



COLONY AND PROTECTORATE OF KENYA

ORDINANCES

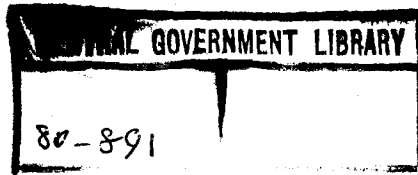
ENACTED DURING THE YEAR

1945

VOL. XXIV (NEW SERIES)

1946

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ORDINANCES, 1945
CHRONOLOGICAL TABLE

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TABLE SHOWING THE EFFECT OF THE YEAR'S LEGISLATION

FORMER ORDINANCES (IN CHRONOLOGICAL ORDER) REPEALED OR AMENDED BY ORDINANCES OF 1945

| Year and No. of Ordinance | Short Title | How Affected | Ordinance of 1945 |
|---------------------------|---------------------------------------|---|---|
| R.E. 34 Cep. | Widows and Orphans Pensions | Sections 2(1), 4, 5(1), 7(2), 16(1), amended; 11A, 27A new; 17, 26, 27 (1), 28, repealed and replaced; with provision for position of officers on war service | XXV XXVIII XXXI XXXV XXXVII |
| " 57 | Stamp | Sections 4, 22, amended | III |
| " 119 | Medical Practitioners and Dentists | Section 10, repealed and replaced by 10, 10A, and 10B | XVII |
| " 124 | Public Health | Sections 2, 19, amended; 27A, new; 48, 118, 119, 134, 142, 143, amended; 153, repealed and replaced | XXVI XXVIII XXIX XXXI XXXII |
| " 140 | Crown Lands | Sections 35, 36, 37, amended; provisions for determination of rent payable | XXXIII |
| 7 of 1925 | Public Trustee's | Sections 3, repealed and replaced; 4, amended; 5, new; 9, amended; 15, repealed and replaced; 17, 23, 24, amended | XXXIV |
| 19 of 1928 | Local Government (Municipalities) | Sections 52, 87, 99, amended; 104 and 105, repealed | XXXV XXXVI XXXVII XXXVIII XXXIX XXXX |
| 18 of 1929 | Central Roads and Traffic Board | Section 4, repealed and replaced | XXI |
| 1 of 1930 | Customs Tariff | Sections 2, amended; 4, 5, repealed and replaced | XXII |
| 16 of 1931 | Courts | Sections 7, 18, amended | XXIII |
| 24 of 1931 | Co-operative Societies (Registration) | Repealed | XXIV |
| 28 of 1933 | Companies | Part VIII (sections 296A to 296F), new; section 323, amended | XXV XXVI XXVII XXVIII XXIX XXX |
| 40 of 1935 | Excise Duties | Sections 3B, new; 12 (1), amended | XXXI XXXII XXXIII XXXIV XXXV XXXVI XXXVII XXXVIII XXXIX XXXX |

TABLE SHOWING THE EFFECT OF THE YEAR'S LEGISLATION

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| Year and No. of Ordinance | Short Title | How Affected | Ordinance of 1945 |
|---------------------------|--|--|-------------------|
| 38 of 1937 | Game | Sections 2 and 49, amended ; 20, repealed and replaced | XXIX |
| 19 of 1939 | Sisal Industry | Repealed | XXI |
| 39 of 1939 | Fish Protection | Section 4A, new | V |
| 45 of 1940 | Personal Tax | Sections 2, 7, and 16, amended ; 10, repealed and replaced | XXVII |
| 14 of 1941 | Excess Profits Tax | Sections 4, amended ; 5 (2), repealed and replaced ; 22, repealed ; 23, 24, new | XLI |
| 41 of 1941 | Control of Grass Fires | Sections 2 and 5, amended ; 7A, new ; 10, repealed and replaced | XXX |
| 10 of 1942 | Asian Officers Family Pensions | Sections 2, 5, 12, 17, and Schedule B, amended ; Section 13A, new | XXVI |
| 25 of 1943 | War Taxation (Sugar Consumption Tax) | Sections 3, 4, 6, amended | XI |
| 7 of 1945 | Pensions (Increase) | Second schedule amended | XXXIII |
| 45 of 1945 | Personal Tax | Section 3, amended ; provision for increase of tax payable by Europeans for 1946 for hospitalization | XLII |
| Consolidated Editions | Criminal Procedure Code | Sections 89 and 360, amended ; 89A, new | XXIV |
| | Increase of Production of Crops | Section 10, First Schedule, amended | XLIV |
| | Increase of Rent and of Mortgage Interest (Restrictions) | Sections 2 and 11, amended | X |
| | | Section 20, amended | IV |

CORRIGENDUM—Ordinance No. XXV ; Date of commencement—for 1st January, 1945, read 1st January, 1944.

COLONY AND PROTECTORATE OF KENYA

ORDINANCE No. I of 1945

Assented to in His Majesty's name this twenty-eighth day of January, 1945.

P. E. MITCHELL,
Governor.

An Ordinance to Enable any Enactment to be Revised

28th January, 1945

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 Revision of Laws Ordinance, 1945. Short title.

2. Subject to the approval of the Governor, the Attorney General may prepare a revised edition of any Ordinance in force in the Colony. Attorney General empowered to revise any Ordinance.

3. In the preparation of any revised edition of any Ordinance the Attorney General shall have the following powers:— Powers of Attorney General in preparing revision.

(1) To omit—

(a) any Ordinance or part of an Ordinance which has been expressly and specifically repealed or which has expired, or which has become spent or has had its effect;

(b) any repealing enactment contained in any Ordinance and also any table and list of repealed enactments, whether contained in Schedules, sections or otherwise;

(c) any preamble and long title to any Ordinance, where such omission can, in the opinion of the Attorney General, conveniently be made;

(d) any words of enactment in any Ordinance or in any section of an Ordinance where such Ordinance consists of more sections than one;

(e) any enactment prescribing the date when, or the manner in which, an Ordinance, or part of an Ordinance, is to come into operation, where such omission can, in the opinion of the Attorney General, conveniently be made;

(f) any amending Ordinance or part thereof where the amendments effected thereby have been embodied by the Attorney General in the Ordinance to which they relate;

(g) any punishments, words and phrases that no longer have any application:

Provided that the provisions of section 7 of the Interpretation and General Clauses Ordinance shall apply to such omissions in the same way as if the enactment had been repealed. Cap. 1.

(2) To consolidate into one Ordinance any two or more Ordinances *in pari materia*, making the alterations thereby rendered necessary in the consolidated Ordinance, and affixing, if necessary, such date thereto as may seem most convenient.

(3) To alter the order of sections in any Ordinance and, in all cases where it may be necessary to do so, to re-number the sections.

(4) To alter the form or arrangement of any section of any Ordinance by transferring words, by combining it in whole or in part with another section or other sections, or by dividing it into two or more sub-sections.

(5) To divide any Ordinance into parts or other divisions and to give to such parts or divisions a suitable heading.

(6) To add a short title to any Ordinance which may require it and if necessary to alter the short title of any Ordinance; or to alter and amend the title of any Ordinance so as to bring such title into conformity with the consolidated Ordinance appearing under such title.

(7) To shorten and simplify the phraseology of any enactment.

(8) To correct grammatical and typographical errors in the existing copies of any Ordinance, and for that purpose to make verbal additions, omissions or alterations not affecting the meaning of any Ordinance.

(9) To make such adaptations or amendments in any Ordinance as may appear to be necessary or proper as a consequence of the Royal and Parliamentary Titles Act, 1927, the Statute of Westminster, 1931, and the establishment of the Irish Free State.

(10) To insert in all sections in which His Majesty's Navy and Army are mentioned or referred to, and in which the Royal Air Force is not mentioned or referred to, such mention and reference to the Royal Air Force as may be appropriate.

(11) To make such formal alterations as to names, localities, offices and otherwise as may be necessary to bring any Ordinance into conformity with the circumstances of the Colony.

(12) To add or alter marginal notes to the sections of an Ordinance, but no marginal note shall be regarded or construed as being part of any Ordinance.

(13) To do all things relating to form and method which may be necessary for the perfecting of the revised edition of any Ordinance.

Limitation
of Attorney
General's
powers in
preparing
revision.

4. (1) The powers conferred upon the Attorney General by section 3 of this Ordinance shall not be taken to imply any power in him to make any alteration or amendment in the matter or substance of any Ordinance or any part thereof. In every case where any such alteration or amendment is, in the opinion of the Attorney General, desirable the Attorney General shall draft a Bill setting forth such alterations and amendments, and authorizing them to be made in the revised Ordinance, and every such Bill shall, subject to the sanction of the Governor, be submitted to the Legislative Council of the Colony and be dealt with in the ordinary way.

(2) Any Bill submitted to the Legislative Council of the Colony under the provisions of sub-section (1) of this section may have reference to more Ordinances than one, although such Ordinances may not be *in pari materia*.

