by a beaconsed line bearing $180^{\circ} 28'$ for about 18,107 feet to the trigonometrical beacon "Kakaroua";

thence by a straight line, south-easterly to the western corner of L.R. No. 3167;

thence generally northerly by the shores of that lake to the point of commencement.

The whole of the islands in Victoria Nyanza within the Territorial Waters form part of Nyanza Electoral Area.

6. *Rift Valley.*

Commencing at the intersection of the Amala River with the Kenya-Tanganyika boundary;

thence bounded by that river up-stream to the most southern corner of Kericho Administrative District as defined by Proclamation No. 54 dated the 25th day of February, 1924;

thence generally north-easterly, north-westerly and again north-easterly by the generally eastern boundary of that district to its intersection with the south-western boundary of L.R. No. 1644;

thence north-westerly by that boundary to the north-western corner of that portion;

thence generally westerly, north-westerly and north-easterly by the southern and generally western boundaries of L.R. No. 1643 to its north-western corner;

thence westerly, north-westerly and north-easterly by the southern, south-western and north-western boundaries of L.R. No. 1642 to its most northern corner;

thence northerly by part of the western boundary of L.R. No. 5692 and the whole of the western boundaries of L.R. Nos. 561 and 3683 to the north-western corner of L.R. No. 3683;

thence south-westerly and northerly by the southern and western boundaries of L.R. No. 7148 to its most northern corner;

thence north-westerly and north-easterly by a part of the south-western and the whole of the north-western boundary of L.R. No. 570/1 to its most northern corner;

thence in a generally northerly direction by the generally eastern boundary of the Kisumu-Londiani Administrative District, as defined by the aforementioned Proclamation, to the most westerly corner of L.R. No. 1860;

thence by the south-western boundary of that portion to its southern corner;

thence generally north-easterly and south-easterly by the generally western boundary of the Uasin-Gishu Administrative District, as defined in the aforementioned Proclamation, to the most western corner of L.R. No. 1860;

thence generally southerly by the generally eastern boundary of the Kisumu-Londiani Administrative District, as defined in the aforementioned Proclamation, to the most northern corner of L.R. No. 570/1;

thence south-westerly and south-easterly by the north western and part of the south-western boundaries of that portion to the northern corner of L.R. No. 7148;

thence southerly and easterly by the western and southern boundaries of that portion to the western corner of L.R. No. 3683;

thence southerly by the western boundaries of L.R. Nos. 3683, 561 and part of the western boundary of 5692 to the northern corner of L.R. No. 1642;

thence south-westerly, south-easterly and easterly by the north-western and south-western boundaries of that portion to its most southern corner;

thence south-westerly, south-easterly, easterly and again south-easterly by the generally western, southern and south-western boundaries of L.R. No. 1643 to the western corner of L.R. No. 1644;

thence south-easterly by part of the western boundary of that portion to its intersection with the eastern boundary of Kericho Administrative District as defined in the aforementioned Proclamation;

thence south-westerly, south-easterly and again south-westerly by the generally eastern and south-eastern boundaries of that district to its most southern corner on the Amala River;

thence by that river down-stream to its intersection with the Tanganyika boundary;

thence by that boundary north-westerly to the shores of Victoria Nyanza;

thence north-easterly by the north-western boundary of that portion to the south-western corner of L.R. No. 3841;

thence generally easterly northerly, south-easterly and again northerly by the generally south-eastern boundary of that portion to the south-eastern corner of L.R. No. 1866;

thence north-easterly and northerly by the generally eastern boundaries of L.R. No. 1866 and L.R. No. 6259 to the north-eastern corner of the latter portion;

thence easterly by the northern boundary of L.R. No. 503 to the intersection of that boundary with the western boundary of Baringo Administrative District, as defined in the aforementioned Proclamation, thence northerly by the western boundary of that district to its most northerly point at Kolosia;

thence south-easterly, southerly, south-westerly and again south-easterly by the north-eastern and generally eastern boundary of that district to the most northerly corner of L.R. No. 2689/R;

thence generally south-easterly by the north-eastern boundary of Nakuru Administrative District, as defined by the aforementioned Proclamation, to the south-eastern corner of L.R. No. 2648/R;

thence easterly and generally southerly by part of the northern and the whole of the eastern boundary of the Naivasha Administrative District, as defined in the aforementioned Proclamation, to the south-eastern corner of L.R. No. 369;

thence by a line south-westerly to the most northerly point of Lake Magadi;

thence by the western shores of that lake to its most south-westerly point;

thence by a line south-westerly to the point of intersection of the Southern Uaso Nyiro River with the Kenya-Tanganyika boundary;

thence north-westerly by that boundary to the point of commencement;

Provided that the township of Kijabe shall be included within this electoral area (No. 6, Rift Valley).

7. *Trans Nzoia.*

Commencing at the point where the Swam (Suam) River emerges from the Crater of Mount Elgon;

thence bounded by that river down-stream till it becomes the Turkwel;

thence by that river down-stream to where it enters Lake Rudolf;

thence southerly by the eastern boundary of Turkana Administrative District, as defined by Proclamation No. 54 dated the 25th day of February, 1924, to the falls on the Amaya River (about longitude $36^{\circ} 24'$ east and latitude $0^{\circ} 55'$ north);

thence north-westerly by a part of the south-western boundary of Turkana Administrative District, as defined by the aforementioned Proclamation, to Kolosia;

thence generally south-westerly by the eastern and south-eastern boundaries of the West Suk Administrative District, as defined by the aforementioned Proclamation, to the northern corner of L.R. No. 7146;

thence generally south-easterly, south-westerly and north-westerly by the north-eastern, south-eastern and south-western boundaries of the Trans Nzoia Administrative District, as defined by the aforementioned Proclamation, to the point of commencement.

8. *Uasin Gishu.*

Commencing at the trigonometrical beacon Olessos on the Uasin Gishu Administrative District boundary as defined by Proclamation No. 54 dated 25th day of February, 1924;

thence bounded in a north-westerly, south-westerly and westerly direction by that Administrative District boundary to the southern corner of L.R. No. 3167;

thence by the south-western boundary of that portion to its western corner;

thence by a straight line north-westerly to the trigonometrical beacon Kakaroua;

thence by a beaconsed line bearing approximately $0^{\circ} 28'$ for about 18,107 feet to a beacon;

thence bearing approximately $341^{\circ} 34'$ for about 6,168 feet to a beacon at the end of a spur;

thence bearing approximately $356^{\circ} 11'$ for about 5,034 feet to a beacon on the south-eastern of the two summits of the hill Kaikomor;

thence bearing approximately $7^{\circ} 11'$ for about 3,800 feet to a beacon;

thence bearing approximately $292^{\circ} 36'$ for about 2,244 feet to a beacon;

thence bearing approximately $7^{\circ} 21'$ for about 5,944 feet to a beacon on the southern boundary of L.R. No. 5598;

thence westerly by parts of that southern boundary and that of L.R. No. 4126 to the trigonometrical beacon Osorongai on the Uasin Gishu Administrative District boundary;

thence by that district boundary westerly, northerly and north-easterly to the northern corner of L.R. No. 2211;

thence generally north-westerly, north-easterly and southerly by part of the south-western and the whole of the northern and eastern boundaries of Marakwet Administrative District, as defined in the aforementioned Proclamation, to the north-eastern corner of the Elgeyo District;

thence southerly and westerly by the eastern and southern boundaries of the Elgeyo Administrative District, as defined in the aforementioned Proclamation, to the north-western corner of L.R. No. 503, Leribus Forest Concession (the Districts of Marakwet and Elgeyo have now been amalgamated under the name of Elgeyo District, *vide* Proclamation No. 8 dated 8th day of February, 1932);

thence southerly by the eastern boundaries of L.R. Nos. 6259 and 1866 to the south-eastern corner of the latter portion;

thence southerly, north-westerly, and again southerly, and westerly by the generally south-eastern boundary of L.R. No. 3841 to its intersection with the Uasin Gishu Administrative District boundary;

thence by that district boundary westerly and northerly to the point of commencement.

9. *Aberdare.*

Commencing at the summit of Niandarawa (Mount Kinangop);

thence bounded northerly by the western boundary of the South Nyeri Administrative District, as defined by Proclamation No. 54 dated 25th day of February, 1924, to the summit of Sattimma (13,003 feet);

thence still generally northerly by the western boundary of Laikipia Administrative District, as defined in the aforementioned Proclamation, to the summit of Ol Doinyo Lengere;

thence south-easterly and northerly by part of the south-western and the whole of the eastern boundary of Turkana Administrative District, as defined in the aforementioned Proclamation, to the mouth of the Turkwel River;

thence by a straight line northerly through the summit of North Island to its intersection with the southern boundary of Abyssinia;

thence generally easterly by that southern boundary to its intersection with the north-western boundary of Italian Somaliland;

thence south-westerly by part of the north-western boundary and southerly by part of the western boundary of Italian Somaliland to the intersection of the latter boundary with the line of latitude 1° north;

thence by that line of latitude westerly to its intersection with the Lak Dera near the southern end of the Lorian Swamp;

thence by a line south-westerly to the eastern corner of Meru Administrative District;

thence generally south-westerly by the south-eastern boundaries of Meru and Embu Administrative Districts and westerly by the southern boundary of South Nyeri Administrative District, as defined by the aforementioned Proclamation, to the point of commencement.

10. *Ukamba.*

Commencing at the junction of Southern Uaso Nyiro River with the Tanganyika boundary;

thence bounded by a line north-easterly to the most south-westerly point on Lake Magadi;

thence by the western shores of that lake to its most northerly point;

thence by a line north-easterly to the south-eastern corner of L.R. No. 369;

thence generally easterly by the southern boundaries of Kiambu and Nairobi Administrative Districts, as defined by Proclamation No. 54 dated the 25th day of February, 1924,

to the intersection of the latter with the western boundary of the Machakos Administrative District as defined by the aforementioned Proclamation;

thence generally north-easterly by the north-western boundary of Machakos District to the junction of the Athi and Ndarugu Rivers;

thence by the latter river up-stream to the south-western corner of original L.R. No. 290;

thence north-easterly and south-easterly by the north-western and part of the north-eastern boundary of that portion to the south-western corner of original L.R. No. 295;

thence north-easterly, north-westerly and again north-easterly by the generally western boundary of that portion to its intersection with the Chania River;

thence north-westerly and northerly by the south-western boundary of the Fort Hall Administrative District, as defined by the aforementioned Proclamation, to the summit of Niandarawa (Mount Kinangop);

thence generally easterly by the generally northern boundary of Fort Hall Administrative District to the most eastern corner of L.R. No. 1992;

thence north-easterly by a part of the north-western boundary of Kitui Administrative District, as defined by the aforementioned Proclamation, to its most northern corner;

thence south-easterly and south-westerly by the whole of the north-eastern and south-eastern boundaries of that district to the north-eastern corner of the Teita District as defined by the aforementioned Proclamation;

thence westerly by the northern boundary of that district to its intersection with the Tanganyika boundary;

thence by that boundary north-westerly to the point of commencement.

11. *Kiambu.*

Commencing at the south-eastern corner of L.R. No. 369;

thence bounded generally northerly by a part of the generally eastern boundary of the Naivasha Administrative District as defined by Proclamation No. 54 dated 25th day of February, 1924, to the eastern point of L.R. No. 5287 on the Chania River;

thence by that river (which forms a part of the south-western boundary of the Fort Hall Administrative District) down-stream to the north-western corner of original L.R. No. 295;

thence south-westerly, south-easterly and again south-westerly by the generally north-western boundary of that portion to its intersection with the north-eastern boundary of original L.R. No. 290;

thence north-westerly and south-westerly by a part of the north-eastern and the whole of the north-western boundary of that portion to its western corner on the Ndarugu River;

thence by that river down-stream to its junction with the Athi River;

thence south-westerly by the north-western boundary of Machakos Administrative District to the intersection of the north-western boundary of L.R. No. 337 (Athi Township Reserve) with the Athi River;

thence generally westerly by the generally southern boundaries of Nairobi and Kiambu Administrative Districts to the point of commencement:

Provided that the township of Kijabe be excluded from this electoral area (No. 11, Kiambu):

Provided that Electoral Areas No. 1, Nairobi North, and No. 2, Nairobi South, shall be excluded from this electoral area (No. 11, Kiambu).

ORDINANCE No. LVII of 1933

Assented to in His Majesty's name this thirtieth day of December, 1933.

J. BYRNE,

Governor

[30TH DECEMBER, 1933.] Date of assent.

An Ordinance to Provide for the Registration of Designs.

30th December, 1933

Date of commencement.

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

1. This Ordinance may be cited as " the Registration of Designs Ordinance, 1933." Short title.

2. (1) The Governor may appoint a Registrar of Designs (hereinafter referred to as " the Registrar ") with an office to be called the Registry of Designs (hereinafter referred to as " the registry "); and may appoint assistant registrars as may be required who shall act under the control of the Registrar and who shall have all the powers and duties of the Registrar. Appointment of Registrar.

(2) The Registrar shall have a seal of such device as may be approved by the Secretary of State, provided always that until such seal has been obtained a stamp in such form as the Governor may approve shall be used in lieu thereof. Registrar's seal.

(2) Impressions of such seal or stamp shall be judicially noticed and admitted in evidence.

3. (1) There shall be kept at the registry, a book called the Register of Designs (hereinafter referred to as " the register ") in which entries shall be made of the name and address of each grantee of a certificate of registration under this Ordinance and entries of all corrections, assignments, transmissions or other matters which the Registrar is empowered by law to record. Register.

(2) The register shall be prima facie evidence of all matters directed or authorised by or under the law relating to designs to be entered therein.

(3) The register kept under this section shall at all convenient times be open to the inspection of the public subject to the provisions of any law for the time being in force Inspection of register.

and to such rules as may be prescribed, and certified copies signed and sealed by the Registrar of any entry in such register shall be given to any person requiring the same on payment of the prescribed fee.

Who may
apply for
registration
of design.

4. Any person being the registered proprietor of a design registered in the United Kingdom under the Patents and Designs Acts, 1907 and 1919, or any Act amending or substituted for those Acts or any person deriving his right from such registered proprietor by assignment, transmission or other operation of law, may apply within three years from the date of registration of the design to have such design registered in the Colony.

Method of
applying.

5. An application for registration of a design under this Ordinance shall be made to the Registrar and shall be accompanied by the prescribed fee, two certified representations of the design and a certificate of the Comptroller General of the United Kingdom Patent Office giving full particulars of the registration of the design in the United Kingdom and stating the date at which such design became or will normally become open to public inspection.

Issue of
certificates.

6. Upon such application being lodged, together with the documents mentioned in section 5 of this Ordinance, the Registrar shall issue a certificate of registration in the prescribed form under his hand and seal.

Privileges
and rights
conferred by
registration.

7. Such certificate of registration shall confer on the applicant privileges and rights subject to all conditions established by the law of this Colony as though the certificate of registration in the United Kingdom had been issued with an extension to the Colony.

Duration of
privileges.

8. Privileges and rights so granted shall date from the date of registration in the United Kingdom and shall continue in force only so long as the registration in the United Kingdom remains in force :

Provided that no action for infringement of copyright in the design shall be entertained in respect of any use of the design prior to the date of issue of the certificate of registration in the Colony.

9. (1) Subject to the provisions of this Ordinance, the law relating to designs for the time being in force in the United Kingdom shall in so far as circumstances admit apply to the Colony and the Supreme Court shall have power in accordance with such law to grant either absolutely or on such terms as shall seem just all remedies to which any person may be entitled within the Colony in respect of either claim to or defence of any right, title or interest in relation to any design in force under a certificate granted under this Ordinance.

Law in force
in Colony
and power of
court.

(2) The Supreme Court shall have power upon the application of any person who alleges that his interests have been prejudicially affected by the issue of a certificate of registration, to declare that the exclusive privileges and rights conferred by such certificate of registration have not been acquired on any of the grounds upon which the United Kingdom design might be revoked under the law for the time being in force in the United Kingdom.

Such grounds shall be deemed to include the publication of the design in the Colony prior to the date of registration of the design in the United Kingdom but not to include the publication of the design in the Colony by some person or persons after the date of the registration of the design in the United Kingdom and prior to the date of the issue of the certificate of registration under section 6 of this Ordinance.

10. All applications for orders requiring the Registrar to do or abstain from doing any act or applications made by the Registrar for directions or appeals against decisions or orders of the Registrar shall be made to the Supreme Court.

Proceedings
by or against
the Registrar
to be in the
Supreme
Court.

11. Where a person becomes entitled by assignment, transmission or other operation of law to the privileges and rights conferred by a certificate of registration or to any interest therein, he may make application in the prescribed manner to the Registrar for the entry on the register of such assignment, transmission or other instrument affecting the title or giving an interest therein.

Registration
of assignments,
etc.

The Registrar shall on sufficient evidence thereof and on payment of the prescribed fee enter the same in the proper register in the prescribed manner and shall endorse the same on the certificate of registration.

12. All extensions of the period of copyright in the United Kingdom in a design registered under this Ordinance shall be notified in the prescribed manner to the Registrar, who

Registration
of extensions.

shall on sufficient evidence thereof and on payment of the prescribed fee enter the same in the register and shall endorse the same on the certificate of registration referring to such design or if the applicant so requests, shall issue a certificate in the prescribed form under his hand and seal with respect to such entry. No extensions in the United Kingdom of any design registered under this Ordinance shall have any force within the Colony unless such extension is notified to the Registrar under this section.

