

ORDINANCE No. 31 of 1953

Assented to in Her Majesty's name this twenty-seventh day of October, 1953.

E. BARING,
Governor.

**ARRANGEMENT OF SECTIONS****SECTION**

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SECTION

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AN ORDINANCE TO GUARANTEE LOANS OF THREE AND A HALF MILLION, AND THIRTY-TWO MILLION SEVEN HUNDRED AND FIFTY THOUSAND POUNDS STERLING OR THE EQUIVALENT IN POUNDS STERLING AND OTHER CURRENCIES TO BE RAISED BY THE HIGH COMMISSION FOR CERTAIN PURPOSES OF THE EAST AFRICAN RAILWAYS AND HARBOURS ADMINISTRATION, TO FACILITATE THE INVESTMENT OF TRUST AND OTHER FUNDS IN THE UNITED KINGDOM IN HIGH COMMISSION SECURITIES ISSUED FOR THE PURPOSES OF SUCH LOANS, AND FOR OTHER MATTERS RELATING THERETO AND CONNECTED THEREWITH

By Notice

WHEREAS the High Commission, by an Act entitled the Loan (Railways and Harbours) Act, 1951 (hereinafter called the Act of 1951) as amended by an Act entitled the Loan (Railways and Harbours) (1951) (Amendment) Act, 1953, made in accordance with the provisions of section 28 (1) (a) of the East Africa (High Commission) Order in Council, 1947, is authorized to raise, either at one time or by instalments, and either separately or at the same time as any other loan, a loan of three and a half million pounds sterling or the equivalent in pounds sterling and other currencies for certain purposes of the East African Railways and Harbours Administration (hereinafter called the Administration) specified in such Act:

Date of commencement.

H.C. Act,
Cap. 14.

H.C. Act,
No. 6 of 1953

H.C. Act,
No. 7 of 1952.

AND WHEREAS the High Commission, by an Act entitled the Loan (Railways and Harbours) Act, 1952 (herein-after called the Act of 1952) made in accordance with the said Order in Council, is authorized to raise, either at one time or by instalments and either separately or at the same time as any other loan, a loan of thirty-two million, seven hundred and fifty thousand pounds sterling, or the equivalent in pounds sterling and other currencies, for certain purposes of the said Administration specified in the Schedule thereto:

AND WHEREAS the principal moneys authorized to be raised by the Act of 1951 and the Act of 1952 respectively, and any interest and other charges thereon, are by such Acts charged upon and payable out of the Railways and Harbours Fund maintained by the High Commission for the Administration under the provisions of section 22 of the East African Railways and Harbours Administration Act:

AND WHEREAS by section 7 of the Act of 1951 (as inserted by the said amending Act of 1953) and by section 8 of the Act of 1952 it is provided (in the case of each of those Acts, namely the Act of 1951 and the Act of 1952) that if any portion of the loan thereby authorized is raised by means of a loan from the International Bank for Reconstruction and Development and if it be lawful for the Treasury to guarantee such loan, then any sum issued out of the Consolidated Fund of the United Kingdom on account of the guarantee of such loan by the Treasury shall be repaid with interest to the Treasury out of the said Fund:

AND WHEREAS by an Act entitled the Loan (Railways and Harbours) (1952) (Amendment) Act, 1953, it is provided that any portion of the loan authorized to be raised by the Act of 1952 may be raised by means of advances from the Government of the United Kingdom out of credit provided by the Mutual Security Agency as hereinafter defined:

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 Guarantee (High Commission Railways and Harbours Loans) Ordinance, 1953, and shall come into force on such day as the Governor may by notice in the Gazette, appoint.

Short title and commencement.

H.C. Act,
Cap. 3.

H.C. Act,
No. 14 of 1953.

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

“High Commission (Railways and Harbours Loans) Securities” means all securities created or issued by the High Commission on behalf of the Administration for the purpose of raising the loans of three and a half million, and thirty-two million, seven hundred and fifty thousand pounds sterling or the equivalent in pounds sterling and other currencies respectively authorized by the Act of 1951 and the Act of 1952, to which securities for the time being the Colonial Stock Acts, 1877 to 1948, of the United Kingdom apply, and which are for the time being registered in the United Kingdom in accordance with the provisions of those Acts;

40 & 41 Vict.
Cap. 59 to 12,
13, 14, Geo. 6
Cap. 1.