5. The Governor may, by notice in the Gazette, order that the revised edition of any Ordinance shall come into operation upon such date as he may appoint.

Bringing the revised edition of any Ordinance into operation.

6. The revised edition of any Ordinance, from the date named in the notice in the immediately preceding section mentioned, shall be deemed to be without any question whatsoever in all courts of the Colony and for all purposes the authentic copy of such Ordinance and all Ordinances amending the same:

Authority of revised edition of any Ordinance.

Provided that nothing in this section shall affect the operation of any Ordinance which, before the date of such notice, may be passed repealing, altering or amending any earlier enactment, although such enactment has been already included in the revised edition of any Ordinance.

7. Any Resolution, Proclamation or Order of the Governor or the Governor in Council or statement prepared by any Officer of the Government or Rule, Order, Regulation, By-law or form made under any enactment included in the revised edition of any Ordinance, and in force at the date when the revised edition of such Ordinance shall come into force, shall continue in force until otherwise provided; and references in any such Resolution, Proclamation or Order of the Governor or the Governor in Council or statement prepared by any officer of the Government or Rule, Order, Regulation, By-law or form to the enactment under which it was made, or to any other enactment, shall, where necessary and practicable, be deemed to apply to the corresponding enactment in the revised edition of such Ordinance.

Saving of existing subsidiary legislation.

8. Wherever in any Ordinance or in any document of whatever kind, reference is made to any enactment omitted or otherwise affected by the operation of this Ordinance, such reference shall, where necessary and practicable, be deemed to extend and apply to the corresponding enactment in the revised edition of the Ordinance.

Reference to any enactment affected to be deemed to be a reference to the revised edition of the Ordinance.

ORDINANCE No. II of 1945

Assented to in His Majesty's name this twenty-eighth day of
January, 1945.

P. E. MITCHELL,
Governor.

An Ordinance to Amend the Customs Tariff Ordinance, 1930

Date of
commencement

18th April 1945

By Notice

Short title.

No. 1 of 1930.

Gov. Order No. 308/45

Amendment of
section 2 of
the principal
Ordinance.

Repeal and
replacement of
section 4 of
the principal
Ordinance.
Value of goods
for duty.

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, 1945, and shall be read as one with the Customs Tariff Ordinance, 1930, hereinafter referred to as the principal Ordinance, and shall come into operation on such date as the Governor may, by notice in the Gazette, appoint.

2. (1) Section 2 of the principal Ordinance is hereby amended by substituting a colon for the full stop at the end thereof and by adding thereto the following proviso:—

“Provided that the Governor in Council may exempt any permanent member of the Consular Service of any foreign country, employed as such in the Colony, from the payment of Customs duties in respect of any goods imported into the Colony.”

(2) This section shall be deemed to have come into effect on the 9th day of December, 1943.

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

“4. (1) For the purpose of any enactment for the time being in force whereunder a duty of customs is chargeable on goods by reference to their value, the value of any imported goods shall be taken to be the price which they would fetch on a sale in the open market in the Colony at the time of importation.

(2) For the purpose of computing the price of any goods, under the provisions of sub-section (1) of this section, it shall be assumed—

(a) that the goods to be valued are to be delivered to the buyer at the port or place of importation, freight, insurance, commission and all other costs, charges and expenses incidental to the making of the contract of sale and the delivery of the goods at such port or place (except any duties of customs payable in the Colony and buying commission not exceeding five per centum of the total value which is shown to the satisfaction of the Commissioner to have been paid to an agent) having been paid by the seller:

Provided that in the case of goods imported by air the Commissioner shall be empowered to assume that the freight charges paid by the seller are not less than one-fourth of the freight charges actually payable; and

- (b) that in converting the selling price of any such goods from foreign currency to sterling the rate of exchange is (notwithstanding anything contained in section 155 of the Customs Management Ordinance, 1926) the selling rate for sight drafts at the principal port of the Colony first quoted on or after the date of importation; and
- (c) that any portion of any charge for primage which is refundable on the performance by the buyer of any specified conditions is not paid by the buyer, whether the buyer intends to fulfil such conditions or not; and
- (d) that the price is the sole consideration for the sale of any such goods; and
- (e) that neither the seller nor any person associated in business with him has any interest, direct or indirect, in the subsequent re-sale or disposal of any such goods; and
- (f) that there has not been and will not be any commercial relationship between the seller and the buyer, whether created by contract or otherwise, other than that created by the sale of any such goods.

No. 25 of 1926.

(3) For the purposes of this section two persons shall be deemed to be associated in business with one another if, whether directly or indirectly, either of them has any interest in the business or property of the other, or both have a common interest in any business or property, or some third person has any interest in the business or property of both of them.

(4) The value of any exported goods for the purpose of assessing duty *ad valorem* shall be determined in accordance with regulations which the Governor in Council is hereby authorized to make in relation thereto."

4. Section 5 of the principal Ordinance is hereby repealed and the following section substituted therefor:—

Repeal and replacement of section 5 of the principal Ordinance.

"5. Notwithstanding the provisions of sub-section (1) of section 4 of this Ordinance whenever goods are imported into the Colony under such unusual conditions as to make it, in the opinion of the Commissioner, inequitable for the value of any such goods to be taken to be the price which they would fetch on a sale in the open market in the Colony at the time of importation the Commissioner may determine the value of such goods for purposes of duty in accordance with the provisions of the Customs Management Ordinance, 1926."

Determination of value in special cases.

No. 25 of 1926.

ORDINANCE No. III of 1945

Assented to in His Majesty's name this twenty-eighth day of January, 1945.

P. E. MITCHELL,
Governor.

An Ordinance to Amend the Public Trustee's Ordinance, 1925

Date of commencement.

28th January, 1945

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

Short title.

1. This Ordinance may be cited as the Public Trustee's (Amendment) Ordinance, 1945, and shall be read as one with the Public Trustee's Ordinance, 1925, hereinafter referred to as the principal Ordinance.

No. 7 of 1925.

Repeal and replacement of section 3 of the principal Ordinance.

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

Appointment of Public Trustee.

"3. The Governor may appoint some fit and proper person to be a Public Trustee, hereinafter referred to as 'the Public Trustee', and may also appoint a Deputy and Assistant Public Trustee to assist the Public Trustee; and any Deputy or Assistant so appointed shall, subject to any general or special orders of the Public Trustee, be competent to discharge any of the duties and to exercise any of the powers of the Public Trustee, and when discharging such duties or exercising such powers shall have the same privileges and be subject to the same liabilities as the Public Trustee."

Amendment of section 4 of the principal Ordinance.

3. Section 4 of the principal Ordinance is hereby amended—

- (i) by the deletion of the words "applied for" and "three" which appear in lines three and four of paragraph (d) of sub-section (3) thereof, and by the substitution therefor of the words "obtained" and "six" respectively;
- (ii) by the deletion of paragraph (f) of sub-section (3) thereof;
- (iii) by the deletion of the words "one hundred pounds", which appear in line five of the proviso to sub-section (4) thereof, and by the substitution therefor of the words "four thousand shillings";
- (iv) by the substitution of a colon for the full stop which appears at the end of the proviso to sub-section (4) thereof and by the addition, immediately after such colon of the following further proviso:—

"Provided further that where it appears that the gross value of the assets or property of a deceased person does not exceed Sh. 4,000 the Public Trustee, on the application of any person to whom probate or letters of administration (as the case may be) might be granted, may at any time after the expiration of fourteen days after the death of the deceased grant to such person a certificate entitling him to administer the estate of such deceased person and to pay thereout any debts or charges, and to pay, remit or de-

liver any surplus to the person or persons entitled thereto according to law or as he may be directed by the Public Trustee, and the grant of such certificate shall be a full and final discharge to the Public Trustee as against all persons whatsoever from any further liability in respect of such estate. The fee payable for the certificate as herein provided shall be calculated at the rate of five per centum of the gross value of the estate. The Public Trustee shall not be bound to grant any certificate under this proviso unless he is satisfied of the title of the claimant and of the value of the assets left by the deceased within the Colony, either by the oath of the claimant, or by such other evidence as he may require. The holder of a certificate granted in accordance with the provisions of this proviso shall have in respect of the assets specified in such certificate the same powers and duties, and be subject to the same liabilities as he would have had or been subject to if letters of administration had been granted to him, but shall not be required—

- (a) to file accounts or inventories of the assets of the deceased before any court or other authority; or
- (b) to give any bond for the due administration of the estate.

The Public Trustee may revoke a certificate granted under the provisions of this proviso on any of the following grounds, namely—

- (i) that the certificate was obtained by fraud or misrepresentation made to him,
- (ii) that the certificate was obtained by means of an untrue allegation of a fact essential in law to justify the grant though such allegation was made in ignorance or inadvertently.