Registrar may
amend the
register.

13. (1) The Registrar may, on request made in the prescribed manner by the registered proprietor or by some person entitled by law to act in his name—

- (a) cancel the registration of a design either wholly or in respect of any particular goods in connexion with which the design is registered ;
- (b) correct any clerical error in or in connexion with any application under this Ordinance or in any matter which is entered upon the register ;
- (c) enter in the register any change in the name or address of the person who is registered as proprietor of a design.

(2) Upon the application of the registered proprietor of a design or other person who may show to the satisfaction of the Registrar that he is an interested party and on the payment of the prescribed fee the Registrar shall rectify the register in regard to any matter entered therein on the production of proof that in pursuance of an order of a court of competent jurisdiction a like rectification in regard to the same matter has been made in the register of designs kept by the Comptroller General under the law relating to designs in the United Kingdom.

Certificate
and sealed
copies to be
evidence.

14. (1) A certificate purporting to be under the hand and seal of the Registrar as to any entry, matter or thing which he is authorised by law to make or do, shall, unless the contrary be proved, be evidence of the entry having been made and of the contents thereof and of the matter or thing having been done or left undone.

(2) Printed or written copies of extracts purporting to be certified and sealed by the Registrar or by the Comptroller General of Patents in the United Kingdom of or from designs and documents relating thereto in the registry or office and of

or from registers and other books kept there, shall be admitted in all courts and in all proceedings without further proof or production of the original.

15. (1) During the existence of copyright in a design, or such shorter period not being less than two years from the registration of the design as may be prescribed, the design shall not be open to inspection except by the proprietor or a person authorized in writing by him, or a person authorized by the Registrar or by the court, and furnishing such information as may enable the Registrar to identify the design, and shall not be open to the inspection of any person except in the presence of the Registrar or of an officer acting under him, and on payment of the prescribed fee; and the person making the inspection shall not be entitled to take any copy of the design or of any part thereof.

Inspection of
registered
designs.

(2) After the expiration of the copyright in a design or such shorter period as aforesaid, the design shall be open to inspection and copies thereof may be taken by any person on payment of the prescribed fee.

(3) Different periods may be prescribed under this section for different classes of goods:

Provided that a design shall not be open to inspection except by the proprietor or a person authorised in writing by him or a person authorized by the Registrar or by the court, before the date when such design became open to public inspection in the United Kingdom.

16. On the request of any person furnishing such information as may enable the Registrar to identify the design, and on the payment of the prescribed fee, the Registrar shall inform such person whether the registration still exists in respect of the design, and if so, in respect of what classes of goods, and shall state the date of registration, and the name and address of the registered proprietor.

Information
as to existence
of copyright.

17. (1) During the existence of copyright in any design it shall not be lawful for any person—

Piracy of
registered
design.

- (a) for the purposes of sale to apply or cause to be applied to any article in any class of goods in which the design is registered, the design or any fraudulent or obvious imitation thereof, except with the licence or written consent of the registered proprietor, or to do anything with a view to enable the design to be so applied; or

- (b) knowing that the design or any fraudulent or obvious imitation thereof has been applied to any article without the consent of the registered proprietor, to publish or expose or cause to be published or exposed for sale that article.

(2) If any person acts in contravention of this section, he shall be liable for every contravention to pay to the registered proprietor of the design a sum not exceeding fifty pounds as a simple contract debt, or if the proprietor elects to bring an action for the recovery of damages for such contravention, and for an injunction against the repetition thereof, he shall be liable to pay such damages as may be awarded and to be restrained by injunction accordingly :

Provided that the total sum recoverable as a simple contract debt in respect of any one design shall not exceed one hundred pounds.

Offences.

13. (1) Whoever makes or causes to be made a false entry in the register kept under this Ordinance or a writing falsely purporting to be a copy of an entry in such register, or produces in evidence any such writing, knowing the entry or writing to be false, shall be punishable with imprisonment for a period not exceeding one year or with a fine not exceeding one hundred pounds.

(2) Whoever falsely describes any design applied to any article sold by him as registered, shall be punishable with a fine not exceeding ten pounds.

If any person sells an article having stamped, engraved or impressed thereon or otherwise applied thereto the word "registered", or any other word expressing or implying that the design applied thereto is registered, he shall be deemed for the purposes of this sub-section to represent that the design applied thereto is a registered design :

Provided always that if the person alleged to have committed an offence under this sub-section shall prove to the satisfaction of the court that the said design is in fact registered under the provisions of the law in force in the United Kingdom, such representation or sale shall not constitute an offence under this sub-section.

This sub-section shall not come into operation until the first day of July, 1934.

(3) Whoever, after the copyright in a design has expired, puts or causes to be put on any article to which the design has been applied the word "registered" or any word or words

implying that there is a subsisting copyright in the design shall be punishable with a fine not exceeding twenty-five pounds.

(4) Whoever uses on his place of business or any document issued by him or otherwise, the words "Registry of Designs" or any other words suggesting that his place of business is officially connected with, or is, the registry of designs, shall be liable on conviction to a fine not exceeding twenty pounds.

19. The proper court for the trial of any offence against the law in force in the Colony relating to designs shall be the subordinate court of the first class where the offence or any act forming part thereof was committed or where the accused or any of the accused resides or carries on business. Court for trial of offences.

20. (1) The Governor in Council may from time to time make rules:— Power to make rules.

- (a) prescribing the forms to be used under this Ordinance;
- (b) providing for and regulating the search and inspection of the registers;
- (c) prescribing and regulating the publication of any documents or applications, filed or presented, or of any of the several matters done or required to be done in pursuance of this Ordinance;
- (d) prescribing the fees and fixing the charges to be made for any act, matter or thing to be done or observed under this Ordinance or rules made thereunder;
- (e) otherwise regulating the practice of registration under this Ordinance; and
- (f) generally for the better carrying into effect of the provisions of this Ordinance.

(2) Unless and until they be altered or revoked under this section, the rules contained in the Schedule hereto shall be and remain in force.

21. In so far as it relates to designs, the Patents and Designs Ordinance (Chapter 88 of the Revised Edition) is hereby repealed. Repeal

SCHEDULE.

- Short title.** 1. These Rules may be cited as "the Designs Rules, 1933."
- Forms.** 2. The forms for use under the Ordinance shall be those contained in the First Schedule hereto and such forms shall be used in all cases to which they are applicable and may be modified as directed by the Registrar to meet other cases. In the case of any application the Registrar may at his discretion waive the use of the prescribed form provided he receives from the applicant in writing all such particulars as would have been supplied had the prescribed form been used.
- Fees.** 3. The fees payable in respect of applications, registration and other matters authorised by the Ordinance shall be those contained in the Second Schedule hereto.
- Appointments.** 4. The Registrar General shall be the Registrar of Designs. The office of the Registrar General at Nairobi shall be the Registry of Designs.
- Sets of articles.** 5. "Set" means a number of articles of the same general character ordinarily on sale together or intended to be used together, all bearing the same design with or without modifications not sufficient to alter the character or not substantially affecting the identity thereof.
- Where there is any doubt whether given articles do or do not constitute a set, the doubt shall be determined by the Registrar.
- Classification of goods.** 6. For the purposes of the registration of designs and of these rules, goods are classified in the manner appearing in the Third Schedule hereto.
- If any doubt arises as to the class to which any particular description of goods belongs, it shall be determined by the Registrar.
- Size, etc., of documents.** 7. Subject to any other directions that may be given by the Registrar, all applications, notices, papers having representations affixed and other documents required by the Ordinance or by these rules to be lodged shall be upon strong paper, and, except where otherwise required, on one side only, of a size of approximately 13 inches by 8 inches, and having on the left-hand part thereof a margin of approximately two inches.
- Service of documents.** 8. Any application, statement, notice or other document authorised or required to be left, made or given at the registry or to the Registrar or to any other person under the Ordinance or these rules, may be sent by prepaid or official paid letter through the post, and if so sent shall be deemed to have been left, made or given at the time when the letter containing the same would be delivered in the ordinary course of post. In proving such sending, it shall be sufficient to prove that the letter was properly addressed and put into the post.

A letter addressed to a proprietor of a design at his address as it appears on the register of designs or at his address for service or to any applicant or opponent in any proceedings under the Ordinance or these rules, at the address appearing on the application or notice of opposition or given for service as hereinafter provided shall be deemed to be sufficiently addressed.

9. Every applicant or opponent in any proceedings under the Ordinance or these rules, and every person who shall hereafter become a proprietor of a registered design, shall give an address for service, and such address may be treated, for all purposes connected with the design, as the actual address of such applicant, opponent or proprietor.

Address for service.

10. There shall be furnished in connexion with an application for the registration of a design, two exactly similar representations of the design, in a form satisfactory to the Registrar, or two specimens.

Representation.

11. When the design is to be applied to a set, each of the representations accompanying the application should show all the various arrangements in which it is proposed to apply the design to the articles included in the set.

Representations for set.

12. Each representation of the design, whether to be applied to a single article or to a set of articles, must be upon paper of the prescribed size and not on cardboard, and must appear on one side only of the paper. The figure or figures must be placed in an upright position on the sheet. When more figures than one are shown, these should where possible be on one and the same sheet, and each must be designated (e.g. perspective view, front view, side view).

Nature of representations.

13. When drawings or tracings are furnished, they must be in ink, and if on tracing cloth or tracing paper must be mounted on paper of the prescribed size.

Drawings, etc., must be in ink.

14. When the specimens are not, in the Registrar's opinion, of a kind which can be conveniently pasted into books, representations shall be furnished in place thereof.

Special representations.

15. Where words, letters or numerals are not of the essence of the design, they should be removed from the representations or specimens; where they are of the essence of the design the Registrar may require the insertion of a disclaimer of any right to their exclusive use.

Words, etc., on designs.

16. Each representation of a design which consists of a repeating surface pattern must show the complete pattern and a sufficient portion of the repeat in length and width, and shall not be of less size than 7 inches by 5 inches.

Repeat of pattern.

17. Where representations are supplied, the Registrar may at any time require specimens or additional representations.

Specimens of designs.

Days and
hours of
business.

18. The registry shall be open to the public every weekday except Saturday between the hours of ten and twelve and two and four and on Saturday between the hours of ten and twelve: the registry shall be closed on public holidays.

Inspection
registered
designs.

19. The period under section 15 of the Ordinance during which a design shall not be open to inspection, except as provided in that section, shall be, as regards designs in classes 13, 14 and 15, five years and as regards designs in other classes, two years from the date of the original registration thereof in the United Kingdom.

Searches
under section
16.

20. Where any person desires to obtain the information which he is entitled to obtain under section 16 of the Ordinance, and can furnish the registration number of the design, he shall lodge an application in writing and the Registrar shall thereafter furnish him with the information aforesaid.

Where the applicant is unable to furnish the registration number of the design, he shall give such information as he is in possession of, and the Registrar shall thereupon make a search in the class indicated as may be possible on the information supplied, and shall furnish such information as can be afforded. Where possible, applications for searches should be accompanied by a representation or specimen of the design.

Search
among
registered
designs.

21. The Registrar may, if an application in writing be lodged, cause a search to be made among the registered designs and state whether any design accompanying such application and to be applied to goods in any particular class appears to be identical with, or closely resembles any registered design applied to such goods of which the copyright is still existing. The design shall be furnished with the application.

Power to
dispense with
evidence,
signature, etc.

22. Where, under these rules, any person is required to do any act or thing, or to sign any document, or to make any declaration on behalf of himself or of any body corporate, or any document or evidence is required to be produced to or left with the Registrar or at the registry, and it is shown to the satisfaction of the Registrar that from any reasonable cause such person is unable to do such act or thing, or to sign such document, or to make such declaration, or that such document or evidence cannot be produced or left as aforesaid, it shall be lawful for the Registrar, upon the production of such other evidence, and subject to such terms as he may think fit, to dispense with any such act or thing, document, declaration or evidence.

Amendment
of documents.

23. Any document or drawing or other representation of a design may be amended and any irregularity in procedure, which in the opinion of the Registrar may be obviated without detriment to the interests of any person, may be corrected, if the Registrar think fit, and on such terms as he may direct.

Correction of
register.

24. Any request for corrections under section 13 of the Ordinance shall be made in writing to the Registrar accompanied by the prescribed fee.

25. Before delivery on sale of any article to which a registered design has been applied, the proprietor of such design shall cause each such article to be marked with the word REGISTERED or with the abbreviation REGD. or with the abbreviation RD., as he may choose, and also (except in the case of articles to which have been applied designs registered in classes 9, 13, 14 and 15) with the number appearing either on the certificate of registration issued in the United Kingdom or the Colony; but the requirements as to the marking of articles to which registered designs are applied are dispensed with as regards printed cotton piece goods except handkerchiefs.

Marking of
articles.

26. A duplicate of any certificate issued under the Ordinance which has been lost or destroyed shall be supplied by the Registrar on the payment of the fee set out in the Second Schedule hereto and upon the production of an affidavit or statutory declaration that the original has been lost or destroyed and setting out the circumstances as far as they are known to the applicant under which the same became lost or destroyed.

Lost
certificates.

27. Where a person becomes entitled by assignment, transmission or other operation of law to a design, or to any interest therein, as mortgagee or licensee, application for the entry in the register of his name as proprietor or part proprietor of the design, or of a notice of such interest, as the case may be, shall be made on Form B or Form C, as the case may be, and shall in the case of individuals be made and signed by the person requiring to be registered as proprietor or part proprietor, or by his agent, and in the case of a body corporate by its agent. Every such application shall be accompanied by the certificate of registration granted under the Ordinance.

Application
for entry of
subsequent
proprietorship.

28. Every assignment and every other document containing, giving effect to or being evidence of, the transmission of a design or affecting the proprietorship thereof as claimed by such application, except such documents as are matters of record in the United Kingdom or the Colony, shall, unless the Registrar in his discretion otherwise directs, be produced to him together with the application and he may call for such other proof of title or written consent as he may require for his satisfaction.

Production of
documents of
titles and
other proof.

As to a document which is a matter of record in the United Kingdom or the Colony, an official or certified copy thereof shall in like manner be produced to the Registrar.

29. The application shall be accompanied by an attested copy of the assignment or other document or copy above required to be produced.

Copies for
office.

30. Notifications of extensions shall be made in writing and accompanied by a certificate from the Comptroller General of the United Kingdom Patent Office that such extension has been effected in the United Kingdom. The notification may also be accompanied by the original certificate of registration in which case the Registrar shall endorse the certificate in the Form I

Extensions.

set out in the First Schedule hereto but if the notification is not accompanied or if the person making the notification so requests, a separate certificate shall be issued in the Form H set out in the First Schedule hereto.

Publication
in Gazette.

S.N. 505/34.

31. In the case of original registration of a design and upon the recording in the register of any extension of any design the Registrar shall cause a notice of such entry to be published in the Gazette ~~at the expense of the applicant~~. In all other cases notices may be published in the Gazette relating to any other matter recorded in the register if the person on whose application the entry is made, so requests. Notices in the Gazette shall be in the Form K in the First Schedule hereto.

Non-
completion of
registration.

32. When the registration of design is not completed within twelve months from the date of first application by reason of default on the part of the applicant, the Registrar may after giving due notice in writing to the applicant, treat the application as abandoned, unless it is completed within the time prescribed in such notice.

Applications
by firms,
corporations
and agents.

33. Any application under the Ordinance made by a firm or partnership may be signed in the name or for and on behalf of the firm or partnership by any one or more members thereof.

If the application be made by a body corporate it may be signed by a director or by the secretary or other principal officer of such body corporate.

Any application under the Ordinance, and all other communications between an applicant and the Registrar, may be made by or through an agent duly authorised to the satisfaction of the Registrar and a copy of such authority shall be filed with every application made under the Ordinance or the rules made thereunder.

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Registration of Designs

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FIRST SCHEDULE.

THE REGISTRATION OF DESIGNS ORDINANCE, 1933.

FORM A.

APPLICATION FOR REGISTRATION OF DESIGN.

(a) I (or we)..... do hereby declare that I (or we) have obtained protection of my (or our) design (b)..... in the United Kingdom and on the following official date, viz: (c)..... that the said design was not in use within this Colony by any other person or persons before the (d)..... to the best of my (or our) knowledge and belief, and I (or we) pray that the said Design granted in England may be registered, and that the certificate of registration shall have the date (e)..... (f) The following documents (f) in support of this application are attached hereto. 	(a) Here insert (in full) name, address and nationality of applicant or applicants. (b) Here insert title of design. (c) Here insert the official date of the application. (d) Here insert the official date of the earliest British application. (e) Here insert the official date of the earliest British application. (f) Give list of and state number of copies of each.
(g)..... 	(g) Signature of applicant or of each of the applicants
(h)..... 	(h) Address for service.

THE REGISTRATION OF DESIGNS ORDINANCE, 1933.

FORM B.

APPLICATION FOR REGISTRATION OF NAME OF PROPRIETOR OR
PART PROPRIETOR.