“final judgment, decree, rule or order” means in case of appeal the final judgment, decree, rule or order of the ultimate court hearing the appeal;

“Mutual Security Agency” means the Agency of the United States Government set up to carry out the programme of military, economic and technical assistance authorized by the Mutual Security Act, 1951, of the United States of America, as amended;

“the Treasury” means the Commissioners for the time being of Her Majesty’s Treasury in the United Kingdom.

3. (1) The payment of the principal moneys authorized to be raised by the High Commission under the authority of the Act of 1951 and the Act of 1952 respectively, and any interest and other charges thereon, is, to the extent to which such principal moneys and interest and other charges are not paid out of the Railways and Harbours Fund maintained for the Administration under the provisions of section 22 of the East African Railways and Harbours Administration Act, hereby guaranteed out of the general revenues and funds of the Colony:

Guarantee of loans.

Provided that the aggregate amount of principal moneys guaranteed under this Ordinance shall not exceed thirty-seven and a half million pounds sterling.

(2) The guarantee created by sub-section (1) of this section shall extend to the repayment to the Treasury of any sums due to be repaid to the Treasury under section 7 of the Act of 1951 or under section 8 of the Act of 1952 and to the

H.C. Act,
Cap. 3.

Guarantee (High Commission Railway and Harbours Loan) 1953

repayment under section 9 of the Act of 1952 to the Government of the United Kingdom of any advances received by the High Commission from that Government out of credit provided by the Mutual Security Agency.

Sums charged on general revenues.

4. Any sum required for fulfilling the guarantee created by this Ordinance shall be charged upon and paid out of the general revenues and other funds of the Colony, and the Governor shall appropriate out of the general revenues and funds of the Colony and remit to the Crown Agents any such sum; and any sum received by the Governor by way of the repayment of any sum so paid shall form part of the general revenues of the Colony.

Provision for payment of money due to stockholder.

5. (1) Whenever by the final judgment, decree, rule or order of any court of competent jurisdiction in the United Kingdom any sum of money is adjudged or declared to be payable in respect of any of the High Commission (Railways and Harbours Loans) Securities, then that sum, if not forthwith paid by the High Commission, shall be paid by the Governor out of the funds of the Colony in the hands of the Crown Agents without other or further appropriation than this Ordinance.

(2) Whenever any sum of money is required to be paid to the Treasury under section 7 of the Act of 1951 or under section 8 of the Act of 1952, or to the Government of the United Kingdom under section 9 of the Act of 1952, then that sum, if not forthwith paid by the High Commission shall be paid by the Governor out of the funds of the Colony in the hands of the Crown Agents without other or further appropriation than this Ordinance.

(3) If the sum remitted to the Crown Agents under section 4 of this Ordinance is insufficient for the payment of any sum adjudged or declared to be payable under sub-section (1) of this section or of any sum required to be repaid to the Treasury or the Government of the United Kingdom as aforesaid, any balance required to meet such deficit shall be charged upon and paid out of the general revenues and funds of the Colony, and the Governor shall forthwith appropriate out of such general revenues and funds and shall remit to the Crown Agents a sum equal to the amount of the said balance; and the

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said sum shall be applied by the Crown Agents in the satisfaction of the amount due under any such final judgment, decree, rule or order or the amount due to the Treasury or the Government of the United Kingdom, as the case may be, as aforesaid.

6. In order to enable every payment due to be made by the Crown Agents under the provisions of this Ordinance to be duly made, a certificate under the hand of the Crown Agents, specifying the sums so paid under a judgment, decree, rule or order of any court or to the Treasury or to the Government of the United Kingdom, as the case may be, shall be sufficient authority to the Auditor General, or other officer having the auditing of the accounts of the Crown Agents, for passing such sum without further appropriation.

Certificate by Crown Agents.

7. If at any time hereafter an Ordinance is passed which appears to Her Majesty's Government in the United Kingdom to alter any of the provisions affecting the High Commission (Railways and Harbours Loans) Securities to the injury of the holder thereof, or to involve a departure from the original contract in regard to these securities, or to prejudicially affect the right of the Treasury to require repayment of any sum under section 7 of the Act of 1951 or under section 8 of the Act of 1952 or the right of the Government of the United Kingdom to require repayment of any advance under section 9 of the Act of 1952, that Ordinance may properly be disallowed.

Certain Ordinances may properly be disallowed.