When a certificate is revoked the holder thereof shall, on the requisition of the Public Trustee, deliver it up to the Public Trustee but shall not be entitled to the refund of any fee paid thereon and if such person wilfully and without reasonable cause omits to deliver up the certificate, he shall be guilty of an offence and on conviction therefor be liable to a fine not exceeding Sh. 2,000, or to imprisonment for a period not exceeding three months, or to both such fine and such imprisonment.”;

(v) by the addition thereto of the following new sub-section:—

“(5) Where the Public Trustee has been requested, in writing, by the Executor or Administrator (as the case may be) to obtain a sealing in the Colony of any probate or letters of administration within the meaning of the British and Colonial Probates Ordinance the Public Trustee may without any further formality apply to the court to seal and the court may seal such probate or letters of administration.”

Cap. 12.

Insertion of a new section 5 in the principal Ordinance.

Public Trustee to have preferential right to letters of administration.

4. The principal Ordinance is hereby amended by inserting therein the following section as section 5 thereof:—

“5. (1) The Public Trustee shall be deemed to have a right to Letters of Administration, other than letters *pendente lite*, in preference to—

- (a) a creditor; or
- (b) a legatee, other than a universal or residuary legatee; or
- (c) a friend of the deceased,

but the Public Trustee may waive such right.

(2) No grant shall be made to any person, except an executor appointed by the will of a deceased person or the widower or widow or next-of-kin of a deceased person or a universal or residuary legatee under the will of a deceased person or his or her attorney duly authorized in writing, authorizing him to administer the estate of a deceased person, until the applicant shall have satisfied the court that the Public Trustee has declined to administer the estate or that he has given to the Public Trustee seven clear days notice in writing of his intention to apply for such grant.

The provisions of this sub-section with respect to notice to the Public Trustee shall apply also in the case of any person petitioning the court verbally or otherwise, for the appointment of the Public Trustee.

(3) On receipt of such notice the Public Trustee may call upon such applicant for such particulars as he may reasonably require in order to determine whether to oppose or consent to such grant being made.”

Amendment of section 9 of the principal Ordinance.

5. Section 9 of the principal Ordinance is hereby amended by the deletion of the figures “1,000” which appear in line six of the proviso thereto and by the substitution therefor of the figures “4,000”.

Repeal and replacement of section 15 of the principal Ordinance.

6. Section 15 of the principal Ordinance is hereby repealed and the following section substituted therefor:—

Power to collect, realize and hand over assets to Administrator General.

“15. (1) Where a person dies leaving estate in the Colony consisting of personalty only and also estate in the Uganda Protectorate, Tanganyika Territory, the Nyasaland Protectorate or the Zanzibar Protectorate, administration whereof is committed to the Administrator General or Public Trustee of any such Protectorate or Territory the Public Trustee may, if requested so to do by the Administrator General or Public Trustee of any such Protectorate or Territory, and if satisfied that reciprocal legislation exists in such Protectorate or Territory and that the interests of creditor in the Colony will not thereby be prejudiced, apply to the Supreme Court for an Order, which order the Supreme Court is hereby empowered to make, authorizing him to collect the assets of the estate in the Colony and hand them over to the Administrator

General or Public Trustee of such Protectorate or Territory; and upon the making of such order the Public Trustee shall have the same rights and duties as regards the collection and realization of the assets of the estate as if administration had been committed to him and shall not be liable therefor to any creditor or claimant, but shall be discharged from all liabilities upon handing over the assets or the proceeds of the realization thereof to the Administrator General or Public Trustee of such Protectorate or Territory.

(2) There shall be chargeable in respect of proceedings under this section the following—

- (a) one half of the scale fees payable to the Public Trustee under this Ordinance and the Rules thereunder;
- (b) estate duty in accordance with the Estate Duty (Consolidation) Ordinance, 1926; No. 13 of 1926.
- (c) fees of court; and
- (d) any out-of-pocket realization expenses and other charges incurred by the Public Trustee in collecting, realizing and disposing of or transmitting the assets, or the proceeds of realization thereof of the estate in the Colony."

7. Section 16 of the principal Ordinance is hereby amended— Amendment of section 16 of the principal Ordinance.

(a) by the substitution of a colon for the full stop at the end of paragraph (a) thereof and by the addition, immediately after such colon, of the following proviso:—

"Provided that the fees chargeable by the Public Trustee on any assets or moneys received from outside the Colony, only for the purpose of distribution among the heirs or beneficiaries shall be restricted to one per centum of the gross value of such assets or the net amount of money received.";

(b) by the deletion of the words "one hundred pounds", which appear in line two of the proviso to paragraph (b) thereof, and by the substitution therefor of the words "four thousand shillings".

8. Sub-section (4) of section 17 of the principal Ordinance is hereby amended by the insertion, immediately after the word "nor" which appears in line three thereof, of the words "the administration". Amendment of section 17 of the principal Ordinance.

9. The principal Ordinance is hereby amended by the deletion of the word "General" which appears between section 23 and section 24 thereof and by the insertion between section 20 and section 21 thereof of the following words and figures:— Insertion of the words "Part III—General" between sections 20 and 21 of the principal Ordinance.

"PART III—GENERAL"

10. Section 23 of the principal Ordinance is hereby amended by the insertion, immediately after the word "trust" which appears in line four thereof, of the words "or estate". Amendment of section 23 of the principal Ordinance.

11. Section 24 of the principal Ordinance is hereby amended by the addition of the following new sub-sections thereto:— Amendment of section 24 of the principal Ordinance.

"(7) Notwithstanding anything to the contrary contained in this Ordinance or in any other law for the time being in force it

shall be lawful for the Crown Agents for the Colonies to act as nominees of the Public Trustee and as such to hold in their name, as nominees, the scrip, certificates and other documents relating to any authorized investment made by the Public Trustee in pursuance of this or any other Ordinance thereunto him enabling.

(8) The Public Trustee may, whenever he deems it expedient so to do, for the purposes of this Ordinance, in order to satisfy himself regarding any question of fact, examine upon oath, which he is hereby authorized to administer, any person who is willing to be so examined by him regarding any such question of fact."

ORDINANCE No. IV of 1945

Assented to in His Majesty's name this twenty-eighth day of January, 1945.

P. E. MITCHELL,
Governor.

**An Ordinance to Amend the Consolidated Edition of the
Increase of Rent and of Mortgage Interest (Restrictions)
Ordinance, 1940**

28th January, 1945

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 Increase of Rent and of Mortgage Interest (Restrictions) (Amendment) Ordinance, 1945, and shall be read as one with the Consolidated Edition of the Increase of Rent and of Mortgage Interest (Restrictions) Ordinance, 1940, prepared under the provisions of section 14 of the Increase of Rent and of Mortgage Interest (Restrictions) Ordinance, 1943, hereinafter referred to as the principal Ordinance.

Short title.

No. 12 of 1943.

2. Section 20 of the principal Ordinance is hereby amended as follows—

Amendment of section 20 of the principal Ordinance.

(a) by substituting a colon for the full stop at the end of sub-section (2) thereof and by adding thereto the following proviso:—

“Provided that nothing in this Ordinance contained shall apply to any approved dwelling which is the property of a local authority or to any dwelling-house which is the property of a Municipal Council or Municipal Board.”;

(b) by adding the following sub-section immediately after sub-section (2) thereof:—

“(3) For the purposes of this section the words ‘approved dwelling’ and ‘local authority’, shall have the same meaning as that assigned to them by the Housing Ordinance, 1943, and ‘Municipal Council’ and ‘Municipal Board’ mean a Municipal Council or Municipal Board established under the provisions of the Local Government (Municipalities) Ordinance, 1928.”.

No. 41 of 1943.

No. 19 of 1928.

See HC. Ad. 3 / 50 - Sec. 20

ORDINANCE No. V of 1945

Assented to in His Majesty's name this twenty-eighth day of January, 1945.

P. E. MITCHELL,
Governor.

An Ordinance to Amend the Fish Protection Ordinance, 1939

Date of commencement.

28th January, 1945

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 Fish Protection (Amendment) Ordinance, 1945, and shall be read as one with the Fish Protection Ordinance, 1939, hereinafter referred to as the principal Ordinance.

No. 39 of 1939.

Amendment of the principal Ordinance by insertion of new section 4A.

2. The principal Ordinance is hereby amended by inserting therein, immediately next after section 4 thereof, the following new section:—

Compounding of offences.

“4A. (1) Any Fishery Inspector empowered in that behalf by the Governor, by notice in the Gazette, may, if he is satisfied that a person has committed an offence against any rules made under this Ordinance, accept from such person a sum of money by way of compensation for such offence together with the article, if any, in respect of which the offence has been committed:

Provided that such compensation shall not exceed two hundred shillings or five times the value of the article in respect of which the offence has been committed, whichever be the less, or, where the value cannot be estimated, two hundred shillings for each offence.

(2) Such compensation shall be accepted only in cases where the person reasonably suspected of having committed an offence has expressed his consent to the offence being dealt with under this section.

(3) In any proceedings brought against any person for an offence against this Ordinance it shall be a good defence if such person proves to the satisfaction of the court that he has compounded the offence under the provisions of this section.”