- (a) Here insert (in full) name, address and nationality. (a) I (or we).....
hereby apply that you will enter my (or our) name (or names) in
the Register of Designs as proprietor (or part proprietor) of Designs
- (b) Here give name and address of person to whom design was granted. No.....of 19....., granted to (b).....
- (c) Here state nature of the design. the nature of which is (c).....
- (d) Here specify the particulars of such document, giving its date, and the parties to the same, and showing how the claim here made is substantiated. I (or we) claim to be so entitled by virtue of (d).....
- And in proof whereof I (or we) transmit the accompanying
- (e) Here state nature of the document. (e).....
with an attested copy thereof.
- My (or our) address for service is:—

- (f) Address. (f).....
- (g) Signature. (g).....
- (h) Here state in what capacity the signatory acting. (h).....

THE REGISTRATION OF DESIGNS ORDINANCE, 1933.

FORM C.

APPLICATION FOR REGISTRATION OF NOTICE OF A MORTGAGE
OR LICENCE.

- (a) Here insert (in full) name, address and nationality. (a) I (or we).....

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hereby apply that you will enter in the Register of Designs a notice of the following interest in a Design:—

I (or we) claim to be entitled (b)..... (b) Here insert the nature of claim, whether by way of mortgage or licence.

..... to an interest in Designs No..... of 19....., granted to

(c)..... (c) Here give name and address of person to whom design was granted.

of.....

..... the nature of which is (d)..... (d) Here state nature of the design.

by virtue of (e)..... (e) Here specify the particulars of such document, giving its date and the parties to the same, and showing how the claim here made is substantiated.

.....

And in proof whereof I (or we) transmit the accompanying (f)..... (f) Here insert the nature of the documents.

(f)..... with an attested copy thereof.

My (or our) address for service is:—

(g)..... (g) Here state address.

.....

(h)..... (h) Signature.

.....

(i)..... (i) Here state in what capacity the signatory is acting.

.....

THE REGISTRATION OF DESIGNS ORDINANCE, 1933.

FORM D.

APPLICATION FOR ENTRY OF ORDER OF COURT IN REGISTER.

(a) I (or we)..... (a) Here state (in full) name and address of applicant or applicants.

..... hereby transmit an office copy of an Order of the Court with reference to (b)..... (b) Here state the purport of Order.

.....

(c)..... (c) Signature.

THE REGISTRATION OF DESIGNS ORDINANCE, 1933.

FORM E.

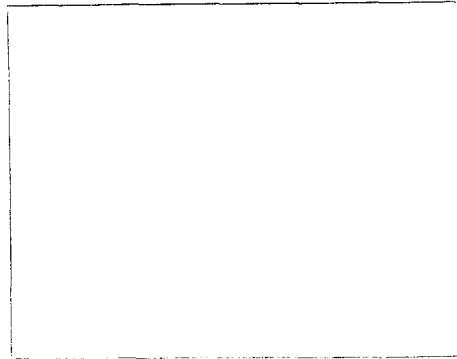
FORM OF ORIGINAL ENTRY IN REGISTER OF DESIGNS.

Number of Application.....
 Date of Application.....
 Name of Applicant.....
 Address of Applicant.....
 Number and Date of Registration in the United Kingdom.....

 Date of Registration in Kenya.....
 Documents, etc., filed in Registry.....

 Period of Registration.....

Representation:



THE REGISTRATION OF DESIGNS ORDINANCE, 1933.

FORM F.

FORM OF SUBSEQUENT ENTRY IN REGISTER OF DESIGNS.

Number of Original Certificate of Registration.....
 Date of Application.....
 Name of Applicant.....
 Address of Applicant.....
 Nature of Application.....
 Documents filed in Registry.....
 Date of Entry in Register.....
 Period of Renewal (if any).....
 Other Entry.....

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Registration of Designs

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THE REGISTRATION OF DESIGNS ORDINANCE, 1933.

FORM G.

CERTIFICATE OF ENTRY IN THE REGISTER OF DESIGNS.

Certificate of Registration of Design No. of 19.....

Proper documentary evidence as prescribed by section 5 of the Registration of Designs Ordinance, 1933, having been produced by.....

of the registration in the United Kingdom of Design No. as of the.... day of 19..... in respect of.....

a representation of which is shown in the Schedule attached hereto, and full particulars of which are annexed.

It is hereby certified that the Design hereinbefore mentioned has been duly registered this..... day of 19..... in the name of the aforesaid proprietor(s) as Design No. of 19..... in the Kenya Register of Designs.

This certificate is issued in pursuance of section 6 of the Registration of Designs Ordinance, 1933, and shall remain in force for..... years from the..... day of 19.....

Schedule.

Representation of Design.



Signed at Nairobi this..... day of 19.....

.....
Registrar of Designs.

THE REGISTRATION OF DESIGNS ORDINANCE, 1933.

FORM H.

CERTIFICATE OF EXTENSION.

I hereby certify that Design No. of 19..... in the Register of Designs of the Colony and Protectorate of Kenya has been extended for a period of..... years from the..... day of..... 19..... and that an entry to this effect was duly made in the said register on the..... day of..... 19.....

Signed at Nairobi this..... day of..... 19.....

.....
Registrar of Designs.

THE REGISTRATION OF DESIGNS ORDINANCE, 1933.

FORM I.

FORM OF ENDORSEMENT OF EXTENSION ON CERTIFICATE OF REGISTRATION.

This certificate was extended for a period of..... years from the..... day of..... 19....., and an entry to this effect has been made in the register on the..... day of..... 19.....

.....
Registrar of Designs.

THE REGISTRATION OF DESIGNS ORDINANCE, 1933.

FORM J.

FORMS OF ENDORSEMENT ON CERTIFICATE OF ASSIGNMENT, TRANSMISSION, MORTGAGE OR LICENCE.

(i)

Certified that A.B., ... has been registered as the sole proprietor of this design with effect from the..... day of..... 19.....

.....
Registrar of Designs.

or (ii)

Certified that A.B., ... has been registered as having an interest to the under-mentioned extent in this design with effect from the..... day of..... 19.....

Nature and extent of interest.....

.....
Registrar of Designs.

or (iii)

Certified that A.B., ... has been registered as being a licensee under this design with effect from the..... day of..... 19..... in the undermentioned manner.

Nature and particulars of licence.....

.....
Registrar of Designs.

1933

Registration of Designs

No. LVII

THE REGISTRATION OF DESIGNS ORDINANCE, 1933.

FORM K.

FORM OF NOTICES IN OFFICIAL GAZETTE.

(i) *Original Entry.*

It is hereby notified for general information that a design particulars of which appear in the Schedule hereto was registered as No..... of 19..... in the Kenya Register of Designs on the..... day of..... 19.....

Schedule.

No. of application:—
 Date of application:—
 Name of applicant:—
 Registered address:—
 Particulars of registration in the United Kingdom:—
 Nature of design:—
 Documents, etc., filed in registry:—

.....
Registrar of Designs.(ii) *Subsequent Entry.*

It is hereby notified for general information that the following subsequent entry relating to Design No..... of 19..... in the Kenya Register of Designs was made by me on the..... day of..... 19.....

Date of application:—
 Name of applicant:—
 Address of applicant:—
 Nature of application and entry made:—
 Documents filed in registry:—
 Period of extension (if any):—

.....
Registrar of Designs.

SECOND SCHEDULE

	Sh.	cts.
1. On application for registration of a Design	2	50
2. For every certificate under the Seal of the Registrar or duplicate thereof	2	50
3. For registration of every assignment, transmission, licence amendment or extension of any design including endorsement on the certificate of registration	5	00
4. For publication of any matter in the Gazette	8	00
5. For each search or inspection of register	5	00
6. For filing authorisation of agent	2	00
7. For a certified copy of any record, for every folio of 100 words (minimum charge Sh. 1)	0	50
8. For each correction or rectification of the register under section 13	5	00

Gout. M. M. M.
548/34 p. 469

THIRD SCHEDULE.

CLASSIFICATION OF GOODS.

- Class 1.*—Articles composed wholly of metal or in which metal predominates, and jewellery.
- Class 2.*—Books and bookbinding of all materials.
- Class 3.*—Articles composed wholly of wood, bone, ivory, papier maché or other solid substances not included in other classes or of materials in which such substances predominate.
- Class 4.*—Articles composed wholly of glass, earthenware or porcelain, clay (burnt or baked) or cement or in which such materials predominate.
- Class 5.*—Articles composed wholly of paper, card-board, mill-board or straw-board (except articles included in Class 2, and paper-hangings) or in which such materials predominate.
- Class 6.*—Articles composed wholly of leather or in which leather predominates, not included in other classes.
- Class 7.*—Paper-hangings.
- Class 8.*—Carpets, rugs and floor coverings in all materials.
- Class 9.*—Lace.
- Class 10.*—Boots and shoes.
- Class 11.*—Millinery and wearing apparel (except boots and shoes).
- Class 12.*—Goods not included in other classes.
- Class 13.*—Printed or woven designs on textile piece goods (other than checks or stripes).
- Class 14.*—Printed or woven designs on handkerchiefs and shawls (other than checks or stripes).
- Class 15.*—Printed or woven designs on textile piece goods or on handkerchiefs or shawls being checks or stripes.

ORDINANCE No. LVIII of 1933

Assented to in His Majesty's name this twenty-ninth day
of December, 1933.

J. BYRNE,
Governor.

[29TH DECEMBER, 1933.] Date of assent.

**An Ordinance to Provide for the Registration of
Letters Patent.**

29th December, 1933

Date of
commencement.

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

1. This Ordinance may be cited as " the Registration of Patents Ordinance, 1933." Short title.

2. (1) The Governor may appoint a Registrar of Patents (hereinafter referred to as " the Registrar") with an office to be called the Registry of Patents (hereinafter referred to as " the Registry "); and may appoint assistant registrars as may be required, who shall act under the control of the Registrar and who shall have all the powers and duties of the Registrar. Appointment
of registrar.

(2) The Registrar shall have a seal of such device as may be approved by the Secretary of State provided always that until such seal has been obtained a stamp in such form as the Governor may approve shall be used in lieu thereof. Registrar's
seal.

(3) Impressions of such seal or stamp shall be judicially noticed and admitted in evidence.

3. (1) There shall be kept at the registry a book called the Register of Patents (hereinafter referred to as " the register "), in which entries shall be made of the names and addresses of grantees of certificates of registration under this Ordinance, such particulars regarding the subject-matter of the patent as the Registrar deems necessary to identify it and entries of all corrections, amendments, assignments, transmissions or other matters which the Registrar is empowered or required by law to record. Register.

(2) The register shall be prima facie evidence of all matters directed or authorised by or under the law relating to patents to be entered therein.

Who may
apply for
registration.

4. Any person being the grantee of a patent (which expression shall include a patent of addition) in the United Kingdom or any person deriving his right from such grantee by assignment, transmission or other operation of law may apply within three years from the date of the grant of the patent to have such patent registered in the Colony.

Method of
applying.

5. An application for registration of a patent under this Ordinance shall be made to the Registrar in the prescribed manner and shall be accompanied by the prescribed fee, two certified copies of the specification or specifications (including drawings, if any) of the United Kingdom patent and a certificate of the Comptroller General of the United Kingdom Patent Office giving full particulars of the grant of the patent on such specification or specifications.

Issue of
certificate

6. Upon such application and fee being lodged together with the documents mentioned in section 5 of this Ordinance, the Registrar shall issue a certificate of registration in the prescribed form under his hand and seal.

Privileges
and rights
conferred by
registration.

7. Such certificate of registration shall confer on the applicant privileges and rights subject to all conditions established by the law of this Colony as though the patent had been granted in the United Kingdom with an extension to the Colony.

Duration of
privileges.

8. Privileges and rights so conferred shall date from the date of the patent in the United Kingdom and shall continue in force only so long as the patent remains in force in the United Kingdom :

Provided that no action for infringement shall be entertained in respect of any manufacture, use or sale of the invention prior to the date of issue of the certificate of registration in the Colony.

Power of
court.

9. (1) Subject to the provisions of this Ordinance, the law relating to patents for the time being in force in the United Kingdom shall in so far as circumstances admit, apply to the Colony and the Supreme Court shall have power in accordance with such law to grant either absolutely or on such terms and conditions as shall seem just all remedies to which any person

may be entitled within this Colony in respect of either claim to or defence of any right, title or interest in relation to any letters patent in force under a certificate granted under this Ordinance.

(2) The Supreme Court shall have power upon the application of any person who alleges that his interests have been prejudicially affected by the issue of a certificate of registration, to declare that the exclusive privileges and rights conferred by such certificate of registration have not been acquired on any of the grounds upon which the United Kingdom patent might be revoked under the law for the time being in force in the United Kingdom.

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

10. All applications for orders requiring the Registrar to do or abstain from doing any act or applications made by the Registrar for directions or appeals against decisions or orders of the Registrar shall be made to the Supreme Court.

Procedure in applications and appeals.

11. Whenever the specification or drawings of a United Kingdom patent registered in the Colony has or have been amended by way of disclaimer, correction or explanation, according to the law of the United Kingdom, a request, accompanied by the prescribed fee, two copies of the specification or drawings (if any) as amended duly certified by the Comptroller General of the United Kingdom Patent Office, and such other information as may be prescribed, may be made to the Registrar to substitute copies of the specifications or drawings as amended, for the specifications or drawings originally filed.

Substitution of amended specifications.

12. Where a person becomes entitled by assignment, transmission or other operation of law to the privileges and rights conferred by a certificate of registration or to any interest therein, he may make application in the prescribed manner to the Registrar for the entry on the register of such assignment, transmission or other instrument affecting the title, or giving an interest therein.

Registration of assignments, etc.

The Registrar shall on sufficient evidence thereof and on payment of the prescribed fee, enter the same in the register, and shall endorse the same on the certificate of registration.

Registration
of extensions,
etc.

13. Any extension, lapse, revocation and restoration after lapse in the United Kingdom of any patent registered under this Ordinance shall be notified in the prescribed manner by the registered proprietor of such patent to the Registrar, who shall, on sufficient evidence thereof being produced to him and on the payment of the prescribed fee, enter the same in the register and shall endorse the same on the certificate of registration referring to such patent or in the case of an extension or restoration after lapse, shall instead, if the applicant so requests, issue a certificate in the prescribed form under his hand and seal with respect to such entry. No extension or restoration after lapse in the United Kingdom of any patent registered under this Ordinance shall have any force within the Colony unless such extension or restoration is notified to the Registrar under this section.

Registrar
may make
corrections.

14. (1) The Registrar may, on request made in the prescribed manner by the registered proprietor or by some person entitled by law to act in his name—

- (a) correct any clerical error in or in connexion with an application for the registration of a patent or in any patent or specification;
- (b) correct any clerical error in the name or address of the proprietor of such patent or in any other matter which is entered in the register;
- (c) enter any change in the name, style or address of the proprietor of a patent.

(2) Upon the application of the registered proprietor of any patent or other person who may show to the satisfaction of the Registrar that he is an interested party, the Registrar shall rectify the register in regard to any matter entered therein on the production of proof that in pursuance of an order of a court of competent jurisdiction a like rectification in regard to the same matter has been made in the register of patents kept by the Comptroller General under the law relating to patents in the United Kingdom.

15. (1) A certificate purporting to be under the hand and seal of the Registrar as to any entry, matter or thing which he is authorised by law to make or do, shall, unless the contrary be proved, be evidence of the entry having been made, and of the contents thereof, and of the matter or thing having been done or left undone.

Certificate
and sealed
copies to be
evidence.

(2) Printed or written copies or extracts purporting to be certified and sealed by the Registrar or by the Comptroller General of Patents in the United Kingdom, of or from patents, specifications and other documents in the registry or office and of or from registers and other books kept there shall be admitted in all courts and in all proceedings without further proof or production of the originals.

16. The register kept under this Ordinance shall at all convenient times be open to the inspection of the public subject to the provisions of any law for the time being in force and to such rules as may be prescribed, and certified copies signed and sealed by the Registrar of any entry in such register shall be given to any person requiring the same on payment of the prescribed fee.

Inspection
etc.

17. (1) If any person makes or causes to be made a false entry in the register kept under this Ordinance or a writing falsely purporting to be a copy of an entry in such register, or produces in evidence any such writing, knowing the entry or writing to be false, he shall be punishable with imprisonment not exceeding one year or with a fine not exceeding one hundred pounds.

Offences.

(2) If any person falsely represents that any article sold by him is a patented article he shall be liable on conviction to a fine not exceeding five pounds.

If any person sells an article having stamped or engraved or impressed thereon or otherwise applied thereto the word "patent", "patented" or any other word expressing or implying that the article is patented he shall be deemed for the purposes of this sub-section to represent that the article is a patented article :

Provided always that if the person alleged to have committed an offence under this sub-section shall show to the satisfaction of the court that the said article is in fact patented under the provisions of the law in force in the United Kingdom, such representation or sale shall not constitute an offence under this sub-section.

(3) Sub-section (2) of this section shall not come into operation until the first day of July, 1934.

(4) If any person uses on his place of business, or on any document issued by him, or otherwise, the words "Patent Office", "Registry of Patents" or any other words suggesting that his place of business is officially connected with, or is the registry of patents, he shall be liable on conviction to a fine not exceeding twenty pounds.

Royal arms.

18. (1) The grant of a certificate of registration under this Ordinance shall not be deemed to authorize the grantee to use the Royal arms or to place the Royal arms on any patented article.

(2) If any person, without the authority of His Majesty, uses in connexion with any business, trade, calling or profession the Royal arms (or arms so nearly resembling them as to be calculated to deceive) in such manner as to be calculated to lead to the belief that he is duly authorised to use the Royal arms, he shall be liable on conviction to a fine not exceeding twenty pounds :

Provided that nothing in this section shall be construed as affecting the right, if any, of the proprietor of a trade mark containing such arms to continue to use such trade mark.