*Amended by Ord. 42/48 p. 149***ORDINANCE No. VI of 1945**

Assented to in His Majesty's name this twenty-eighth day of January, 1945.

P. E. MITCHELL,
Governor.

An Ordinance to Control the Business of Life Assurance with Natives

By Notice

In operation from 1st July 1946
S. N. 484/46
Date of commencement.

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

1. This Ordinance may be cited as the Control of Life Assurance Business with Natives Ordinance, 1945, and shall come into operation on such date as the Governor may, by notice in the Gazette, appoint.

Short title and commencement.
S. N. 484/46 - 1/7/46
2. No person, other than a person approved by the Governor in Council, shall effect any new life assurance business with a native.

Provision added by Ord. 42/48

No person, other than a person approved by the Governor in Council, to effect life assurance with a native.
3. No person shall effect any life assurance with a native unless the form of proposal and policy and any conditions affecting the policy have first been approved by the Chief Native Commissioner.

Chief Native Commissioner to approve all forms of proposals and policies.
4. (1) No person shall canvass or solicit any life assurance proposal from any native without first obtaining a permit, in writing, from the Provincial Commissioner of the province in which such canvassing or soliciting is to be carried on by such person, and a Provincial Commissioner may, in his discretion, issue or refuse to issue a permit.

Prohibition of canvassing without permit of Provincial Commissioner.
- (2) Any person aggrieved by any refusal of a Provincial Commissioner to issue a permit, under the provisions of sub-section (1) of this section may, within fourteen days of the date of such refusal, appeal, in writing, to the Governor. The decision of the Governor, on any such appeal, shall be final.

4A - Certificate of exemption - Added by Ord. 42/48
5. No person shall accept any life assurance proposal from a native unless the proposal bears the signature or mark of such native attested by a person appointed for such purpose by the Governor, by notice published in the Gazette.

Proposal to bear signature or mark of native and to be attested.
6. (1) Any person who contravenes any of the provisions of sections 2 and 3 of this Ordinance shall be guilty of an offence and shall, upon conviction by a subordinate court of the first class, be liable to a fine not exceeding five hundred pounds.

Penalties.

(2) Any person who canvasses or solicits any life assurance proposal from any native contrary to the provisions of sub-section (1) of section 4 of this Ordinance and any person who contravenes the provisions of section 5 of this Ordinance shall be guilty of an offence and shall, upon conviction by a subordinate court of the first class, be liable to a fine not exceeding one hundred pounds.

Power to
make Rules.

7. The Governor in Council may make Rules—

- (a) providing for the submission, by any person carrying on life assurance business with natives, of information relating to such business;
- (b) generally for the better carrying out of the provisions of this Ordinance.

Schedule added by Ord. 42/48.

*Replaced by
Ord. 44/51*

ORDINANCE No. VII of 1945

*Amended by Ord. 33/45
19/48
54/49*

Assented to in His Majesty's name this twenty-eighth day of January, 1945.

P. E. MITCHELL,
Governor.

An Ordinance to Provide for the Increase of Certain Pensions Payable in Respect of Public Service

28th January, 1945

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 Pensions (Increase) Ordinance, 1945. Short title.

2. (1) In this Ordinance—

Interpretation.

“pension” means any pension or other benefit payable by way of periodical payments, but does not include any gratuity or any sum payable otherwise than by way of periodical payments, and accordingly the provisions of this Ordinance shall not have effect with respect to any pension which has been commuted, and, where a part of any pension has been commuted, those provisions shall not have effect with respect to that part thereof;

“pension authority” means, in relation to any pension, the authority by whom the pension is payable.

(2) For the purposes of this Ordinance, a pensioner shall be treated as unmarried unless the husband or wife of the pensioner is alive.

(3) References in this Ordinance to any enactment shall be construed as references to that enactment as amended by or under any subsequent enactment, other than this Ordinance.

(4) Nothing in this Ordinance shall authorize the increase of any pension in respect of any period after the expiry of this Ordinance.

*See Ord.
54/49*

3. (1) Subject to the provisions of this section every pension specified in the First Schedule to this Ordinance shall, with effect from the first day of January, 1944, be increased by the pension authority by an amount calculated in accordance with the provisions of the Second Schedule to this Ordinance:

Increase of certain pensions payable in respect of public service.

Provided that—

(a) no pension specified in Part I of the First Schedule to this Ordinance shall be increased under the provisions of this section unless the Governor is satisfied that the income of the pensioner does not exceed, in the case of a pensioner who is married or has at least one dependant, three hundred pounds a year, and, in the case of any other pensioner, two hundred and twenty-five pounds a year;

- (b) no pension specified in Part II of the First Schedule to this Ordinance shall be increased under the provisions of this section unless the Governor is satisfied that the income of the pensioner does not exceed, in the case of a pensioner who is married or has at least one dependant, one hundred and sixty-five pounds a year, and, in the case of any other pensioner, one hundred and twenty-four pounds a year.
- (2) Where a pension is payable in respect of the pensioner's own services, the pension shall not be increased under the provisions of this section unless—
- 19/48
- (a) the pensioner has attained the age of ⁵⁰~~sixty~~ years; or
 - (b) the pensioner has retired on account of physical or mental infirmity from the office or employment in respect of which, or on retirement from which, the pension is payable; or
 - (c) the Governor is satisfied that the pensioner is disabled by physical or mental infirmity; or
 - (d) the pensioner is a woman who has at least one dependant.
- (3) Where a pension is payable in respect of the services of any person other than the pensioner, not being the deceased husband of the pensioner, the pension shall not be increased under the provisions of this section unless—
- 19/48
- (a) the pensioner has attained the age of ⁵⁰~~sixty~~ years; or
 - (b) the pensioner has not attained the age of sixteen years; or
 - (c) the pensioner is a woman who has at least one dependant; or
 - (d) the Governor is satisfied that the pensioner is disabled by physical or mental infirmity. *Proviso added by Ord. 54/49*
- (4) Where a pension is payable in respect of the services of the deceased husband of the pensioner, the pension shall not be increased under the provisions of this section unless—
- (a) the pensioner has attained the age of forty years; or
 - (b) she has at least one dependant; or
 - (c) the Governor is satisfied that she is disabled by physical or mental infirmity.
- (5) For the purposes of this section and of the Second Schedule to this Ordinance the expression "dependant" means, in relation to any pensioner, any person other than the pensioner with respect to whom the Governor is satisfied that he is wholly or mainly supported by the pensioner and that his total income from any other source does not exceed ~~fifty-two pounds a year~~, being either—
- (a) a person who has not attained the age of sixteen years, or who, if he has attained that age, is receiving full-time instruction at any educational establishment or is undergoing training for any trade, profession or vocation; or
 - (b) the father, mother, brother, sister, child, uncle or aunt of the pensioner, or of the husband or wife of the pensioner, or of the deceased husband or wife of the pensioner; or
 - (c) the child of any such person as is mentioned in paragraph (b) of this sub-section; or
 - (d) the stepfather or stepmother of the pensioner;

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Pensions (Increase)

No. VII

and in this sub-section the expression "child" includes, in relation to any person, a step-child, an illegitimate child and a child adopted by him in pursuance of an adoption order under the Adoption of Children Ordinance, 1933, or adopted by him in accordance with the law of the place where he was domiciled at the time of the adoption.

No. 23 of 1933.

(6) In calculating, for the purposes of sub-section (5) of this section the income of any such person as is mentioned in paragraph (a) thereof, no account shall be taken of any income accruing to that person as the holder of a scholarship or other educational endowment.

(7) For the purposes of this section a pensioner shall be deemed to be disabled by physical or mental infirmity if he is permanently incapacitated by such infirmity from engaging in any regular full-time employment.

4. (1) Subject to the provisions of sub-sections (2) and (3) of this section, the income of a pensioner shall be calculated for the purposes of section 3 of, and the Second Schedule to, this Ordinance, in such manner as may be prescribed.

Supplementary
and
administrative
provisions.

*For calculation of
Income Ref. see
G.N. 687/4/58*

(2) The first fifty-two pounds a year, or any lower sum that the Governor in Council may prescribe, of any income accruing to any pensioner otherwise than in respect of a pension specified in the First Schedule to this Ordinance may, if the Governor in Council so directs, be disregarded.

Replaced by Ord. 54/49

(3) The income of a married pensioner shall be deemed to include the income of the husband or wife of the pensioner, but, save as aforesaid, the income of a pensioner shall not be deemed to include the income of any other person.

(4) Where the amount to which a pension may be increased under the foregoing provisions of this Ordinance is less than the amount to which that pension might have been increased if it had been smaller, the pension may be increased to the last mentioned amount.

(5) Subject to the provisions of this Ordinance, any provision made by or under any enactment shall, in so far as it relates to the apportionment of the cost of a pension between two or more pension authorities, or to the manner in which a pension is to be paid, or to the proof of title to sums payable on account of a pension or in so far as it prohibits or restricts the assignment or charging of a pension or its application towards the payment of debts, have effect in relation to any increase payable under this Ordinance as it has effect in relation to the pension in respect of which the increase is payable:

Provided that, save as aforesaid, any such increase shall not be treated as part of the pension for the purposes of any such provision.

5. Where any pension is increased under the provisions of this Ordinance, the cost of such increase shall be paid by the pension authority.

Financial
provisions.

Penalty for false statements, etc.

6. Any person who, for the purpose of obtaining either for himself or any other person, any sum payable by virtue of this Ordinance, knowingly makes any false statement or false representation, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

Regulations.

*In General Ref. see
2. N. 688/45-L-387*

7. The Governor in Council may make Regulations for all or any of the following purposes—

- (a) providing the manner in which claims for an increase of a pension under the provisions of section 3 of this Ordinance are to be made, and the procedure to be followed in considering and determining any such claim;
- (b) providing the evidence to be required for the purpose of determining whether a pension may be increased;
- (c) providing the circumstances under which a husband and wife living apart may be treated as unmarried persons for the purposes of this Ordinance;
- (d) providing that, in relation to any particular class of pensions all or any of the functions of the pension authority under this Ordinance shall be performed on behalf of the pension authority by such other authority as may be specified;
- (e) prescribing anything required to be prescribed under this Ordinance;
- (f) generally for the better carrying out of the provisions of this Ordinance.

Governor, with approval of Legislative Council, may add to First Schedule.

8. The Governor may, with the approval of the Legislative Council of the Colony, by notice in the Gazette, amend the First Schedule to this Ordinance by making any addition thereto.

Expiry.

*In force until 31/12/46
Proc. 54/45-387
In force until 31/12/46
Proc. 49/46-387
64/47 p. 424*

9. This Ordinance shall continue in force for the period ending with the thirty-first day of December, 1945, and shall then expire:

Replaced by Ord. 54/49
provided that the Governor may, with the approval of the Legislative Council of the Colony, by proclamation declare that this Ordinance shall remain in force until a date to be fixed in such proclamation or until repealed:

Provided further that upon the expiry of this Ordinance subsection (2) of section 7 of the Interpretation and General Clauses Ordinance (which relates to the effect of repeals) shall have effect as if this Ordinance had then been repealed.

Cap. 1

FIRST SCHEDULE

PENSIONS WHICH MAY BE INCREASED UNDER THIS ORDINANCE

PART I

1. A pension payable out of the general revenues of the Colony to or in respect of the services of a European officer in accordance with the provisions of the Superannuation Acts, 1859 and 1887.

2. A pension payable under the European Officers' Pensions Ordinance, 1927.

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Pensions (Increase)

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3. A pension payable to or in respect of the services of a European officer in pursuance of a special Resolution of the Legislative Council of the Colony.

4. A pension payable under the Widows and Orphans Pension Ordinance (Chapter 34 of the Revised Edition).

PART II

1. A pension payable out of the general revenues of the Colony to or in respect of the services of a non-European officer in accordance with the provisions of the Superannuation Acts, 1859 and 1887.

2. A pension payable under the Non-European Officers' Pensions Ordinance, 1932.

3. A pension payable to or in respect of the services of a non-European officer in pursuance of a Special Resolution of the Legislative Council of the Colony.

4. A pension payable under the Asiatic Widows and Orphans Pensions Ordinance, 1927.

5. A pension payable under the Asian Officers' Family Pensions Ordinance, 1942.

SECOND SCHEDULE

AUTHORIZED INCREASES OF CERTAIN PENSIONS

1. In this Schedule the expression "authorized increase" means an increase of a pension authorized by the provisions of section 3 of this Ordinance and the expression "service pension" means a pension granted, under any Order in Council, Royal Warrant, order of His Majesty or regulations of the Air Council, in respect of service in His Majesty's Naval, Military or Air Forces, whether that service has been rendered by the pensioner or by any other person.

2. (1) Where the pension is a pension specified in Part I of the First Schedule to this Ordinance and the pensioner is married or has at least one dependant, then subject to the provisions of this Schedule—

(a) if the pension does not exceed one hundred pounds a year, the authorized increase shall be thirty per centum of the amount of the pension;

(b) if the pension exceeds one hundred pounds a year but does not exceed two hundred pounds a year, the authorized increase shall be twenty-five per centum of the amount of the pension; and

(c) if the pension exceeds two hundred pounds a year, the authorized increase shall be twenty per centum of the amount of the pension.

(2) Where the pension is a pension specified in Part II of the First Schedule to this Ordinance and the pensioner is married or has at least one dependant, then subject to the provisions of this Schedule—

(a) if the pension does not exceed fifty-five pounds a year the authorized increase shall be thirty per centum of the amount of the pension;

Ord. 33/49

Paragraphs

2 and 3

replaced by

Ord. 54/49

(b) if the pension exceeds fifty-five pounds a year but does not exceed one hundred and ten pounds a year, the authorized increase shall be twenty-five per centum of the amount of the pension; and

(c) if the pension exceeds one hundred and ten pounds a year the authorized increase shall be twenty per centum of the amount of the pension.

3. (1) Where the pension is a pension specified in Part I of the First Schedule to this Ordinance and the pensioner is unmarried and has no dependants, then, subject to the provisions of this Schedule—

(a) if the pension does not exceed seventy-five pounds a year, the authorized increase shall be thirty per centum of the amount of the pension;

(b) if the pension exceeds seventy-five pounds a year but does not exceed one hundred and fifty pounds a year, the authorized increase shall be twenty-five per centum of the amount of the pension; and

(c) if the pension exceeds one hundred and fifty pounds a year, the authorized increase shall be twenty per centum of the amount of the pension.

(2) Where the pension is a pension specified in Part II of the First Schedule to this Ordinance and the pensioner is unmarried and has no dependants, then subject to the provisions of this Schedule—

(a) if the pension does not exceed forty-two pounds a year the authorized increase shall be thirty per centum of the amount of the pension;

(b) if the pension exceeds forty-two pounds a year but does not exceed eighty-three pounds a year the authorized increase shall be twenty-five per centum of the amount of the pension; and

(c) if the pension exceeds eighty-three pounds a year the authorized increase shall be twenty per centum of the amount of the pension.

4. (1) In the case of a pension specified in Part I of the First Schedule to this Ordinance the authorized increase of the pension shall not exceed the amount which is necessary to increase the income of the pensioner—

(a) if he is married, or has at least one dependant, to three hundred pounds a year; and

(b) in any other case, to two hundred and twenty-five pounds a year.

(2) In the case of a pension specified in Part II of the First Schedule to this Ordinance, the authorized increase of the pension shall not exceed the amount which is necessary to increase the income of the pensioner—

(a) if he is married, or has at least one dependant, to one hundred and sixty-five pounds a year; and

(b) in any other case, to one hundred and twenty-four pounds a year.

*Para. 3 substituted
by Ord. 19/48*

1945

Pensions (Increase)

No. VII

5. Where a person is in receipt of more than one pension specified in the First Schedule to this Ordinance, the provisions of the last foregoing paragraph shall not have effect with respect to those pensions, but the authorized increases thereof shall not in the aggregate exceed the appropriate amount specified in that paragraph; and any amount by which the authorized increases of the pensions are reduced by reason of the provisions of this paragraph shall be apportioned between the pensions in the proportions which they bear to one another.

6. Where a person is in receipt of any pension specified in the First Schedule to this Ordinance, and the husband or wife of that person is also in receipt of any pension so specified, the provisions of the last two foregoing paragraphs shall not have effect with respect to those pensions, but the authorized increases thereof shall not in the aggregate exceed the appropriate amount specified in paragraph 4 of this Schedule; and any amount by which the authorized increases of the pensions are reduced by reason of the provisions of this paragraph shall be apportioned between the pensions in the proportions which they bear to one another.

to v
Sche
gate:

"7. For the purpose of determining the percentage by reference to which the authorized increase of a pension specified in the First Schedule to this Ordinance is to be calculated, there shall be aggregated with that pension any other pension so specified and any similar pension received by the pensioner from any other Colonial Administration: *Ord. 33/45*

Provided that such similar pension is subject to temporary increase at the rates prescribed in this Ordinance and under conditions similar to those prescribed in this Ordinance." *5/4/49*

~~8. A service pension shall be disregarded for the purposes of the last foregoing paragraph if—~~

- ~~(a) the pension has been granted solely on account of death or disablement which is attributable to service in His Majesty's Naval, Military or Air Forces; or~~
- ~~(b) the pension has been granted partly on account of death or disablement which is attributable to such service, and no specific part of the pension is referable to the death or disablement;~~

and where any service pension has been granted partly on account of death or disablement which is attributable to service in His Majesty's Naval, Military or Air Forces and a specific part of the pension is referable to the death or disablement, the pension shall, for the purposes of the last foregoing paragraph, be deemed to be reduced by the amount of that part. *ORA 33/45*

For the purposes of this paragraph the death or disablement of any person shall be treated as attributable to service in His Majesty's Naval, Military or Air Forces, if it is wholly or partly due to any wound, injury or disease which has been caused or aggravated by such service.