Court for trial of offences.

19. The proper court for the trial of any offence against the law in force in the Colony relating to patents shall be the subordinate court of the first class where the offence or any act forming part thereof was committed or where the accused or any of the accused resides or carries on business.

Power to make rules.

20. (1) The Governor in Council may from time to time make rules—

- (a) prescribing the forms to be used under this Ordinance ;
- (b) providing for and regulating the search and inspection of the registers ;
- (c) prescribing and regulating the publication of any documents or applications filed or presented, or of any of the several matters done or required to be done in pursuance of this Ordinance ;
- (d) prescribing the fees and fixing the charges to be made for any act, matter or thing to be done or observed under this Ordinance or rules made thereunder ;
- (e) otherwise regulating the practice of registration under this Ordinance ; and

(f) generally for the better carrying into effect of the provisions of this Ordinance.

(2) Unless and until they be altered or revoked under this section, the rules contained in the Schedule hereto shall be and remain in force.

21. In so far as it relates to patents, the Patents and Designs Ordinance (Chapter 88 of the Revised Edition) is hereby repealed. Repeal of
Cap. 88.

SCHEDULE.

1. These Rules may be cited as "the Patents Rules, 1933." Short title.
 2. The forms for use under the Ordinance shall be those contained in the First Schedule hereto and such forms shall be used in all cases to which they are applicable and may be modified as directed by the Registrar to meet other cases. In the case of any application the Registrar may at his discretion waive the use of the prescribed form provided he receives from the applicant in writing all such particulars as would have been supplied had the prescribed form been used. Forms.
 3. The fees payable in respect of applications, registrations and other matters authorised by the Ordinance shall be those contained in the Second Schedule hereto. Fees.
 4. The Registrar General shall be the Registrar of Patents. The office of the Registrar General at Nairobi shall be the Registry of Patents. Appointments.
 5. All documents and copies of documents, except drawings, sent to or left at the registry or otherwise furnished to the Registrar, shall be written, type-written, lithographed or printed in the English language (unless otherwise directed) in large and legible characters with deep permanent ink upon strong wide-ruled white paper, and, except in the case of statutory declarations and affidavits, on one side only, of a size approximately thirteen inches by eight inches, leaving a margin of at least one inch and a half on the left-hand part thereof, and the signatures thereto must be written in a large and legible hand. Duplicate documents shall at any time be left, if required by the Registrar. Size, etc., of
documents.
- At the top of the first page of a specification a space of about two inches should be left blank.
6. Any application, notice or other document authorised or required to be left, made or given at the registry, or to the Registrar or to any other person under the Ordinance or these rules, may be sent by prepaid or official paid letter through the post, and if so sent shall be deemed to have been left, made or given at the time when the letter containing the same would be delivered in the ordinary course of post. In proving such sending, it shall be sufficient to prove that the letter was properly addressed and put into the post. Leaving and
serving
documents.

A letter addressed to a patentee at his address as it appears on the register of patents or at his address for service or to any applicant or opponent in any proceedings under the Ordinance or these rules, at the address appearing on the application or notice of opposition or given for service as hereinafter provided shall be deemed to be sufficiently addressed.

Address for service.

7. Every applicant or opponent in any proceedings under the Ordinance or these rules, and every person who shall hereafter become a patentee, shall give an address for service, and such address may be treated, for all purposes connected with the patent, as the actual address of such applicant, opponent or patentee.

If any patentee desires to have two addresses for service entered in the register a request therefor shall be made in respect of each patent.

The Registrar may require any patentee, who does not reside in the Colony, to give an address for service within the Colony, and such address may be treated as the actual address of the patentee for all purposes connected with such patent.

Order of recording applications.

8. Applications for patents sent through the post shall, as far as may be practicable, be opened and numbered in the order in which the letters containing the same are delivered in the ordinary course of post.

Applications left at the registry otherwise than through the post shall be in like manner numbered in the order of their receipt at the registry.

Drawings to bear name of applicant, etc., but no descriptive matter.

9. Drawings must be facsimile or true copies of the originals and bear the name of the applicant in the left-hand top corner; the number of sheets of drawings sent, and the consecutive number of each sheet, in the right-hand top corner; and the signature of the applicant or his agent in the right-hand bottom corner. Neither the title of the invention nor any descriptive matter shall appear on the drawings.

Chemical inventions—typical samples and specimens.

10. Typical samples and specimens of chemical inventions accompanying a specification shall be forwarded to the Registrar labelled and bottled or set up in the manner prescribed by the Patents Rules, 1920, in the United Kingdom relating to such samples and specimens.

Days and hours of business.

11. The registry shall be open to the public every week day except Saturday between the hours of ten and twelve and two and four and on Saturday between the hours of ten and twelve. The registry shall be closed on public holidays.

Inspection of registers.

12. The registers shall be open to the inspection of the public at all times when the registry is open to the public except at such times when the register is required for any purpose of official use.

Searches and copies.

13. Searches will be made in and copies supplied from the register upon application in writing only and the Registrar shall not be bound to supply the information or the copy sought within forty-eight hours of the receipt by him of the application.

14. Where, under these rules, any person is required to do any act or thing or to sign any document, or to make any declaration on behalf of himself or of any body corporate, or any document or evidence is required to be produced to or left with the Registrar, or at the registry, and it is shown to the satisfaction of the Registrar that from any reasonable cause such person is unable to do such act or thing, or to sign such document, or to make such declaration, or that such document or evidence cannot be produced or left as aforesaid, it shall be lawful for the Registrar, and upon the production of such other evidence, and subject to such terms as he may think fit, to dispense with any such act or thing, document, declaration or evidence.

Power to dispense with evidence, signature, etc.

15. Any document for the amending of which no special provision is made by the Ordinance may be amended, and any irregularity in procedure, which in the opinion of the Registrar may be obviated without detriment to the interests of any person, may be corrected, if and on such terms and in such manner as the Registrar may think fit.

Power of amendment, etc.

16. A duplicate of any certificate issued under the Ordinance which has been lost or destroyed will be supplied by the Registrar on the payment of the fee set out in the Second Schedule hereto and upon the production of an affidavit or statutory declaration that the original has been lost or destroyed and setting out the circumstances as far as they are known to the applicant under which the same became lost or destroyed.

Lost certificates.

17. Where a person becomes entitled by assignment, transmission or other operation of law to a patent, or to any interest therein, as mortgagee or licensee, application for the entry in the register of his name as proprietor or part proprietor of the patent, or of a notice of such interest, as the case may be, shall be made on Form B or Form C, as the case may be, and shall in the case of individuals be made and signed by the person requiring to be registered as proprietor or part proprietor, or by his agent, and in the case of a body corporate by its agent. Every such application shall be accompanied by the certificate of registration granted under the Ordinance.

Application for entry of subsequent proprietorship.

18. Every assignment, and every other document containing, giving effect to or being evidence of, the transmission of a patent or affecting the proprietorship thereof as claimed by such application, except such documents as are matters of record in the United Kingdom or the Colony, shall, unless the Registrar in his discretion otherwise directs, be produced to him together with the application, and he may call for such other proof of title or written consent as he may require for his satisfaction.

Production of documents of title and other proof.

As to a document which is a matter of record in the United Kingdom or the Colony, an official or certified copy thereof shall in like manner be produced to the Registrar.

19. The application shall be accompanied by an attested copy of the assignment or other document or copy above required to be produced.

Copies for office.

Entry of
notice of
interest.

20. The notice of interest in the patent of any person other than the proprietor or part proprietor entered in the register in pursuance of the application shall be such as may appear applicable to the circumstances of the particular case.

Entry of
notification of
document.

21. Application for entry in the register of notification of any document (not already provided for) purporting to affect the proprietorship of a patent shall be made in writing. Such application shall be accompanied by an attested copy of the document, the accuracy of such copy being certified as the Registrar may direct, and the original document shall at the same time be produced and left at the registry if required for further verification.

Lapse and
revocation.

22. Notification of lapse and revocation of a patent shall be made in writing and shall be accompanied by the original certificate of registration of the patent and a certificate from the Comptroller General of the United Kingdom Patent Office that the patent has lapsed or been revoked in the United Kingdom or if such revocation or lapse is a matter of record in the United Kingdom or the Colony, an official or certified copy thereof may be produced.

Extensions
and restora-
tions after
lapse.

23. Notifications of extensions or restorations after lapse shall be made in writing and accompanied by a certificate from the Comptroller General of the United Kingdom Patent Office that such extension or restoration has been effected in the United Kingdom or if such matter is a matter of record in the United Kingdom or the Colony an official or certified copy thereof may be produced. The notification may also be accompanied by the original certificate of registration in which case the Registrar shall endorse the certificate in the Form J set out in the First Schedule hereto but if the notification is not so accompanied or if the person making the notification so requests, a separate certificate shall be issued in the Form H set out in the First Schedule hereto.

Publication
in Gazette.

24. In the case of original registration of a letters patent and upon the recording in the register of any extension or restoration after lapse of any letters patent the Registrar shall cause a notice of such entry to be published in the Gazette at the expense of the applicant. In all other cases notices may be published in the Gazette relating to any other matter recorded in the register if the person on whose application the entry is made, so requests. Notices in the Gazette shall be in the forms in the First Schedule hereto.

Correction
of register.

25. Any request for corrections under section 14 of the Ordinance shall be made in writing to the Registrar accompanied by the prescribed fee.

Non-completion
of registration.

26. When the grant of letters patent is not completed within twelve months from the date of first application by reason of default on the part of the applicant, the Registrar may after giving due notice in writing to the applicant, treat the application as abandoned, unless it is completed within the time prescribed in such notice.

THE REGISTRATION OF PATENTS ORDINANCE, 1933.

FORM B.

APPLICATION FOR REGISTRATION OF NAME OF PROPRIETOR OR PART PROPRIETOR.

(a) Here insert (in full) name, address and nationality.

(a) I (or we).....
.....
.....

(b) Here give name and address of person to whom patent was granted.

I hereby apply that you will enter my (or our) name (or names) in the Register of Patents as proprietor (or part proprietor) of Patent No. of 19 .., granted to (b).....
of.....
.....

(c) Here insert title of the invention.

the title of which is (c).....

(d) Here specify the particulars of such document, giving its date, and the parties to the same, and showing how the claim here made is substantiated.

I (or we) claim to be so entitled by virtue of (d).....
.....
.....
.....
.....
.....
.....

(e) Here state nature of the document.

(e).....
with an attested copy thereof.

My (or our) address for service is:—

(f) Here state address

(f).....

(g) Signature.

(g).....

(h) Here state in what capacity the signatory is acting.

(h).....

THE REGISTRATION OF PATENTS ORDINANCE, 1933.

FORM C.

APPLICATION FOR REGISTRATION OF NOTICE OF A MORTGAGE OR LICENCE.

(a) Here insert (in full) name, address and nationality.

(a) I (or we).....
.....
.....
.....

27. Any application under the Ordinance made by a firm or partnership may be signed in the name or for and on behalf of the firm or partnership by any one or more members thereof.

Applications
by firms,
corporations
and agents.

If the application be made by a body corporate it may be signed by a director or by the secretary, or other principal officer of such body corporate.

Any application under the Ordinance, and all other communications between an applicant and the Registrar may be made by or through an agent duly authorised to the satisfaction of the Registrar and a copy of such authority shall be filed with every application made under the Ordinance or the rules made thereunder.

FIRST SCHEDULE.

THE REGISTRATION OF PATENTS ORDINANCE, 1933.

FORM A.

APPLICATION FOR REGISTRATION OF PATENT.

(a) I (or we)..... do hereby declare that I (or we) have obtained protection of my (or our) invention (b)..... in the United Kingdom and on the following official date, viz.: (c)..... that the said invention was not in use within this Colony by any other person or persons before the (d)..... to the best of my (or our) knowledge and belief, and I (or we) pray that the said Patent granted in England may be registered, and that the certificate of registration shall have the date (e)..... (f) The following documents (f) in support of this application are attached hereto..... (g)..... (h)..... 	(a) Here insert (in full) name, address and nationality of applicant or applicants. (b) Here insert title of invention. (c) Here insert the official date of the application. (d) Here insert the official date of the earliest British application. (e) Here insert the official date of the earliest British application. (f) Give list of and state number of copies of each. (g) Signature of applicant or of each of the applicants. (h) Address for service.

1933

Registration of Letters Patent

No. LVIII

hereby apply that you will enter in the Register of Patents a notice of the following interest in a Patent:—

I (or we) claim to be entitled (b)..... (b) Here insert the nature of the claim, whether by way of mortgage or licence.

to an interest in Patent No. of 19 , granted

to (c)..... (c) Here give name and address of person to whom patent was granted.

of.....

the title of which is (d)..... (d) Here insert title of the invention.

by virtue of (e)..... (e) Here specify the particulars of such document, giving its date and the parties to the same, and showing how the claim here made is substantiated.

And in proof whereof I (or we) transmit the accompanying (f) Here insert the nature of the document.

(f).....

with an attested copy thereof.

My (or our) address for service is:—

(g)..... (g) Signature.

(h)..... (h) Here state in what capacity the signatory is acting.

THE REGISTRATION OF PATENTS ORDINANCE, 1933.

FORM D.

APPLICATION FOR ENTRY OF ORDER OF COURT IN REGISTER.

(a) I (or we)..... (a) Here state (in full) name and address of applicant or applicants.

hereby transmit an office copy of an Order of the Court with reference to (b)..... (b) Here state the purport of the Order and particulars of patent to which it refers.

(c)..... (c) Signature.

(d)..... (d) Address.

THE REGISTRATION OF PATENTS ORDINANCE, 1933.

FORM E.

FORM OF ORIGINAL ENTRY IN REGISTER OF PATENTS.

Number of Application.....
 Date of Application.....
 Name of Applicant.....
 Address of Applicant.....
 Number and Date of Registration in the United Kingdom.....

 Date of Registration in the Colony.....
 Documents, etc., filed in Registry.....

 Period of Registration.....

THE REGISTRATION OF PATENTS ORDINANCE, 1933.

FORM F.

FORM OF SUBSEQUENT ENTRY IN REGISTER OF PATENTS.

Number of original Certificate of Registration.....
 Date of Application.....
 Name of Applicant.....
 Address of Applicant.....
 Nature of Application.....
 Documents filed in Registry.....
 Date of entry in Register.....
 Period of renewal (if any).....

THE REGISTRATION OF PATENTS ORDINANCE, 1933.

FORM G.

CERTIFICATE OF ENTRY IN THE REGISTER OF PATENTS.

Kenya Certificate No. of 19.....
 No. of Patent in the United Kingdom.....
 Proper documentary evidence as prescribed by section 5 of the above-
 mentioned Ordinance having been produced by.....

 of the grant in the United Kingdom of a Patent under No.
 as of the.....day of.....19..... in respect of

1933

Registration of Letters Patent

No. LVIII

It is hereby certified that the grant in the Colony and Protectorate of Kenya of Letters Patent unto the aforesaid proprietors of the said Patent is this day entered under No. of 19..... in the Kenya Register of Patents.

And it is also certified that the annexed are true copies of the complete specification and drawings lodged in relation to the Patent in question.

This certificate is issued in pursuance of section 6 of the Patents Ordinance, 1933, and shall remain in force for..... years from the..... day of..... 19.....

Signed at Nairobi, this..... day of..... 19.....

.....
Registrar of Patents.

THE REGISTRATION OF PATENTS ORDINANCE, 1933.

FORM H.

CERTIFICATE OF EXTENSION.

I hereby certify that Patent No. of 19..... in the Patent Register of the Colony and Protectorate of Kenya has been extended for a period of..... years from the..... day of..... 19..... and that an entry to this effect was duly made in the said register on the..... day of..... 19.....

Signed at Nairobi, this..... day of..... 19.....

.....
Registrar of Patents.

THE REGISTRATION OF PATENTS ORDINANCE, 1933.

FORM I.

CERTIFICATE OF RESTORATION AFTER LAPSE.

I hereby certify that Patent No. of 19..... in the Patent Register of the Colony and Protectorate of Kenya has been restored to the register after lapse and that an entry to this effect was duly made in the register on the..... day of..... 19.....

Signed at Nairobi, this..... day of..... 19.....

.....
Registrar of Patents.

THE REGISTRATION OF PATENTS ORDINANCE, 1933.

FORM J.

FORM OF ENDORSEMENT ON CERTIFICATE OF EXTENSION, LAPSE, REVOCATION
OR RESTORATION AFTER LAPSE.

This certificate { *lapsed
was revoked
was restored to the register after lapse
was extended for a period of.....years
from the.....day of.....19...

and an entry to this effect has been made in the register on the.....
day of 19.....

.....
Registrar of Patents.

*Strike out the phrases inapplicable.

THE REGISTRATION OF PATENTS ORDINANCE, 1933.

FORM K.

FORMS OF ENDORSEMENT ON CERTIFICATE OF ASSIGNMENT, TRANSMISSION,
MORTGAGE OR LICENCE.

(i)

Certified that A.B., of
has been registered as the sole proprietor of this letters patent with effect from
the.....day of.....19.....

.....
Registrar of Patents.

or (ii)

Certified that A.B., of
has been registered as having an interest to the undermentioned extent in this
letters patent with effect from the.....day of.....19.....

Nature and extent of interest.....
.....
.....

.....
Registrar of Patents.

or (iii)

Certified that A.B., of
has been registered as being a licensee under this patent with effect from
the.....day of.....19..... in the undermentioned
manner.

Nature and particulars of licence.....
.....

.....
Registrar of Patents.

1933

Registration of Letters Patent

No. LVIII

THE REGISTRATION OF PATENTS ORDINANCE, 1933.

FORM L.

FORM OF NOTICES IN GAZETTE.

(i) *Original Entry.*

It is hereby notified for general information that a letters patent particulars of which appear in the Schedule hereto was registered as No. of 19..... in the Kenya Register of Patents on the.....day of.....19.....

Schedule.

No. of application:—
 Date of application:—
 Name of applicant:—
 Registered Address:—
 Particulars of grant in the United Kingdom:—
 Nature of invention:—
 Documents, etc., filed in registry:—

.....
Registrar of Patents.(ii) *Subsequent entry.*

It is hereby notified for general information that the following subsequent entry relating to Patent No. of 19..... in the Kenya Register of Patents was made by me on the.....day of.....19.....

Subsequent Entry.

Date of application:—
 Name of applicant:—
 Address of applicant:—
 Nature of application and entry made:—
 Documents filed in registry:—
 Period of extension (if any):—

.....
Registrar of Patents.

SECOND SCHEDULE.

	Sh.	cts.
1. On application for registration of a Patent	15	00
2. For every certificate under the Seal of the Registrar or duplicate thereof	7	50
3. For registration of every assignment, transmission, licence, amendment, extension, or restoration after lapse, of any letters patent including endorsement on the certificate of registration	7	50
4. For publication of any matter in the Gazette	8	00
5. For each search or inspection of register	5	00
6. For filing authorisation of agent	2	00
7. For a certified copy of any record, for every folio of 100 words (minimum charge Sh. 1)		50
8. For each correction or rectification of the register under section 14	7	50

*Repealed and
Replaced by
Ord. 34/58*

ORDINANCE No. LIX of 1933

Assented to in His Majesty's name this twenty-ninth day of December, 1933.

J. BYRNE,
Governor.

Date of assent.

[29TH DECEMBER, 1933.]

An Ordinance to Amend the Butter Levy Ordinance, 1931.

Date of commencement.

29th December, 1933

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

Short title.

1. This Ordinance may be cited as "the Butter Levy (Amendment) Ordinance, 1933," and shall be read as one with the Butter Levy Ordinance, 1931, hereinafter referred to as "the Principal Ordinance".

No. 22 of 1931.

Amendment of section 4 of the Principal Ordinance.

2. Section 4 of the Principal Ordinance is hereby amended by adding at the end of sub-section (2) thereof the following proviso:—

"Provided that if the value of butter exported from the Colony, free on rail Kenya railway stations, together with the bounty or premium payable in respect of such butter under this sub-section exceeds the average price, as determined from time to time by the Treasurer, at which butter of fair average quality is sold wholesale in the Colony less the amount of the levy for the time being in operation there shall be paid in respect of such butter so exported so much only of the bounty or premium payable under this sub-section as will bring the price of such butter up to the price at which butter of fair average quality is sold wholesale in the Colony, and if at the close of any year there is a balance standing to the credit of the fund the Treasurer shall carry forward such balance to meet the purposes of the fund for the ensuing year."

3. Section 8 of the Principal Ordinance is hereby amended by adding after paragraph (c) thereof the following paragraph :—

Amendment
of section 8
of the
Principal
Ordinance.

“(d) by the use of any wrapper bearing the levy stamp in which butter has previously been sold or by any other means falsely indicates that the levy imposed by this Ordinance has been paid in respect of the butter contained in any tin or package sold or exposed for sale.”

Amended by
ORDINANCE No. LX of 1933

Assented to 18/12/33
 Assented to in His Majesty's name this twenty-ninth day of December, 1933.

J. BYRNE,
 Governor.

Date of assent.

[29TH DECEMBER, 1933.]

An Ordinance to Provide for the Registration of Architects and Quantity Surveyors.

Date of commencement.

m. April, 1934 By Proclamation.

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

Short title and date of commencement.

Procl. 30/34.

1. This Ordinance may be cited as "the Architects and Quantity Surveyors Ordinance, 1933," and shall come into operation on such date as the Governor may by proclamation appoint.

Restriction on use of title of architect and quantity surveyor.

2. Subject as is hereinafter provided, after the expiration of six months from the date of the coming into operation of this Ordinance no person shall practise under any name, title or style containing the word architect, architecture, architectural, quantity surveyor or quantity surveying unless he is in terms of this Ordinance registered as an architect or as a quantity surveyor, as the case may be:

~~Provided that nothing in this Ordinance shall preclude a member of the Royal Institute of British Architects or a chartered quantity surveyor of the Chartered Surveyors' Institution or a member of any other institute which the Governor in Council may by proclamation declare to be of adequate standing from so practising in an advisory or consulting capacity only:~~

Provided further that nothing in this Ordinance shall apply to any person in the service of the Government of the Colony or of the High Commissioner for Transport, or to any person who, for the purpose of preparing any particular piece of work for the Government of the Colony or for the High Commissioner for Transport, may be exempted by the Governor in Council from the provisions of this Ordinance.

Penalty for contravening provisions of section 2.

3. (1) If any person shall contravene any of the provisions of section 2 of this Ordinance he shall be guilty of an offence and shall be liable on conviction by a magistrate of the first or second class to a fine not exceeding one hundred pounds for each such offence.

(2) Proceedings under sub-section (1) of this section may be instituted by any duly authorized agent of the Board, hereinafter established.

4. (1) There is hereby established a Board of Registration of Architects and Quantity Surveyors (hereinafter called "the Board") and the Board so established shall be a body corporate with perpetual succession and a common seal and shall be capable in law of suing and being sued and of acquiring, holding and alienating property movable and immovable in its corporate name. Establishment of the Board.

(2) The Board shall consist of six members, three of whom shall be nominated by the Governor and three, one of whom shall be a quantity surveyor, nominated by the East Africa Institute of Architects and approved by the Governor.

(3) The Governor shall appoint one of the members, whom he has nominated, to be the Chairman of the Board.

(4) Four members of the Board shall constitute a quorum.

5. The Board may from time to time, subject to the confirmation of the Governor in Council, make by-laws for all or any of the following purposes :— Power of Board to make by-laws

- (a) For the management and duties of the Board; for the holding of meetings of the Board; for the issue of notices calling such meetings; and for the procedure to be followed at such meetings.
- (b) For the appointment and duties of the officers of the Board.
- (c) For the appointment of committees, and the powers and duties and the proceedings of such committees.
- (d) For the administration, investment and expenditure of the property and funds of the Board from whatsoever source and for whatsoever purposes received.
- (e) For a definition of unprofessional conduct and for determining the mode of inquiry into and the method of dealing with such conduct and the penalties which may be imposed upon any member found guilty of such conduct.
- (f) For the scale of fees to be charged by architects and quantity surveyors for professional advice, services rendered, and work done.
- (g) For the fees to be paid for registration under this Ordinance.

- (h) For the holding of examinations authorized or permitted under the provisions of this Ordinance and for the carrying into effect of any scheme or curriculum for education in architecture or quantity surveying formulated under the provisions of section 13 hereof.
- (i) For the establishment, maintenance and support of and for subscribing to charitable and public objects and institutions.
- (j) For prescribing the procedure to be followed by persons applying for registration.
- (k) For prescribing the terms upon which artied pupils may be engaged.
- (l) For instructions and orders conducive to the maintenance and improvement of the status of architects and quantity surveyors in the Colony.
- (m) For the adoption of a common seal and the manner in which such seal may be affixed to any instrument.

Registration.

6. The Board shall keep a register in which the name of every person immediately on his being accepted for registration by the Board shall be registered showing against his name such particulars as the Board shall from time to time deem necessary, and the Board shall enter in such register all changes of membership.

**Registration
of members of
East Africa
Institute of
Architects.**

7. The persons who at the date of the coming into operation of this Ordinance are registered as members of the East Africa Institute of Architects or who are enrolled as members of the Chapter of Quantity Surveyors within the said Institute and who have paid all sums due by them to the said Institute or to the said Chapter shall be entitled, upon paying the prescribed registration fee to the Board, to be registered.

**Registration
of architects
within six
months of the
coming into
operation of
Ordinance.**

8. Every person who has attained the age of twenty-two years may, upon making application for registration within six months after the coming into operation of this Ordinance and upon payment of the prescribed registration fee to the Board, be registered as an architect provided that he proves to the satisfaction of the Board that his professional and general conduct has been such as not, in the opinion of the Board, to debar him and that he—

- (a) for the period of six months immediately preceding the coming into operation of this Ordinance was

publicly and bona fide performing the work of an architect in the Colony; or

- (b) is a member of the Royal Institute of British Architects or such other institute as the Governor in Council may by proclamation declare to be of adequate standing.

9. ~~No person shall after the expiration of a period of six months from the date of the coming into operation of this Ordinance be registered as an architect unless he shall at the date of his application for membership have attained the age of twenty-two years and paid the registration fee as provided by the by-laws and either—~~

Qualifications
for registration
as an
architect.

- (a) have passed a qualifying examination approved by the Board and have had not less than five years' practical training or artied pupilage in the work of an architect either in the Colony or in the United Kingdom of Great Britain and Northern Ireland or in some British possession or British Dominion or British Protectorate or any territory in respect of which a mandate on behalf of the League of Nations is being exercised by His Majesty's Government; or
- (b) be entitled to vote as a member of the Royal Institute of British Architects or of such other institute as the Governor in Council may by proclamation declare to be of adequate standing; or
- (c) have been an assistant or artied pupil to an architect in the Colony for a continuous period of five years prior to the date of his application and have ~~passed such examination as the Board may determine.~~

10. Every person who has attained the age of twenty-two years may, upon application for registration within six months after the coming into operation of this Ordinance and upon payment of the prescribed registration fee to the Board, be registered as a quantity surveyor provided that he proves to the satisfaction of the Board that his professional and general conduct has been such as not, in the opinion of the Board, to debar him and that he—

Registration
of quantity
surveyors
within six
months of the
coming into
operation of
Ordinance.

- (a) for the period of six months immediately preceding the coming into operation of this Ordinance was publicly and bona fide performing the work of a quantity surveyor in the Colony; or

- (b) is a chartered quantity surveyor of the Chartered Surveyors' Institution, or of such other institute as the Governor in Council may by proclamation declare to be of adequate standing.

Qualifications
for registra-
tion as a
quantity
surveyor.

~~11. No person shall after the expiration of a period of six months from the date of the coming into operation of this Ordinance be registered as a quantity surveyor unless he shall at the date of his application for membership have attained the age of twenty-two years, and paid the registration fee as provided by the by-laws, and either—~~

- ~~(a) have passed a qualifying examination approved by the Board and have had not less than five years' practical training or artied pupilage in the work of a quantity surveyor either in the Colony or in the United Kingdom of Great Britain and Northern Ireland or in some British possession or British Dominion or British Protectorate or any territory in respect of which a mandate on behalf of the League of Nations is being exercised by His Majesty's Government; or~~

- ~~(b) is a chartered quantity surveyor of the Chartered Surveyors' Institution, or such other institute as the Governor in Council may by proclamation declare to be of adequate standing; or~~

- ~~(c) have been an assistant or artied pupil to a quantity surveyor in the Colony for a period of five years prior to the date of his application and have passed such examinations as the Board may determine.~~

Qualifying
examinations.

12. The examinations referred to in sections 9 and 11 of this Ordinance may be conducted either by the Board or by such other authority as the Board with the approval of the Governor in Council may select.

Scheme and
curriculum for
professional
education.

13. Subject to the approval of the Governor in Council, the Board shall have the right from time to time to formulate, vary and carry into effect a scheme and curriculum for education in architecture and quantity surveying, and for this purpose may appoint committees and boards as may from time to time be thought expedient, and the Board may apply its funds in making provision for and furthering and developing any such scheme and curriculum and in providing for lectures or teaching and for the holding of examinations in accordance therewith and for granting prizes, certificates and diplomas.

in connexion therewith, and (subject to such exemptions as may be allowed by and in accordance with the by-laws) the Board may require candidates for admission to final examination for the purpose of registration to have passed through a course of study under and in accordance with any such scheme and curriculum (including articulated pupillage for a period not exceeding five years) and to have passed such examination or examinations in relation to the subjects comprised in that course of study as shall from time to time be prescribed by or in accordance with the by-laws.

14. Subject to the provisions of the by-laws, an architect or a quantity surveyor registered under this Ordinance shall be entitled to engage and to have engaged at the same time not more than two articulated pupils.

Articled pupils.

15. If the Board shall at any time refuse to register the name of a person applying to be registered as an architect or quantity surveyor such person may apply by motion to the Supreme Court for a review of such decision, and if the Supreme Court shall find that such refusal was not justified in accordance with the provisions of this Ordinance and of the by-laws thereunder it may make such order compelling registration and such order as to costs as it may deem fit.

Application to Court allowed.

16. The Board shall have the right to apply to the Supreme Court by motion for sanction to suspend any architect or quantity surveyor registered under this Ordinance or to strike out of the register the name of any such architect or quantity surveyor who shall have been found by the Board to have been guilty of professional misconduct within the meaning of the by-laws, and upon such notice the Supreme Court shall have the right to order the suspension of such architect or quantity surveyor or the removal of his name from the register, and may make such other order therein as it may in the circumstances deem fit.

Suspension by Court.

17. No member of the Board shall be personally liable for the acts, defaults or neglects of any other member, nor for any loss or damage occasioned to or suffered by the Board by an act in the execution of the duties of his office, unless such loss or damage shall be occasioned by his own dishonesty.

Limitation of liability of members.

18. (1) ~~Nothing in this Ordinance contained, except the provisions of section 2, shall be construed so as to prevent any person to whom any one of the descriptions set out in the~~

Exemption of persons holding certain qualifications.

~~Schedule hereto applies from performing any function or exercising any power which he might lawfully have performed or exercised if this Ordinance had not been passed.~~

(2) The Governor in Council may from time to time, by notification in the Gazette, at his discretion extend the Schedule hereto so as to include therein any person to whom a diploma evidencing technical ability has been granted by any association, whether British or foreign, which is similar in character to any of the associations mentioned in the Schedule hereto.

19. This Ordinance shall not apply to naval architects.

SCHEDULE.

- ~~1. Graduates in engineering of any British or British Colonial university.~~
2. Corporate Member of the Institution of Civil Engineers.
3. Member or Associate-Member of the Institution of Structural Engineers.
4. Corporate Members of the Institution of Mechanical Engineers.
5. Corporate Members of the Institution of Electrical Engineers.
6. Chartered quantity surveyors of the Chartered Surveyors' Institution.
7. Member or Associate-Member of the Institution of Municipal and County Engineers.
- ~~8. Member of the Institution of Mining and Metallurgy.~~

ORDINANCE No. LXI of 1933

Assented to in His Majesty's name this ^{thirtieth} day of December, 1933.

J. BYRNE,
Governor.

[30TH DECEMBER, 1933.] Date of assent.

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

By Proclamation.

Date of commencement.

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

1. This Ordinance may be cited as "the Mining Ordinance, 1933," and shall come into operation on such date as the Governor by notice in the Gazette shall determine.

Short title and commencement.

PART I.

GENERAL.

2. (1) 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";

"~~coal location~~" means a portion of land lawfully taken possession of for the purpose of prospecting and mining coal;

"engineer" means a person who is a graduate of a recognized school of mines and has had three years' practical mining experience since graduating, or a person who has been in full charge of major mining or metallurgical operations for a minimum continuous period of five years;

"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 connexion with prospecting or 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 save for the purposes of Part V of this Ordinance, ~~shall not include~~ clay, murrum, sand, limestone, sandstone 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;

~~"Mining location" means an area other than a coal location in respect of which mining rights may be acquired under a prospecting right in accordance with the provisions 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;

"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;~~

"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;

"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;

~~"protection area" means an area which may be acquired as prescribed under a prospecting right.~~

~~"protection notice" - Ord. 44/36.~~
"the regulations" means the regulations for the time being in force under this Ordinance;

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

" stock " includes cattle, sheep, goats, horses, swine, camels, mules, donkeys, dogs, or poultry.

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

(2) For the purpose of this Ordinance, every ~~Native Reserve~~ ^{Area} 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.

Native
Reserves

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

Mineral oil
excluded
from this
Ordinance.

4. 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.

5. Nothing in this Ordinance shall be deemed to authorize 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.

6. Except as in this Ordinance provided, any person who shall prospect or mine on any land in the Colony shall be liable to a fine of one hundred pounds or to imprisonment for a term not exceeding six months, and the forfeiture of all minerals obtained in the course of such unauthorized 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. The following classes of land are (save where otherwise in this Ordinance provided) excluded from prospecting or mining :—

Lands ex-
cluded 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 or trading centre except with the consent of the owner or holder of surface rights and of the Governor or municipal or township authority, or of the District Commissioner in the case of a trading centre.

Replaced by Ord. 44/36.
 (c) ~~Land held under grants or leases giving the holder rights of working the minerals, non-precious minerals, precious metals and precious stones which are recognized 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 for such rights in the prescribed form has been accepted for consideration.

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

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

(g) Any street, road or highway, or any land within 30 feet of the centre line of any street, road or highway, or land reserved for any public road or highway, without the consent of the Governor or of the municipal authority or other public body having the control thereof.