8. Where a woman is in receipt of a pension specified in the First Schedule to this Ordinance which is payable in respect of the services of her deceased husband, and any person under the age of sixteen years who is dependant upon her is also in receipt of a pension so specified which is payable in respect of those services, then, without prejudice to the provisions of paragraph 7 of this Schedule, each of the pensions shall, for the purpose of determining the percentage by reference to which the authorized increase thereof is to be calculated, be deemed to be of an amount equal to the aggregate amount of both the pensions.

9. Where under the provisions of any enactment or other instrument for the time being in force a pension is not payable to the pensioner, but is payable to some other person, the pensioner shall, for the purposes of this Schedule, be deemed to be in receipt thereof.

ORDINANCE No. VIII of 1945

Assented to in His Majesty's name this twenty-eighth day of
January, 1945.

P. E. MITCHELL,

Governor.

See Proc 6/46 L. 38 - 24/2/46 deemed to be the date upon which the war that was the occasion of the enactment of this Ord. came to an end.

An Ordinance to Provide for the Establishment of a Class W Reserve (East Africa)

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. (1) This Ordinance may be cited as the Class W Army Reserve (East Africa) Ordinance, 1945, and shall not come into operation unless and until the Governor has declared by notice in the Gazette that it is His Majesty's pleasure not to disallow the same and thereafter it shall come into operation on such date as the Governor may, by notice in the Gazette, appoint.

Short title,
commencement
and duration.

(2) This Ordinance shall continue in force until the expiration of one year from such date as the Governor may, by Proclamation, declare to be the date on which the war that was the occasion of the enactment of this Ordinance has come to an end.

*Proc 6/46 L. 38
24/2/46*

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

Interpretation

“Army Act” means the Imperial Statute 44 and 45 Vict. Ch. 58, as amended from time to time, or any Imperial enactment substituted therefor;

“British Other Rank” means any soldier of European race or origin enlisted in the Colony into any unit of His Majesty's Military Forces during the present war, but does not include a commissioned officer;

“General Officer Commanding” means the General Officer Commanding in Chief, the East Africa Command;

“rank” means substantive or war substantive rank;

“Reserve” means the Class W Army Reserve (East Africa) established under the provisions of section 3 of this Ordinance;

“reservist” means any person placed on the Reserve by virtue of the provisions of this Ordinance.

3. There is hereby established a military force in the Colony to be known as the Class W Army Reserve (East Africa).

Establishment
of a Reserve.

4. The Reserve shall consist of all British Other Ranks for the time being in the Colony who have been released from military service.

Constitution.

5. (1) All British Other Ranks, who have been released from military service prior to the date of the coming into force of this Ordinance, shall become members of the Reserve with effect from the date of the coming into force of this Ordinance.

All British
Other Ranks
released from
military service
to be placed on
the Reserve.

(2) All British Other Ranks who are released from military service after the date of the coming into force of this Ordinance shall become members of the Reserve upon the date of their release.

Liability to be called out.

6. (1) Every reservist shall be liable to be called out by the General Officer Commanding for military service within or without the Colony at any time during the continuance in force of this Ordinance.

(2) In order to call out a reservist under the provisions of this section, the General Officer Commanding shall serve a notice requiring the reservist upon whom it is served to report at such time and at such place and to such authority and for such service as may be specified in the notice; and upon service of such notice the reservist shall be deemed to be called out, under the provisions of this Ordinance, and shall thereupon be subject to the provisions of the Army Act.

(3) For the purpose of this section, notice shall be deemed to have been duly served when it has been delivered at the last known place of residence of the reservist.

Rank when called out.

7. When a reservist is called out under the provisions of section 6 of this Ordinance he shall re-assume the rank held by him at the date of his release from military service.

Liability for personal service under Compulsory National Service Ordinance, 1943. No. 36 of 1943.

8. Nothing in this Ordinance contained shall exempt any reservist from any liability to render any personal service under the provisions of paragraph (d) of section 2 of the Compulsory National Service Ordinance, 1943:

Provided that when any reservist is called out under the provisions of section 6 of this Ordinance his liability to render personal service as aforesaid shall be suspended during the period for which he is so called out.

Reporting.

9. (1) Every reservist shall once in every six months report, in writing, to the General Officer Commanding, stating his postal address at that time.

(2) Any change of address of any reservist shall be reported, in writing, by him forthwith to the General Officer Commanding.

Leaving the Colony without permission.

10. (1) No reservist shall leave the Colony without first obtaining the permission, in writing, of the General Officer Commanding.

(2) Any reservist contravening the provisions of sub-section (1) of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

Penalties.

11. Any person who wilfully contravenes or fails to comply with any of the provisions of this Ordinance or of any Regulations made thereunder, for which no other penalty is specifically provided, shall be liable on conviction to a fine not exceeding twenty-five pounds or to imprisonment for a term not exceeding three months or to both such fine and imprisonment:

1945

Class W Army Reserve

No. VIII

Provided that no person shall be liable to be punished for any offence under the provisions of this Ordinance as well as under the Army Act.

12. (1) No reservist, except when he is called out under the provisions of section 6 of this Ordinance, shall be entitled to any pay, allowance or other emoluments or to free medical treatment, nor shall his period of service on the Reserve be counted as service for pay, pension or any other benefits. No pay or allowances while on the Reserve.

(2) Upon a reservist being called out under the provisions of section 6 of this Ordinance, pay and allowances, attaching to the rank which he holds while so called out, shall be payable to him from the date of his joining at the place at which he is required to report by the notice calling him out. If, on so joining, he is not accepted for service, pay and allowances as aforesaid shall be payable to him up to the date on which he is released. The period during which he is so entitled to pay and allowances shall be counted as service for pension, pay and other benefits.

13. The General Officer Commanding may delegate to any person all or any of the powers conferred upon him by this Ordinance. Power to delegate.

14. The Governor may make Regulations with respect to all or any of the following matters:— Power to make Regulations.

- (a) the care of such gear, arms, accoutrements, ammunition, clothing and equipment as may from time to time be issued;
- (b) the medical examination, from time to time, of reservists;
- (c) the discharge and dismissal, from the Reserve, of reservists; and
- (d) generally for the better carrying out of the provisions of this Ordinance.

Amended by Ord. 30, 48 p. 100 26 See HC. Act: 3/50-Jee. 20-

ORDINANCE No. IX of 1945

Assented to in His Majesty's name this twenty-eighth day of January, 1945.

In force from 26th June 1945

P. E. MITCHELL,
Governor.

An Ordinance to Provide for the Establishment of National Parks and for the Preservation of Wild Animal Life, Wild Vegetation and Objects of Aesthetic, Geological, Prehistoric, Archæological, Historical or other Scientific Interest therein, and for Incidental Matters relating thereto.

Date of commencement

By Notice

WHEREAS it is desirable to provide for the establishment, control and management of national parks in the Colony for the purpose of propagating, protecting and preserving therein wild animal life and wild vegetation and of preserving objects of aesthetic, geological, prehistoric, archæological, historical or other scientific interest.

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

*26/6/45
S.N. 567/45/237*

PART I—PRELIMINARY

Short title and commencement.

1. This Ordinance may be cited as the National Parks Ordinance, 1945, and shall come into operation on such date as the Governor may, by notice in the Gazette, appoint.

Interpretation.

2. In this Ordinance, unless the context otherwise requires—
“animal” includes any animal alive or dead, whether vertebrate or invertebrate, or any portion thereof;
“competent authority” means—
(a) in relation to Crown land, the Governor;
(b) in relation to the native reserves, the temporary native reserves and the native leasehold areas, the Governor;
(c) in relation to the native lands, the Native Lands Trust Board;
(d) in relation to any other land, the owner thereof or the person beneficially entitled to the rents and profits thereof;
“Highlands Board” means the Highlands Board as constituted by the Kenya (Highlands) Order in Council, 1939;
“land” means unalienated Crown land and any other land granted or leased to the Crown or to the Trustees for the purposes of a national park;
“Trust Board” means the Native Lands Trust Board as constituted by the Kenya (Native Areas) Order in Council, 1939;

"national park" means any area of land constituted a national park under the provisions of section 3 of this Ordinance;

^{national reserve}
"park adjunct" means any area, whether contiguous to a national park or not, over or in respect of which the Trustees have been granted, by the competent authority, complete or partial control or certain specific rights;

"the Highlands" means the areas of Crown land, the boundaries of which are set out in the Seventh Schedule to the Crown Lands Ordinance (Chapter 140 of the Revised Edition);

"the Trustees" means the Board of Trustees appointed under the provisions of section 5 of this Ordinance;

"vegetation" includes any form of vegetable matter, alive or dead.