(h) Salt licks.

July 1934
 (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 stipulated. The Governor, at the request of the Native Lands Trust Board, may appoint any Provincial Commissioner to be the delegate within his province of the Native Lands Trust Board for the purposes of giving the consent in writing required by this paragraph.~~

(j) Land which the Governor may by notice declare to be excluded from prospecting or mining: Provided that the Governor may reopen any land so excluded from prospecting or mining under such conditions as he may think fit.

(k) & (l) added by Ord. 44/36.

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.

8. 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 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.

Saving for native custom.

9. The Governor may appoint a Commissioner of Mines (hereinafter referred to as "the Commissioner"), a Mining Engineer, Inspectors and Assistant Inspectors of Mines, Wardens and Registrars, and such other officers as may be necessary for the carrying into effect of the provisions of this Ordinance.

Employment of officers.

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

Powers of Commissioner may be exercised by other officers.

11. 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.

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

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

Royalties.

Provided that the Commissioner may by permit under his hand exempt from liability to royalties samples of minerals extracted for the purposes of assay.

PART II.

A.—PROSPECTING RIGHT.

13. (1) The Commissioner or an officer duly authorized by him in that behalf 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—

Prospecting right.

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

(c) Added by Ord. 4834

(2) A prospecting right may be granted to an individual as agent for another individual if such agent is the lawfully constituted attorney of such individual.

(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 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.

(4) A prospecting right shall not be transferable and shall be in force for a period of one year from the date of issue,

(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 *and for every renewal thereof.*

Prospecting
right
privileges.

14. Subject to the exceptions in section 7, and to the regulations and to the provisions of any law as to forests or as to the regulation of natural water supplies, the holder of a prospecting right may—

- (1) prospect on any land in the Colony for any minerals, except diamonds, unless the Commissioner shall endorse on the prospecting right authority to prospect for diamonds, which authority the Commissioner may refuse in any case without assigning any reason ;

Provided that the holder of a prospecting right shall not 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 ;

- (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, free of charge on unoccupied Crown lands or on private lands on payment or tender of a reasonable sum in payment therefor;

(3) ~~sink shafts or wells or dig trenches;~~ *Replanned by Ord. 4364*

(4) on any land not excluded from prospecting take for the purposes of bona fide prospecting or 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: Provided that he shall not divert water from any river, stream or water-course without the consent of the authority having the control thereof;

(5) graze upon lands not excluded from prospecting such horses or other animals as may be necessary for his subsistence or 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 or a protection area and mark off and apply for the registration of claims and locations and apply for a mining lease.~~

(6) (7) + (8) added by Ord. 4476

15. Any person intending to prospect on private lands shall ~~when practicable give notice of his intention to the owner or occupier of the land and if practicable to the public~~ *where practicable give notice of his intention to the owner or occupier of the land and if practicable to the public* 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 land or trees or crops thereon or to stock 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.

16. 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.

B.—EXCLUSIVE PROSPECTING LICENCE.

Exclusive
prospecting
licences.

17. (1) The Governor may grant an exclusive prospecting licence to any company, body of persons, partnership or any person who holds a prospecting right or to any person whose agent is the holder of a prospecting right.

(2) Application for an exclusive prospecting licence shall be in the prescribed form, and the applicant shall submit a programme of work and satisfy the Governor that he has sufficient capital to ensure the proper prospecting by methods approved by him 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 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, on acceptance of a satisfactory programme of further development, to renewal at the discretion of the Governor, for further terms of one year each up to a maximum of five years, ^{from the date of the original grant} provided that, should the renewal be refused, the licence shall be valid for a further period of thirty days from the date at which it would otherwise have expired.

(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 and for every renewal

thereof a registration fee of ten shillings and a conveyancing fee of such sum not exceeding £7/10 as the Registrar of Mines may assess.

Ord. 44/36.

(8) ~~On the granting of an exclusive prospecting licence a fee of such amount as the Governor in each case may determine, not exceeding five shillings per square mile, shall be payable in addition to all other fees due.~~ *Repealed by Ord. 41/39*

18. ~~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 a term not exceeding six months or to both such fine and such imprisonment.~~ *Repealed by Ord. 41/39*

Penalty for giving false information.

19. (1) ~~The holder of an exclusive prospecting licence shall have the sole right of prospecting and, with the consent of the Commissioner, of alluvial mining, subject to such fee as the Commissioner may determine, not exceeding in any case two shillings for every 10,000 square feet, upon the lands within the area of his prospecting licence, and for such purpose may—~~ *Repealed by Ord. 41/39*

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 connexion with his prospecting operations.~~

(2) ~~An exclusive prospecting licence shall confer upon the holder the sole right during the currency of the licence to peg locations upon the lands within the area of his licence as prescribed.~~

20. ~~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.~~ *Repealed by Ord. 44/36*

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.~~

21. (1) ~~The holder of an exclusive prospecting licence shall during the continuance of the licence diligently follow the programme of prospecting operations approved at the time of his application or the renewal thereof:~~

Obligation of the holder of exclusive prospecting licence.

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

(2) Failure to exercise due skill and due diligence to the satisfaction of the Commissioner shall be a ground for cancellation of the licence.

Records of
prospecting
operations

22. The holder of an exclusive prospecting licence shall keep to the satisfaction of the Commissioner full and accurate records of his prospecting operations, and alluvial mining (if any).

C.—GENERAL.

Disposal of
minerals
obtained in
prospecting.

23. (1) Minerals obtained in the course of prospecting under a prospecting right or an exclusive prospecting licence except as provided under sub-section (1) of section 19 shall be the property of the Government and, except for the purposes 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 sub-section shall be liable to a fine of one hundred pounds or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

(2) The Commissioner may authorize 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 authorize the applicant to retain or dispose of the minerals in respect of which application is made on payment of the prescribed royalties.

Discovery to
be reported.

24. Any person who discovers any minerals of economic value on any land subject to any licence or location granted under this Ordinance other than that for which his licence or location was granted shall report the discovery to the Commissioner as soon as possible.

25. ~~(1) The holder of a prospecting right or of an~~ exclusive prospecting licence or of a location 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 or to stock by such operations, and shall, on demand being made by the owner of any crops, trees, buildings, stock 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.

(2) (i) If the holder of a prospecting right, exclusive prospecting licence or location 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 a Warden, 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 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 shall be paid by the holder of the prospecting right, exclusive prospecting licence or location to the person entitled thereto, within fourteen days of the date on which the amount of the final award is notified to the holder of the right, licence or location or shall be paid into court pending the disposal of any appeal or appeals thereon.

(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, licence or location under section 15, 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 or the right to work a location of the person in default until the amount awarded has been

~~paid and until the holder of the right, licence or location has deposited with the Government such further sum as security for any future payments as the Governor may demand, and if such payment and deposit is not made within such time as the Governor may consider reasonable the Governor may revoke the prospecting right, exclusive prospecting licence or forfeit the location of the person in default.~~

Revocation of
prospecting
right or
exclusive
prospecting
licence.

26. 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.

27. (1) Mining shall be lawful for the holder of a location or mining lease or for the holder of an exclusive prospecting licence duly authorized under section 19 of this Ordinance.

(2) No person himself or by his agent shall ~~mark off~~ a location unless he is the holder of a prospecting right.

Ord. 44/36.

(3) ~~Mining~~ Locations shall be either alluvial locations or lode locations, provided that the Commissioner may grant authority, on such terms as he may think fit, permitting a location-holder to conduct, on the land comprised in his location, mining operations of a kind different from that in respect of which his location is registered, and may vary or revoke any such authority.

(4) If a location-holder on the land comprised in his location carries on mining operations of a kind different from that

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Mining

No. LIXI

in respect of which his location is registered, unless authorized so to do under the preceding sub-section, his location shall be liable to forfeiture.

Repealed by O.D. 44/36.
 23. ~~No rent shall be payable for a location. For a mining lease there shall be paid a rent of two shillings and fifty cents per annum per acre or part thereof.~~ Rents.

Repealed by O.D. 44/36.
 29. (1) ~~When any holder of a prospecting right marks off a location in the manner prescribed, on land not excluded from prospecting or mining, in accordance with the provisions of this Ordinance and of the regulations, he shall within thirty days thereafter apply in manner prescribed for registration, and shall state the nature of the location pegged.~~ Registration of locations.

(2) If the application is in accordance with the provisions of this Ordinance and of the regulations, the Warden shall register the location.

(3) Any person failing to apply for the registration of a location within the period aforesaid shall forfeit all rights in respect thereof and shall, if he works or mines on such a location, incur the penalty prescribed *for this Ordinance.* ~~for unauthorized mining.~~

Repealed by O.D. 44/36.
 30. ~~A mining location shall be valid for one year from the date of pegging and may be renewed on payment of prescribed fee for further terms of one year each up to a maximum of five years in all.~~ Duration of location.

Repealed by O.D. 44/36.
 31. ~~The holder of a location shall have the right to enter upon the land the subject of the location, and the exclusive right to prospect or mine therefrom and dispose of the minerals in respect of which the location shall have been registered.~~ Rights under a location. *8/39.*

32. A location holder may, on the lands included within the area of his location, 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 and shall, before cutting, taking and using any such tree pay to the owner or occupier of the land on which such tree is standing a reasonable sum therefor. If

Notice to private occupiers who may demand security. Right of location holder to take timber.

the owner or occupier is dissatisfied with the compensation offered the dispute shall be dealt with under the provisions of section 25 of this Ordinance.

Transfer of
locations and
interests
therein.

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

Locations,
when liable to
forfeiture
by the Com-
missioner.

34. (1) ~~A location or part thereof shall be liable to forfeiture by the Commissioner in any of the following circumstances:—~~

- (a) if the person pegging has failed to apply for registration or renewal in the prescribed manner;
- (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 holder ~~fails~~ to render any prescribed return when due, or within such additional time as the Commissioner may allow;
- (d) if the holder has not complied with any of the prescribed conditions; or
- (e) if registration thereof has been obtained by any false or fraudulent representation or concealment:

Provided that the happening of any one or more of such circumstances shall not render it obligatory for the Commissioner to declare the forfeiture of any location or any part thereof.

(2) If the Commissioner is satisfied that in the circumstances a location or any part thereof should be forfeited he shall give notice in writing to the holder specifying the location or part thereof to be forfeited, the cause of forfeiture, and the date from which the location or part thereof shall be deemed to be forfeited, and shall not less than thirty days after the giving of such notice to the holder by notice in the Gazette declare such location or part thereof to be forfeited as from a date to be specified in such notice.

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Replaced by No. 44/34
 35. (1) ~~Any person who shall abandon his location or any part thereof or his exclusive prospecting licence shall forthwith notify the Commissioner of such abandonment.~~ Obligation on abandonment.

(2) Any person who shall abandon his location, exclusive prospecting licence area or any part thereof and any person whose location, exclusive prospecting licence area or any part thereof 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 all notices, beacons and boundary posts thereon, and in default of so doing, shall be liable to a fine of fifty pounds or to imprisonment for a term not exceeding three months, and in addition shall be liable to pay such sum as the Commissioner may certify the cost of doing so will be.

of sub-section (2)
 (3) For the purposes of this section, failure to apply for registration or renewal of a location or for the renewal of an exclusive prospecting licence within the prescribed time shall be deemed to be an abandonment of such location or of such exclusive prospecting licence.

36. ~~The owner of any plant, machinery, engines or tools on any forfeited or surrendered location may within three months from the date of forfeiture or surrender, or within such further period as the Commissioner may allow, remove such plant, machinery, engines or tools, but shall not remove or interfere with any timber in any mine. If such plant, machinery, engines or tools are not so removed they may be sold by auction by order of the Commissioner at the risk of the former holder of a location. The net proceeds of such sale after deducting the costs thereof, shall be paid into the Treasury and held until applied for by such former holder of a location. Any person who in breach of this provision removes or interferes with any timber in a mine shall be guilty of an offence against this Ordinance.~~ Owner may remove plant, etc., on surrender.

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37. ~~Ground which has been abandoned or forfeited shall be open to re-pegging after a period of thirty days from the date of abandonment or forfeiture, provided that no person shall be entitled either directly or indirectly, through an agent or otherwise to re-peg any ground which has been abandoned by him or forfeited while held by him until after a period of ninety days from the date of such abandonment or forfeiture.~~ Re-pegging of ground, forfeiture, etc.

Penalty for
false repre-
sentation.

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

Application
of section
15 to
locations.

39. The provisions of section 15 shall apply *mutatis mutandis* to a location.

Grant of
leases.

40. ~~The Governor may grant a lease to the holder of a mining location or of a coal location in respect to the whole or any part of his location.~~ *Replaced by Ord. 44/36*

Applications
for leases.

41. 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.

Applicant
to show
sufficient
capital.

42. The Governor may require an applicant for a lease to show to his satisfaction that he possesses or commands or will within twelve months command 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.

43. 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 not exceeding fifty pounds or to imprisonment for a term not exceeding three months.

Duration
of lease.

44. 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.

Renewal
of lease.

45. 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.

46. 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.

47. (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, or 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 applications for the same shall be subject to the provisions of this Ordinance and of the regulations.

48. 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, and to do all such things as are reasonably necessary for the conduct of mining operations. Rights under a lease.

49. (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.

50. In so far as it may be necessary to the lessee for or in connexion with his mining operations and subject to the provisions of this Ordinance and of the regulations, the lessee Surface rights of lessee.

shall have on the lands included in his lease the following rights—

- (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 pounds, 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;

(g) added by Ord. 44/36.

Provided that whenever a disagreement shall arise between the owner in the case of private land and the lessee in connexion 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.

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

Notice to private occupiers who may demand security.

52. The provisions of sections 15 and 25 shall apply *mutatis mutandis* to a lease granted under this Ordinance.

Right of lessee to take timber.

53. The provisions of section 32 shall apply *mutatis mutandis* to a lessee.

54. 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.

Surrender
of lease.

55. (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 the regulations *in respect of such lease* 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 land the subject of 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 together with written notice to the last known address of the lessee shall be sufficient notice to the lessee.

56. (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 at grass or 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.

Treatment of
tailings, etc.,
after deter-
mination of
lease.

(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 at grass or stone remaining on the land shall become the absolute property of the Government.

57. 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

Extension
after breach.

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,
etc., on
surrender.
Discovery to
be reported.

58. The provisions of section 36 shall apply *mutatis mutandis* to a lessee.

59. The provisions of section 24 shall apply *mutatis mutandis* to a lease granted under this Ordinance.

Subterranean
limits.

60. The subterranean limits of any location or mining lease shall be vertical planes passing through the sides by which the location or lease is bounded: Provided that the Governor may grant a lease of a subterranean area larger than the limits of the surface of land comprised in such lease. In such case so much of the surface lying above the subterranean area of such lease as is not included in the lease shall be excluded from prospecting or mining and the lessee of such subterranean area shall have the right to enter upon any part of the surface lying above the area of his lease and construct thereon such works, ways and buildings as may be deemed by the Commissioner necessary for the proper working of his lease on payment of such rent and such compensation for the use of such surface as the Governor may determine.

Penalty on
non-payment
of rent.

Ord. 44/36

61. The rent payable under a lease shall be payable to the Commissioner 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 ten 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.

Rent, how
recoverable.

62. The rent reserved by any lease 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.

63. ~~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~~

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~~64. No sale, lease, mortgage, charge, lien or other dealing relating to any exclusive prospecting licence, location or mining lease shall be valid, and no evidence thereof shall be received in any civil proceedings before any court, unless it is registered in the prescribed manner.~~

Registration
of leases, etc.

PART IV.

DISPUTES.

65. Subject to the provisions of any law for the time being in force in the Colony, ~~the Commissioner may inquire into and decide all disputes between persons engaged in prospecting or mining operations, either amongst themselves or in relation to themselves and third parties, concerning any of the matters hereinafter mentioned, and shall have power to make any order 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:—~~

Commissioner
Warden
may decide
disputes

- (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 or 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.

66. The mode of proceeding shall be as follows:—

Procedure.

- (1) The person complaining shall lodge a memorandum in duplicate at the office of the ~~Warden~~ *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} Warden 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, and may, if he thinks fit, require him to answer the complaint in writing.
- (4) At the time and place appointed the parties shall attend and state their cases before the ^{Commissioner} Warden, and may call evidence on oath (which oath the ^{Commissioner} Warden is hereby authorized to administer) in support thereof, and the ^{Commissioner} Warden, having heard such statement and evidence, shall give his decision.
- (5) The ^{Commissioner} Warden may adjourn such hearing to any other time or place, and may, either at the original hearing or any adjournment, proceed in the absence of either party.
- (6) The ^{Commissioner} Warden may at any time during the hearing seize or cause to be seized any minerals, and may detain them pending his decision.
- (7) The law for the time being regulating proceedings before and the powers of a subordinate court of the first class in the exercise of its civil jurisdiction shall, so far as practicable, and subject to any modifications, additions or alterations which may be prescribed, apply to proceedings before the ^{Commissioner} Warden and to the enforcement of his decisions in like manner as if such decision were the decisions of such court.
- (8) Fees shall be charged as may be prescribed.

^{Commissioner}
Warden
to keep record
and take
notes.

67. (1) The ^{Commissioner} Warden shall keep a record of all cases heard and complaints decided by him, and shall take notes in writing of all evidence given before him.

(2) Any person interested in any dispute, decision, or order shall be entitled to obtain a copy of such record and notes upon payment of the prescribed fee.

Enforcement
of ^{Commissioner}
decrees.

68. (1) The ^{Commissioner} Warden may send a copy, certified under his hand and seal, of any decree or order made by him to any civil court within the local limits of whose jurisdiction the subject-matter of the decree is situated, and such civil court

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shall enforce the decree of the ^{Commissioner} ~~warden~~ in the same manner in which it would enforce its own decree or order.

(2) The same fees only shall be payable in the civil court upon the enforcement of such decree or order as would be payable upon the enforcement of a like decree or order made by such court.

69. (1) ~~Any person aggrieved by any decree, order, or decision made or given under the powers vested in a Warden, may appeal to the Commissioner.~~ ^{Appeal to Commissioner from decisions of Warden.}

(2) ~~No appeal to the Commissioner shall be admitted after the expiration of thirty days from the date of the decree, order or decision appealed against.~~

(3) ~~On an appeal to the Commissioner, fees shall be payable as may be prescribed.~~

70. (1) ~~Any person aggrieved by any decree, order, or decision made or given under the powers vested in the Commissioner may appeal to the Supreme Court.~~ ^{Appeal to Supreme Court from decisions of the Commissioner.}

(2) ~~No appeal to the Supreme Court shall be admitted after the expiration of thirty days from the date of the decree, order, or decision appealed against, except by leave of a Judge of the Supreme Court.~~

71. 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.

72. The minerals referred to in this Part shall be any mineral in the unmanufactured state to which the Governor in Council may, by notice, apply this Part. ^{Minerals to which this Part applies.}

73. No person shall possess any such minerals unless he is the holder of a mining lease, location, exclusive prospecting licence or prospecting right, or of a licence granted under section 75, or the duly authorized employee of such lessee or holder. ^{Possession of minerals.}

74. No person shall buy any such mineral unless he is the holder of a licence granted under the next succeeding section. ^{Purchase of minerals.}

75. (1) The Commissioner may issue a licence in the prescribed form and on payment of the prescribed fee authorizing the person named therein to buy such 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.

Restriction on purchase.

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~~76. The holder of a licence under the last preceding section shall not buy any such mineral except from the holder of a lease, a location, a prospecting right, if authorized under sub-section (3) of section 23 or exclusive prospecting licence, or a licence under this Part.~~

Payment of royalties by licensee.

77. 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.

Books to be kept by licensee.

78. The holder of a licence to purchase minerals shall—

(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 authorized by him whenever required to do so.

Penalties.

79. 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.

80. The Commissioner, Mining Engineer, Inspector or Assistant Inspector or any other person duly authorized by the Commissioner 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, location, or lease;

- (ii) examine into and make inquiry respecting the condition and ventilation of any mine and any building connected with prospecting or mining activity, 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 to prospecting or mining operations or to any minerals obtained by such operations, and examine and take samples of any material being mined;
- (v) inspect the storage of explosives upon any mine and direct in what manner the same shall be stored;
- (vi) ^{as is with Ord. 4374 in Ord. 14/36} exercise all powers necessary for carrying this Part of this Ordinance into effect.

81. (1) If in any respect such officer or person 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 or stock, he shall give notice in writing thereof to the lessee or the holder of the right, location 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.

Obligation to
remedy any
dangerous
practice.

(2) On receipt of such notice, the lessee or the holder of the right, location 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 persons and stock.

Proceedings on objection to comply with notice.

82. If such lessee or holder of the right, location 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.

Proceedings on failure to comply with notice.

83. 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.

Agreement not to preclude or exempt.

84. 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.

Proceedings in case of accidents.

85. (1) Whenever an accident shall occur in connexion 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 be known to him to the District Officer and to the nearest officer of the Mines Department.

(2) In the event of any such accident the magistrate shall hold an inquiry into the cause thereof.

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

*Amended
Dec. 43/34*

~~(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.~~

~~86. (1) If the person killed or injured is a native employed in connexion with the mining or prospecting operations, and the lessee, or holder of the location, 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.~~ *Substituted with 112/14*

Compensation
on death of,
or injury to,
native.

~~(2) Any person dissatisfied with such award may within thirty days of the making of the award, and on giving notice to the officer who made the award, appeal to the Supreme Court.~~ *7/39*

PART VII.

MISCELLANEOUS.

~~87. In any case where the Government is acquiring, under the provisions of any law relating to the compulsory acquisition of land for the time being in force in the Colony, any land held under a lease or location, compensation shall be payable in respect of any disturbance of mining rights, in addition to any other compensation.~~ *all mining prospecting claims or prospecting*

Compensation
on acquisition
of land by
Government.

~~88. The Governor may at any time remove from Crown land, subject to any lease or location, any clay, gravel, stone, brushwood, timber or other materials required for any public works.~~

Power to
remove
materials.

Subsequent
grants.

89. The Governor may, notwithstanding the previous grant of any location, 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 location, right or licence under this Ordinance of any rights conferred upon him by such lease, location, right or licence:

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

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

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

- (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 this Colony of such probate or letters of administration, receiving order, or appointment of a manager.

Payment
of wages

91. ~~All wages due to any person employed by the holder of a prospecting right or on any location, lease, or exclusive prospecting licence shall be paid to such person in cash when due and in no case later than seven days thereafter without any deduction whatsoever, except for cash advances, payments on~~

*Revised to take
by Ord. 427
1934
44/36*

~~orders given by the employee and goods supplied on the location, lease, or exclusive prospecting licence to the employee for his personal use.~~

92. 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, location or mining lease, and any right, licence or location 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.

Government officers prohibited from acquiring rights.

93. (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 location, 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.

Discovery of mineral by Government servant.

(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.

94. 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 persons 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 one thousand pounds or to both.

Salting.

95. Any person who in connexion with any return, statement or document in respect of which information is or may be required to be given under this Ordinance or the regulations wilfully or recklessly gives false information or makes a false

Penalty for false return, etc.

statement, whether oral or in writing, shall, if no other penalty is specifically provided, be liable to a fine not exceeding three hundred pounds or to imprisonment for a term not exceeding three years or to both such fine and such imprisonment.

Obstructing
officer.

96. Any person who shall wilfully obstruct, hinder, assault or resist an officer, or any person duly authorized by an officer or a person authorized 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 term not exceeding six months, or to both.

Penalty for
interfering
with mining,
etc.

97. Any person who—

- (a) interferes with any mining or prospecting operations authorized 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,

shall be liable to a fine not exceeding three hundred pounds or to imprisonment for a term not exceeding three years, or to both.

Power of
Commissioner
to conduct
prosecutions.

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 to
arrest.

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.

99A + 99B added by Ord. 44/36.

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 not exceeding one hundred pounds or to imprisonment for a term not exceeding six months, or to both.~~ *General penalty.*

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

- (a) the manner in which applications for any right, licence, ~~claim~~ *location* or lease which may be granted under this Ordinance shall be made and the forms to be used; *S.N. 110/2, 6.77*
- (b) the information to be supplied by the applicants;
- (c) the classes of locations and leases;
- (d) the manner in which locations shall be ~~marked off~~ *located*;
- (e) the manner in which protection areas may be acquired, their size and shape, the fees payable in respect thereof, and the period for which they may be held;
- (f) the shape of the areas over which exclusive prospecting licences may be granted;
- (g) the size and shape of the areas over which locations or mining leases may be granted;
- (h) the manner in which areas and boundaries shall be surveyed, marked and beacons and the fees payable in respect of such survey when performed by Government;
- (i) the working conditions to be applied to mining leases, locations and licences;
- (j) the construction and use of roads, tramways, and railways;
- (k) the construction and erection of houses, pits, shafts, machinery and other works to be used for prospecting or mining purposes;
- (l) the fencing off or rendering secure of any shaft, well, trench, tunnel, drive or other works constructed, erected or made for prospecting or mining purposes;
- (m) 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;

- (n) the safety and health of persons employed in mines and the carrying on of prospecting or mining operations in a safe, proper, sanitary and effectual manner;
- (o) the renewal, transfer, assignment and surrender of rights under licences, locations and mining leases;
- (p) the registration in the office of the Commissioner of mining leases, locations and exclusive prospecting licences and instruments under which any right or interest thereunder is transferred or surrendered and the fees payable on such registration;
- (q) the returns to be rendered and the nature of the accounts, books and plans to be kept by mining lessees and the holders of locations and of exclusive prospecting licences;
- (r) 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;
- (s) the counting of development done on the area of one licence, location or lease towards development due to be done on the area of another licence, location or lease in the same ownership;
- (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.

(2) added by Ord. 44/76.

Repeal.

No. 1 of 1931.

No. 15 of 1932.

No. 52 of 1932.

No. 3 of 1925.

102. The Mining Ordinance, 1931, as amended by the Mining (Amendment) Ordinance, 1932, and the Mining (Amendment) (No. 2) Ordinance, 1932, is hereby repealed: Provided that, notwithstanding any such repeals, any right or title granted under the Mining Ordinance, 1925, may continue to be of full force and effect as prescribed by that Ordinance for a period of twelve months from the date on which this Ordinance comes into operation.

Schedule - added by Ord. 7/39

ORDINANCE No. LXII of 1933

Assented to in His Majesty's name this thirtieth day of December, 1933.

J. BYRNE,
Governor.

[30TH DECEMBER, 1933.] Date of assent.

An Ordinance to Amend the Game Ordinance.

30th December, 1933

Date of commencement.

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

1. This Ordinance may be cited as "the Game (Amendment) Ordinance, 1933", and shall be read as one with the Game Ordinance (Chapter 161 of the Revised Edition), hereinafter referred to as "the Principal Ordinance."

Short title.

2. Section 4 of the Principal Ordinance, as replaced by the Game (Amendment) Ordinance, 1928, is hereby amended by the insertion of the words "or a photographic permit as provided by section 25A" after the figure "25" which occurs in the third line of sub-section (1) and in the second line of sub-section (2) thereof.

Amendment of section 4 of the Principal Ordinance. No. 25 of 1928.

3. Section 5 of the Principal Ordinance, as amended by the Game (Amendment) Ordinance, 1928, is hereby further amended by the insertion of the words "or by a photographic permit as provided by section 25A" after the word "behalf" which occurs in the third line thereof.

Amendment of section 5 of the Principal Ordinance. No. 25 of 1928.

4. The following section is hereby inserted in the Principal Ordinance as section 6A:—

Prohibition on unlicensed assistants.

"6A. Save as in this Ordinance otherwise expressly provided, no person other than a native shall assist any other person to hunt, kill or capture any animal mentioned in any of the Schedules unless he shall be authorized in that behalf by virtue of an assistant's licence as provided by section 17:

Provided, however, that nothing in this section contained shall be deemed to render it necessary for any person who is authorized under this Ordinance to hunt, kill or capture any animal to obtain an assistant's licence in order to assist any other person similarly authorized to hunt, kill or capture such animal."

Restrictions on
import and
export of
trophies.

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

“8. (1) No person shall import into the Colony any live animal mentioned in any of the schedules, or any trophy or meat of any animal mentioned in any of the schedules, except through a customs port of entry, when a customs entry in the proper form shall be made.

(2) No person shall import any live animal mentioned in any of the schedules, or any trophy or meat of any animal mentioned in any of the schedules, unless such animal or trophy or meat shall have been legally exported from the country of origin of such animal, trophy or meat; and any customs officer shall detain any live animal mentioned in any of the schedules or any trophy or meat of any animal mentioned in any of the schedules which it is sought to import until the person seeking to import the same produces satisfactory evidence that such animal, trophy or meat has been legally exported from the country of origin of such animal, trophy or meat, and if such satisfactory evidence is not produced within a reasonable period of time, the animal, trophy or meat detained under the provisions of this sub-section may be confiscated and disposed of as the Governor may direct: Provided that for the purposes of this sub-section when the country from which export is effected is not the country of origin of any animal, trophy or meat customs documents in the proper form from such exporting country may be held to constitute satisfactory evidence that such animal trophy or meat has been legally exported from the country of origin of such animal, trophy or meat.

(3) No person shall export from the Colony any live animal mentioned in any of the schedules, or any trophy or meat of any animal mentioned in any of the schedules, except through a customs port of entry.

(4) No person shall export from the Colony any live animal mentioned in any of the schedules, or any trophy or meat of any animal mentioned in any of the schedules, unless the written consent of the Game Warden has been obtained to export the animal, trophy or meat. Such written consent shall be surrendered to a customs officer before export is effected and a customs officer shall detain the animal, trophy or meat which it is sought to export

until such written consent shall have been surrendered. Any animal, trophy or meat detained in accordance with the provisions of this sub-section may be confiscated and disposed of as the Governor may direct if such written consent is not produced within a reasonable period of time :

Provided that nothing in this sub-section shall be held to apply to a live animal, trophy or to meat in transit through the Colony when such animal, trophy or meat is accompanied by the requisite customs documents issued in the country of origin or of export of such animal, trophy or meat and duly entered through a customs port of entry.

(5) Any live animal mentioned in any of the schedules or any trophy or meat of any animal mentioned in any of the schedules introduced into the Colony in contravention of any of the provisions of this section shall be confiscated and shall be disposed of as the Governor may direct."

6. Section 13 of the Principal Ordinance is hereby repealed.

Repeal of
section 13 of
the Principal
Ordinance.
Licences.
No. 25 of 1928.
No. 49 of 1932.

7. Section 17 of the Principal Ordinance, as amended by the Game (Amendment) Ordinance, 1928, and the Game (Amendment) Ordinance, 1932, is hereby repealed and the following section is substituted therefor :—

"17. (1) The following licences may be granted at his discretion by a Provincial Commissioner or a District Commissioner or by such other person as may be authorized by the Governor on that behalf, and the following fees shall be chargeable therefor, that is to say :—

	£	s.
(a) A Visitor's Full Licence	75	0
(b) A Visitor's 14-day Licence	15	0
(c) A Visitor's Private Land Licence	10	0
(d) A Serving Officer's Full Licence	20	0
(e) A Serving Officer's 14-day Licence	4	0
(f) A Serving Officer's Private Land Licence	4	0
(g) A Resident's Full Licence	7	10
(h) A Resident's 14-day Licence	2	0
(i) A Resident's Private Land Licence	2	0

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(j) An Assistant's Licence (to be granted in accordance with sub-section (9))	£	s.
...	10	
(k) A Native Employee's Licence (to be granted in accordance with sub-section (10))		
...	2	0

(2) (a) A full licence shall entitle the licensee, subject to the provisions of this Ordinance, to hunt, kill or capture animals of the species mentioned in the Third Schedule, Part A, of this Ordinance, to the numbers therein stated on Crown land and in unlimited numbers on private land with the consent of the owner, his agent, or the occupier of such land.

(b) A 14-day licence shall entitle the licensee, subject to the provisions of this Ordinance, to hunt, kill or capture animals of the species mentioned in the Third Schedule, Part B, of this Ordinance, to the numbers therein stated on Crown land and in unlimited numbers on private land with the consent of the owner, his agent or the occupier of such land.

(c) A private land licence shall entitle the licensee, subject to the provisions of this Ordinance to hunt, kill or capture animals of the species mentioned in the Third Schedule of this Ordinance on private land only with the consent of the owner, his agent or the occupier of such land.

(3) (a) A full licence, private land licence and the native employee's licence shall be valid for one year from the date of issue.

(b) A 14-day licence shall be valid for fourteen consecutive days from and including the day on which it is dated to commence.

(c) An assistant's licence shall expire on the same day as the full licence held at the time of the granting of such assistant's licence by the person to whom the assistant's licence shall be granted.

(4) Any person holding a visitor's full licence and becoming a bona fide resident while the licence is in force shall be entitled to a refund of sixty-seven pounds and ten shillings, and any person holding a serving officer's full licence and becoming a bona fide resident while the licence is in force shall be entitled to a refund of twelve pounds and ten shillings.

(5) No person shall obtain a 14-day licence unless a period of at least six months shall have elapsed since the expiry of any previous 14-day licence held by him, and no person shall obtain a full licence unless a period of at least six months shall have elapsed since the expiry of any previous 14-day licence held by him :

Provided that any person who shall have obtained a 14-day licence may, within six months of the expiry of such licence, convert such licence to a full licence by payment of the difference between the fees payable for a full licence and a 14-day licence respectively. Such full licence shall expire one year from the date of commencement of the 14-day licence from which it was converted, and any animal killed on the 14-day licence shall be deemed to have been killed on the full licence, and shall count on that licence.

(6) A private land licence may be converted at any time during its validity to a full licence by payment of the difference between the fees payable for a full licence and a private land licence respectively. Such full licence shall expire one year from the date of commencement of the private land licence from which it was converted.

(7) A serving officer's licence may be issued to any officer on the active list of His Majesty's Navy, Army or Air Forces or in the Public Service of His Majesty in India.

(8) A resident's licence shall not be granted except to a resident in the Colony or to an officer in the public service of the Uganda Protectorate or the Tanganyika Territory or to an officer of one of His Majesty's ships on the East Indies Station, or to such other officers of His Majesty's Forces visiting the Colony on duty, but not usually resident in the Colony, as the Governor may in each case approve.

(9) (a) An assistant's licence may be issued only to the holder of a full licence, and shall entitle the licensee to assist any person who is duly authorized under this Ordinance to hunt, kill or capture any animal which such person is so authorized to hunt, kill or capture :

Provided that the Governor may, at his absolute discretion, direct that an assistant's licence shall be granted

to any person who is not in possession of a full licence, and may impose such conditions and restrictions on a licence so granted as he may deem fit.