PART II—ESTABLISHMENT OF NATIONAL PARKS AND BOARD OF TRUSTEES

3. The Governor may, with the consent of the Legislative Council of the Colony, by Proclamation in the Gazette, declare any area of land to be a national park for the purposes of this Ordinance: Establishment of national parks.

Provided that in the case of land situate in the Highlands the Governor shall, in the first instance, consult the Highlands Board, and in the case of land situate in the native reserves, the temporary native reserves and the native leasehold areas the Governor shall, in the first instance, consult the Trust Board.

4. Notwithstanding anything contained in the Interpretation and General Clauses Ordinance, (Chapter 1 of the Revised Edition) no Proclamation, made under the provisions of section 3 of this Ordinance, shall be amended, varied, rescinded or revoked except under the authority of an Ordinance enacted by the Governor with the advice and consent of the Legislative Council of the Colony: Restriction of power to amend, vary, rescind or revoke a Proclamation made under section 3.

Provided that the Governor may, with the consent of the Legislative Council of the Colony and of the Trustees, by Proclamation in the Gazette, alter the boundaries of any area declared to be a national park under the provisions of section 3 of this Ordinance:

Provided further that in the case of land situate in the Highlands the Governor shall, in the first instance, consult the Highlands Board, and in the case of land situate in the native reserves, the temporary native reserves and the native leasehold areas the Governor shall, in the first instance, consult the Trust Board.

5. (1) For the purposes of controlling and managing national parks and park adjuncts in the Colony there shall be established a Board of Trustees which shall— Board of Trustees. X

- (a) be a body corporate to be known by the name of "The Kenya National Parks' Trustees", with perpetual succession and a common seal;
- (b) in its corporate name be capable of suing and being sued;
- (c) be capable of holding, purchasing or otherwise acquiring for the purposes of a national park or park adjunct any movable

property and of alienating such property and, with the approval of the Governor, be capable of holding, purchasing or otherwise acquiring for the purposes of a national park or park adjunct any immovable property and, with such approval, of alienating any such property.

- (2) The Trustees shall consist of—
- (a) the Chief Native Commissioner;
 - (b) the General Manager, Kenya and Uganda Railways and Harbours;
 - (c) the Conservator of Forests;
 - (d) the Game Warden;
 - (e) three persons appointed by the Governor;
 - (f) three persons nominated by the Elected Members of the Legislative Council of the Colony, and appointed by the Governor;
 - (g) two persons nominated by the Association of Chambers of Commerce, and appointed by the Governor;
 - (h) one person nominated by the Board of Museums Trustees, and appointed by the Governor;
 - (i) one person nominated by the East African Professional Hunters' Association, and appointed by the Governor.

(3) In addition to the trustees mentioned in sub-section (2) of this section, the Governor may, on the recommendation of the Trustees, appoint not more than ten honorary trustees being persons of eminence in scientific or other attainments, and such honorary trustees shall, when in the Colony, have equally with the other trustees all the powers, duties and functions conferred upon them by this Ordinance.

(4) All appointments of trustees made by the Governor under the provisions of sub-sections (2) and (3) of this section shall be notified in the Gazette.

(5) The following provisions shall apply in respect of the trustees other than the honorary trustees and the trustees referred to in paragraphs (a), (b), (c) and (d) of sub-section (2) of this section—

- (a) two of such trustees shall retire annually;
- (b) the order of retirement of the trustees so appointed shall be by rotation and shall be decided by the Trustees by ballot;
- (c) any trustee so retiring shall be eligible for renomination by the body which originally nominated him.

(6) If any trustee appointed by the Governor, under the provisions of paragraphs (e), (f), (g), (h) and (i) of sub-section (2) of this section, dies or resigns, the vacancy so created shall be filled by the appointment, by the Governor, of another trustee who shall, in the case of a trustee appointed under the provisions of paragraphs (f), (g), (h) or (i), be a person nominated by the body which nominated the trustee who died or resigned:

Provided that if any of the bodies mentioned in paragraphs (f), (g), (h) or (i) has ceased to exist the Governor shall, after consultation with the Trustees, appoint such other person to be a trustee as he may determine.

(7) The Governor may upon an application in that behalf being made by any of the bodies referred to in paragraphs (f), (g), (h) or (i) of sub-section (2) of this section and without assigning any reason therefor, remove any trustee nominated by the body making such application and upon such removal he shall appoint a person, nominated by such body, to be a trustee in the place of the trustee so removed.

(8) The powers of the Trustees shall not be affected by any vacancy in the membership thereof.

(9) At any meeting of the Trustees five trustees shall form a quorum for the transaction of business.

(10) A decision of the majority of the trustees present and voting at a meeting of the Trustees shall be deemed to be the decision of the Trustees.

(11) The Trustees shall elect one of their number to be Chairman, who shall preside at meetings of the Trustees and shall hold office for one year but shall be eligible for re-election at the expiration of such period.

(12) In the absence from any cause of the Chairman from any meeting, the trustees present shall elect an acting Chairman for that meeting.

(13) The Chairman or acting Chairman shall have the right to vote on any question and in the event of the division of votes being equal he shall have also a casting vote.

(14) The Trustees may from time to time make rules for the transaction of their business, including the power to appoint, from among their number, committees to whom they may delegate authority to carry out such portions of the work committed to them as they may from time to time determine.

PART III—GENERAL POWERS, DUTIES AND FUNCTIONS OF TRUSTEES

6. (1) It shall be the duty and function of the Trustees to control, manage and maintain national parks and park adjuncts and where they consider it desirable so to do to purchase any property for such purposes, and the Trustees shall use all moneys received by them for such purposes.

Trustees to control, manage and maintain national parks.

(2) The Trustees may within a national park—

- (a) construct such roads, bridges, aerodromes, buildings and fences, provide water supplies and carry out such other works as they may consider necessary for the purposes of such national park;
- (b) take such steps as will ensure the security of the animal and vegetable life in a national park and the preservation of such national park and the animal and vegetable life therein in a natural state;
- (c) reserve or set aside any portions of a national park as breeding places for animals, and as nurseries for vegetation;
- (d) with the consent of the Governor in Council, let sites for the erection of hotels, or other buildings for the accommodation of visitors, shops or other undertakings:

Provided that arrangements shall be made for the proper control of all such undertakings by the Trustees.

(3) The Trustees may sell or exchange any specimen of the animal and vegetable life in a national park and may by purchase, exchange or otherwise acquire any specimen of animal and vegetable life which they may consider desirable to introduce into a national park.

Trustees may appoint Board of Management to manage any national park.

7. For the purposes of carrying out their powers, duties and functions under the provisions of this Ordinance the Trustees may appoint a Board of Management (hereinafter referred to as "the Board") for any national park or park adjunct and such Board may, in respect of the national park or park adjunct for which it has been appointed, exercise such powers, and carry out such duties and functions conferred upon the Trustees by this Ordinance, as the Trustees may, in writing, delegate to the Board. Any such delegation shall be notified in the Gazette.

Trustees may accept control of park adjunct.

8. (1) The Trustees may accept the complete or partial control of any park adjunct or certain specific rights therein and may in respect of any such park adjunct exercise such powers, duties and functions conferred upon them by this Ordinance in respect of national parks as may be approved by the competent authority:

Provided that where the Governor is the competent authority, in the case of land situate in the Highlands, the Governor shall, in the first instance, consult the Highlands Board, and in the case of land situate in the native reserves, the temporary native reserves and the native leasehold areas the Governor shall, in the first instance, consult the Trust Board.

(2) Where the control, whether complete or partial of any park adjunct has been accepted by the Trustees or where certain specific rights in any park adjunct have been accepted by the Trustees, the Trustees shall cause notice thereof to be published in the Gazette and such notice shall specify the powers, duties and functions under this Ordinance which the Trustees are authorized to exercise in respect of such park adjunct.

Trustees may appoint such officers and servants as they may deem necessary.

9. (1) The Trustees may, from time to time, appoint such officers and servants as they may deem necessary for the carrying out of the objects of this Ordinance and may in their discretion remove or dismiss such officers and servants.

(2) The officers and servants of the Trustees shall be paid such salaries, allowances and wages and such retiring benefits, and be granted such residential, pastoral, and agricultural facilities in a national park, and upon the death of any such officer or servant their dependants shall be paid such gratuity or allowance, as the Trustees may deem reasonable and proper.

Revenue of Trustees.

10. The revenues of the Trustees shall consist of voluntary subscriptions, donations and bequests received by them from the public, fees and other moneys received or, with the approval of the Governor in Council, raised by the Trustees, and such sums as the Governor may pay annually to the Trustees out of moneys appropriated by the Legislative Council of the Colony for the purposes of this Ordinance.

11. (1) The Trustees shall keep a full and correct account of all moneys received and expended by them and shall at the end of each calendar year submit a report of their operations accompanied by a statement of their revenue and expenditure to the Governor which report and statement shall be laid before the Legislative Council.

Trustees to keep accounts which are subject to audit by Auditor of Colony.

(2) The accounts of the Trustees shall be subject to audit by the Auditor of the Colony.