(b) An assistant's licence shall not authorize the licensee to shoot at any animal except in case of absolute necessity; and if the holder of an assistant's licence shall shoot at any animal which he is not authorized by other licence or permit to hunt, kill or capture, he shall report the fact to the Game Warden without delay.

(c) An assistant's licence shall not be valid for any game reserve unless it has been endorsed by the Game Warden.

(d) If the holder of an assistant's licence kills any animal mentioned in any of the schedules, which he is not otherwise authorized under this Ordinance to kill, such animal shall be deemed to have been killed by the person whom he is assisting, and shall be counted upon such person's licence if such person's licence entitles him to hunt, kill or capture an animal of that species.

(e) If any holder of an assistant's licence fails to comply with the provisions of this section or with any conditions or restrictions imposed in relation to such licence, or if he assists any person to hunt, kill or capture any animal which such person is not authorized to hunt, kill or capture, he shall be guilty of an offence against this Ordinance, and shall on conviction be liable to a fine not exceeding two hundred pounds or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

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(10) Any landholder may be granted by the district commissioner on payment of a fee of two pounds a native employee's licence which shall entitle one employee of the licence holder to hunt, kill or capture animals mentioned in the Third Schedule on any private land belonging to or in the occupation of the licence holder.

The licence holder may at any time during the validity of such licence substitute the name of another employee upon such licence: provided that such licence holder makes and signs the necessary alterations on the licence and forthwith notifies the district commissioner of the change."

Repeal of
section 19 of
the Principal
Ordinance.
No. 25 of 1928.

10. Section 19 of the Principal Ordinance, as amended by the Game (Amendment) Ordinance, 1928, is hereby repealed.

Repeal of
section 20 of
the Principal
Ordinance.

11. Section 20 of the Principal Ordinance is hereby repealed.

Repeal of
section 21 of
the Principal
Ordinance.

12. Section 21 of the Principal Ordinance is hereby repealed.

Repeal of
section 22 of
the Principal
Ordinance.

13. Section 22 of the Principal Ordinance is hereby repealed.

Photographic
permits.

14. The following section is hereby inserted in the Principal Ordinance as section 25A :—

"25A. (1) The Governor may at his discretion grant to any person a permit (in this Ordinance called "a photographic permit") to hunt, for photographic purposes, animals of any one or more species mentioned in any of the schedules.

(2) A photographic permit shall be subject to such conditions as the Governor may prescribe.

(3) No person unless he is authorized by a photographic permit shall hunt, for photographic purposes, animals of any one or more species mentioned in any of the schedules.

(4) Save as in this section provided the holder of a photographic permit shall be subject to the provisions of this Ordinance.

(5) Nothing in this section contained shall apply to the photography of animals—

(a) which the photographer is otherwise authorized under this Ordinance to hunt, kill or capture; or

(b) when no molestation whatever is involved.

Repeal and
replacement of
section 26 of
the Principal
Ordinance.

Special licence
to kill
elephant,
rhinoceros,
cock ostrich
and bull
giraffe.

15. Section 26 of the Principal Ordinance is hereby repealed and the following section is substituted therefor :—

"26. (1) A provincial commissioner or district commissioner may on the application of the holder of a full licence, grant a special licence authorising such person to hunt, kill or capture either one or two elephants

8. The following sections are hereby inserted in the Principal Ordinance as sections 17A, 17B, 17c and 17D :—

“17A. Every licence in addition to stating its nature and the fee paid shall bear the name in full of the person to whom it is granted, and also his signature, the date and station of issue, the period of its duration, and the signature of the person granting the same. The native employee's licence shall bear the signature of the employer.

Licence to bear name of person, etc.

17B. The holder of a licence shall on demand being made by any magistrate, justice of the peace, game warden, police officer or forest officer produce his licence and any licence holder who fails without reasonable cause to produce his licence, or, on demand being made by any of the above mentioned officers or by a duly accredited servant of the Game Department to sign his name, shall be guilty of an offence against this Ordinance.

Licence to be produced on demand.

17C. Except as provided by section 17 (10), no licence or permit issued under this Ordinance is transferable.

Licence not transferable.

17D. If any animal mentioned in any of the schedules is killed or captured in any circumstances whatsoever by any licence holder or permit holder whose licence or permit allows him to hunt, kill or capture an animal of that species, such animal shall count on the licence or permit of such licence holder or permit holder; and if any animal mentioned in any of the schedules is killed or captured in any circumstances whatsoever by any person accompanying or assisting such licence holder or permit holder, such animal shall be deemed to have been killed or captured by the licence holder or permit holder and shall count on the licence or permit of such licence holder or permit holder unless the person accompanying or assisting is himself in possession of a licence entitling him to hunt, kill or capture an animal of such species, in which case the animal shall count on the licence of the person accompanying or assisting.”

Killing of animal in any circumstances to count on licence.

9. Section 18 of the Principal Ordinance is hereby repealed.

Repeal of section 18 of the Principal Ordinance.

or one or two rhinoceros or one bull giraffe or one cock ostrich as the applicant shall require and as shall be specified therein.

(2) The following fees shall be payable for a special licence to hunt, kill or capture :—

	£
(a) For the first elephant	25
(b) For the second elephant	50
(c) For each rhinoceros	10
(d) For one bull giraffe	15
(e) For one cock ostrich	1

(3) The Governor in Council may by order alter the fees laid down in sub-section (2) hereof.

(4) Every licence granted under this section shall expire on the same date as the full licence held at the time of the granting of such special licence by the person to whom the same shall be granted and only one such special licence shall be granted to such person during the period of any such licence :

Provided, however, if such person shall have taken out a special licence authorizing him to hunt, kill or capture one elephant or one rhinoceros only, he may on payment of a further fee of fifty pounds in the case of elephant or ten pounds in the case of rhinoceros be granted a licence authorizing him to hunt, kill or capture a second elephant or rhinoceros.

(5) Nothing in this section shall be deemed to prevent the holder of a special licence for one species of animal being granted a special licence for another species."

16. Section 26A of the Principal Ordinance is hereby amended by inserting the words "or Serving Officer's" after the word "Visitor's" in the third line of sub-section (1), in the second line of sub-section (2) and in the first line of sub-section (3) of the section.

Amendment of
section 26A of
the Principal
Ordinance.

17. Section 27 of the Principal Ordinance, as replaced by the Game (Amendment) Ordinance, 1928, is hereby amended by the insertion of the words "full or serving officer's private land" after the word "officer's" which occurs in the fourth line of the section.

Amendment of
section 27 of
the Principal
Ordinance.
No. 25 of 1928.

Repeal of
section 37 of
the Principal
Ordinance.

18. Section 37 of the Principal Ordinance is hereby repealed.

Repeal of
section 38 of
the Principal
Ordinance.

19. Section 38 of the Principal Ordinance is hereby repealed.

Repeal of
section 39 of
the Principal
Ordinance.

20. Section 39 of the Principal Ordinance is hereby repealed.

ORDINANCE No. LXIII of 1933

Assented to in His Majesty's name this thirtieth day of December, 1933.

J. BYRNE,
Governor.

[30TH DECEMBER, 1933.] Date of assent.

An Ordinance to Amend the Education Ordinance, 1931.

30th December, 1933

Date of commencement.

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

1. This Ordinance may be cited as "the Education (Amendment) Ordinance, 1933", and shall be read as one with the Education Ordinance, 1931, hereinafter referred to as "the Principal Ordinance".

Short title.

No. 2 of 1931.

2. Section 39 of the Principal Ordinance is hereby repealed and the following section is substituted therefor :—

Repeal and replacement of section 39 of the Principal Ordinance.

"39. (1) Such fees or reduced 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 child in respect of whom fees are due and owing may be refused admission or readmission to school (as the case may be) or if he has been admitted or readmitted may be excluded from school until all fees due up to the date of such exclusion have been paid :

Provided 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.

Replaced by
79/48 P-380

(1) The Director of Education may in his own name institute legal proceedings for the recovery of any fees or other sums due in respect of the attendance of a pupil at a Government school."

Repeal and
replacement
of section 44
of the
Principal
Ordinance.

3. Section 44 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

"44. (1) A child attending a public school and undergoing a course of training for any trade or vocation may 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.

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

ORDINANCE No. LXV of 1933

Assented to in His Majesty's name this thirtieth day of December, 1933.

J. BYRNE,
Governor.

Date of assent.

[30TH DECEMBER, 1933.]

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

Date of commencement.

30th December, 1933

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

Short title.

1. This Ordinance may be cited as "the European Officers' Pensions (Amendment) Ordinance, 1933", and shall be read as one with the European Officers' Pensions Ordinance, 1927, hereinafter referred to as "the Principal Ordinance".

No. 11 of 1927.

Amendment of section 7 of the Principal Ordinance.

2. Section 7 of the Principal Ordinance as amended by the European Officers' Pensions (Amendment) Ordinance, 1929, is hereby further amended by the addition of the following proviso :—

No. 27 of 1929.

"Provided that in the case of any European Officer appointed to the service of Kenya after the 31st day of December, 1933, paragraph (a) in this section shall have effect as if the expression "fifty-five years" were substituted for the expression "fifty years" unless the prior approval of the Secretary of State is obtained for the award of pension, gratuity or other allowance at an earlier age."

Amendment of section 18 of the Principal Ordinance.

3. Section 18 of the Principal Ordinance is hereby amended by the renumbering of the section as section 18 (1) and by the addition of the following as sub-section (2) :—

Gratuity not to be subject to estate duty or Public Trustee's fees.
No. 13 of 1926.
No. 7 of 1925.

"(2) Notwithstanding anything contained in the Estate Duty (Consolidation) Ordinance, 1925, or the Public Trustee's Ordinance, 1925, no gratuity granted under sub-section (1) hereof shall be subject to any estate duty or to the payment of the Public Trustee's fees and charges."

ORDINANCE No. LXIV of 1933

Assented to in His Majesty's name this thirtieth day
of December, 1933.

J. BYRNE,
Governor.

[30TH DECEMBER, 1933.] Date of assent.

**An Ordinance to Amend the Companies
Ordinance.**

30th December, 1933

Date of
commencement.

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

1. This Ordinance may be cited as "the Companies
(Amendment) Ordinance, 1933", and shall be read as one with
the Companies Ordinance, 1933, hereinafter referred to as "the
Principal Ordinance".

Short title.

No. 28 of 1933.

2. Section 324 (1) of the Principal Ordinance is hereby
amended by the insertion after the word "applies" which
occurs in the second line thereof of the words "except a
private company".

Amendment
of section 324
of the
Principal
Ordinance.

ORDINANCE No. LXVI of 1933

Assented to in His Majesty's name this thirtieth day of December, 1933.

J. BYRNE,
Governor.

[30TH DECEMBER, 1933.] Date of assent.

An Ordinance to Apply a Sum of Money for the Service of the Year ending the Thirty-first day of December, 1934.

30th December, 1933

Date of commencement.

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

1. This Ordinance may be cited as "the 1934 Appropriation Ordinance, 1933." Short title.

2. The Public Revenue for the year 1934, and other funds of the Colony and Protectorate of Kenya are hereby charged towards the service of the year ending the 31st day of December, one thousand nine hundred and thirty-four, with the sum of three millions, one hundred and eighty-eight thousand, and forty-one pounds. Public Revenue.

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

4. The Treasurer of the Colony and Protectorate of Kenya is hereby authorized and required from time to time upon the warrant or order of the Governor to pay out of the Revenue and other funds of the Colony and Protectorate of Kenya, for the several services specified in the Schedule, the said sum of three millions, one hundred and eighty-eight thousand and forty-one pounds which will come in course of payment during the year ending on the 31st day of December, one thousand nine hundred and thirty-four. Treasurer's authority for payment.

SCHEDULE.

<i>No. of Head</i>		<i>£</i>
I.	His Excellency the Governor	15,188
II.	Administration	228,349
IIa.	Administration Extraordinary	850
III.	Agriculture	126,799
IIIa.	Agriculture Extraordinary	600
IV.	Audit	19,570
V.	Coast Agency	5,593
Va.	Coast Agency Extraordinary	250
VI.	Conference of East African Governors	955
VII.	Customs	47,071
VIII.	Education	178,965
IX.	Forest	31,910
X.	Game	8,769
XI.	Interest	624
XII.	Judicial	31,858
XIII.	Legal	8,539
XIIIa.	Legal Extraordinary	110
XIV.	Local Government, Lands Settlement and Mines	45,390
XV.	Local Government Contributions to Local Author- ities	85,862
XVI.	Medical	201,286
XVIa.	Medical Extraordinary	590
XVII.	Military	136,732
XVIIa.	Military Extraordinary	270
XVIII.	Miscellaneous Services	71,599
XVIIIa.	Miscellaneous Services Extraordinary	1,100
XIX.	Pensions and Gratuities	171,500
XX.	Police	132,729
XXa.	Police Extraordinary	20
XXI.	Post Office and Telegraphs	218,417
XXIa.	Post Office and Telegraphs Extraordinary	5,535
XXII.	Printing and Stationery	27,996
XXIII.	Prisons	46,977
XXIV.	Public Debt Funded	1,026,252
XXV.	Public Works Department	84,348
XXVI.	Public Works Recurrent	120,052
XXVII.	Registrar General's Department	5,835
XXVIII.	Rent and Interest to His Highness the Sultan of Zanzibar	16,000
XXIX.	Secretariat, Legislative Council and Native Affairs	24,599
XXX.	Statistical Departments	11,709
XXXI.	Trade and Information Office	4,700
XXXII.	Treasury	28,089
XXXIII.	Public Works Extraordinary	8,888
XXXIV.	Colonial Development Fund	5,566
Total Expenditure		<u>£3,188,041</u>

Assented to up to and including 1st January, 1933.

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Agricultural Advances	12/30
" " and Land Bank	3/31
" " " " (Amendment)	7/32
" " Produce Export	98
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Allocation of Customs Revenue	10/27
Allowances, Retiring, Nursing Sisters	21/31
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" " (Amendment)	61/30
" " Prevention of Cruelty to	160
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" " (Foreign Awards).. .. .	34/30
" " " " (Amendment)	27/31
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" " " " (Amendment)	4/26
" " " "	26/27
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" " (Amendment)	38/29
" " (Traffic with Abyssinia)	29/31
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" " Widows' and Orphans' Pension	20/27
" " " " " " (Amendment)	30/28
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" " " "	43/31
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Beer	100
Beer (Amendment)	31/31
„ „	19/32
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Birds—Game, Protection of	8/26
„ „ (Amendment)	36/31
Births and Deaths Registration	2/28
„ „ „ (Amendment)	6/29
„ „ „	25/31
Board—Central Roads and Traffic	18/29
Boat—Lamu, Registration of	109
*Boilers, Prime Movers and Machinery	66
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Bowring Pension	13/31
Branding of Stock	159
„ „ (Amendment)	44/32
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„ „ „ (Amendment)	21/29
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Businesses, Fraudulent Transfer of	55/30
Business Names Registration	92
Butter Levy	22/31
„ „ (Amendment)	13/32
C	
Camps, Detention	25/25
„ „ (Amendment)	6/26
„ „ „	18/30
Careless Use of Fire Prevention	76
*Carriage of Goods by Motor (Prohibition)	46/32
Carriage of Goods by Sea	16/26
*Cattle Cleansing	32/29
Census	31/25
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Change of Medical Titles	9/26
Chattels Transfer	24/30
„ „ (Amendment)	41/30
„ „ „	36/32
Children, Custody of	27/26
Christian Native Marriage and Divorce	51/31
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„ „ „ „ (Amendment)	8/29
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„ „ (Amendment)	29/25
„ „ „	14/29
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„ „ „ (Amendment)	46/30
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*Coffee Industry	50/32
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„ „ „ „ (Amendment)	21/29
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„ (Amendment)	4/27
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„ „ „ (Amendment)	8/32
Corporations (Probate and Administration)	14/31
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„ „ (Amendment)	2/27
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" Tariff	1/30
" " (Amendment)	4/31
" " " (No. 2)	30/31
" " "	33/32
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*Dangerous Drugs	43/32
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" " " (Amendment)	1/27
" " " "	27/28
" " " "	57/30
" " " "	17/32
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" " " " (Amendment)	6/29
" " " " "	25/31
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" " (Amendment)	17/30
" " " "	47/31
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Deportation	61
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Destruction of Court Records	23
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" " (Amendment)	6/26
" " " "	18/30
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" Plants Prevention	155
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" " " " "	7/30
" " " " "	19/31
" " " " "	6/32
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KENYA ORDINANCES.—(Contd.)

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„ „ „ (Amendment)	3/28
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*Drugs, Dangerous	43/32
Duty, Estate (Consolidation)	13/26
„ „ „ (Amendment)	37/32
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„ „ (European)	33/26
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„ Supply Lines	166
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„ „ „ (Amendment)	27/29
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„ „ „	3/32
„ Widows' and Orphans' Pension	34
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„ „ „ „ „	9/31
„ „ „ „ „	23/32
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„ „ „ „ „ ..	35/31
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" " " " " " " " " " " "	10/31
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" " " " " " (Amendment)	3/27
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" " " " " " " " " " " "	29/28
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" " " " (Amendment)	39/32
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" Native Property	136
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