PART IV—CONTROL OF NATIONAL PARKS

12. It shall not be lawful for any person other than a member of the Trustees, or any officer or servant of the Trustees acting under the authority of the Trustees, except with the permission of the Trustees or of an officer or servant of the Trustees duly authorized by them to grant such permission—

Restriction on residence in a national park and prohibition of certain acts therein.

(a) to enter a national park:

Provided that the provisions of this paragraph shall not apply to any Provincial Commissioner, District Commissioner, District Officer or to any member of the Kenya Police requiring to enter a national park in the course of their official duty;

(b) to reside in a national park;

(c) to convey into a national park, or, within the confines thereof, be in possession of any weapon, explosive, trap or poison;

(d) within a national park to kill, injure, capture or disturb any animal or take or destroy any egg or nest;

(e) to cut or to set fire to any vegetation or damage any object of geological, prehistoric, archaeological, historical or other scientific interest in a national park;

(f) to introduce any animal or permit any domestic animal to stray into a national park or introduce any vegetation into a national park;

(g) to remove from a national park any animal or vegetation whether alive or dead other than any animal or vegetation lawfully introduced into a national park by the person removing it;

(h) to remove from a national park any object of geological, prehistoric, archaeological, historical or other scientific interest;

(i) to destroy or deface any object whether animate or inanimate in a national park.

13. (1) Any person authorized, in writing, for the purpose by the Trustees shall, in respect of any offence committed within a national park or park adjunct have the powers of arrest conferred upon a police officer by section 28 of the Criminal Procedure Code or any amendment thereof, and shall further have the power to arrest without a warrant within a national park or park adjunct or outside a national park or park adjunct within a distance of one mile from the boundary thereof, any person suspected upon reasonable grounds of having contravened any of the provisions of this Ordinance or of any regulations made thereunder.

Powers of officers of the Trustees.

(2) Any person authorized, in writing, in that behalf by the Trustees shall have the power to search without a warrant within a national park or outside a national park within a distance of one mile from the boundary thereof, any tent, place, premises, vehicle or receptacle whatsoever suspected upon reasonable grounds of containing any animal, vegetation, or article which may afford any evidence of a contravention of the provisions of this Ordinance or of any regulations made thereunder, and may seize any such animal, vegetation or article so found.

PART V—GENERAL

No prospecting or mining in national parks without permission of Trustees and right of appeal against their decision.

14. (1) Subject to any rights lawfully acquired by any person before the commencement of this Ordinance, and notwithstanding the provisions of any law for the time being in force in the Colony relating to mining, no prospecting or mining for minerals shall be carried out on any land situate within a national park except with the consent, in writing, of the Trustees.

(2) Any person aggrieved by any decision of the Trustees, made under the provisions of sub-section (1) of this section, may appeal to a committee appointed by a resolution of the Legislative Council of the Colony, consisting of a chairman and not less than four other persons, all of whom shall be members of such Council.

(3) On any appeal, under the provisions of sub-section (2) of this section, the committee may make such order as to them may seem meet, and any such order shall be final and conclusive.

(4) The Governor may make Rules regarding the procedure to be followed on appeals under this section.

Indemnity to the Trustees and members of the Board.

15. No member of the Trustees or of the Board shall incur any personal liability for any loss or damage caused by any act or omission in the administration of the affairs of the Trustees or of the Board unless such loss or damage be occasioned by an intentionally wrongful act on his part.

Fees for members of the Trustees and Board.

16. The members of the Trustees and of the Board shall be entitled to such fees and travelling expenses as the Governor in Council may, from time to time, determine.

Reservation of rights.

17. Nothing in this Ordinance contained shall affect the rights of His Majesty, his heirs and successors, or the rights of any person in or over any land acquired before the commencement of this Ordinance.

Regulations.

18. (1) The Trustees may, subject to the approval of the Governor in Council, make regulations with respect to all or any of the following matters—

(a) the powers and duties of officers and servants appointed by the Trustees in regard to—

(i) the exclusion of members of the public from a national park or any part thereof;

(ii) the killing, capturing or impounding of any animals within a national park and the disposal of such animals;

- (iii) the burning and cutting of vegetation within a national park;
 - (iv) the disposal of any animal, vegetable, mineral or other product of a national park;
 - (b) the conditions subject to which permission to enter a national park may be granted and the periods or times during which a national park or any portion thereof shall be open to the public;
 - (c) the conditions under which the services or attendance of officers or servants of the Trustees or the services or attendance of any other person, licensed by the Trustees, may be obtained by any person entering, passing through or sojourning within a national park, and the fees to be paid in respect of such services or attendance;
 - (d) the fees to be paid for permission to enter or reside in a national park, for the admission of motor cars or other vehicles and for the taking of photographs within a national park or for any other purpose connected with the use and enjoyment of a national park;
 - (e) the protection and preservation of a national park and the animals, vegetation and property therein;
 - (f) the regulation of traffic in and over a national park and the carriage of passengers, goods and weapons in a national park; the points by which persons may enter, and the routes by which they may pass through or over a national park;
 - (g) prescribing anything which may be prescribed under this Ordinance;
 - (h) generally for the efficient control and management of a national park.
- (2) The Trustees may make different regulations in respect of different national parks.

19. (1) Any person who contravenes any of the provisions of this Ordinance or who fails to comply with any provisions of this Ordinance shall be guilty of an offence and shall on conviction by a magistrate empowered to hold a subordinate court of the first or second class be liable to a fine not exceeding £200 or to imprisonment for a term not exceeding two years or to both such fine and imprisonment. Penalties.

(2) Any article which forms an element in a contravention of this Ordinance may, on the order of the court, be forfeited to the Crown.

(3) Any domestic animal found within a national park, except a domestic animal in the lawful possession or custody of an officer or servant of the Trustees, or introduced into a national park in accordance with the provisions of section 12 of this Ordinance, may be destroyed.

(4) Any vegetation introduced into a national park in contravention of the provisions of this Ordinance may, by order of the Trustees or any officer or servant of the Trustees duly authorized by them in that behalf, be destroyed.

ORDINANCE No. X of 1945

Assented to in His Majesty's name this twenty-eighth day of
January, 1945.

P. E. MITCHELL,
Governor.

An Ordinance to Amend the Increased Production of Crops Ordinance, 1942

Date of
commencement.

28th January, 1945

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 Increased Production of Crops (Amendment) Ordinance, 1945, and shall be read as one with the Consolidated Edition of the Increased Production of Crops Ordinance, 1942, prepared under the provisions of section 23 of the Increased Production of Crops (Amendment) Ordinance, 1943, hereinafter referred to as the principal Ordinance.

No. 13 of 1943.

Amendment of
section 2 of
the principal
Ordinance.

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

"crops" means such produce of the soil as the Governor may, with the advice of the ~~Agricultural Production and Settlement~~ Board, by Order published in the Gazette, declare to be a crop for the purposes of this Ordinance;"

Amendment of
section 11 of
the principal
Ordinance.

3. Section 11 of the principal Ordinance is hereby amended—

(a) by deleting sub-section (1) thereof and substituting therefor the following sub-sections:—

"(1) The Board may by order in writing addressed to any farmer, whether or not such farmer has submitted a programme of production, order such farmer to carry out such farming operations in connexion with the production of crops as the Board may, in its absolute discretion, determine.

(2) In any order given by the Board under sub-section (1) of this section the Board may specify the period within which it shall be carried out.

(3) When an order of the Board, given under sub-section (1) of this section, does not specify the period within which it shall be carried out, such order shall be carried out within such period as may be specified by the sub-committee appointed under the provisions of sub-section (2) of section 6 of this Ordinance for the area in which the land, to which the order relates, is situate, or in the absence of the appointment of any such sub-committee, within such period as may be

*Amended
by ord.
13/45*

specified by the District Production and Man Power Committee for the district in which the land, to which the order relates, is situate.

(4) When an order of the Board, given under sub-section (1) of this section, does not specify the period within which it shall be carried out, it shall be the duty of the farmer who receives such order to ascertain from the sub-committee or District Production and Man Power Committee, as the case may be, the period within which the order is to be carried out."

(b) by re-numbering sub-sections (2), (3) and (4) thereof as sub-sections (5), (6) and (7) respectively.

ORDINANCE No. XI of 1945

Assented to in His Majesty's name this twenty-eighth day of January, 1945.

P. E. MITCHELL,
Governor.

An Ordinance to Amend the War Taxation (Sugar Consumption Tax) Ordinance, 1943

Date of commencement

28th January, 1945

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 War Taxation (Sugar Consumption Tax) (Amendment) Ordinance, 1945, and shall be read as one with the War Taxation (Sugar Consumption Tax) Ordinance, 1943, hereinafter referred to as the principal Ordinance.

No. 25 of 1943.

Amendment of section 3 of the principal Ordinance.

2. (1) Section 3 of the principal Ordinance is hereby amended by substituting a colon for the full stop which appears at the end thereof and by adding thereto, immediately after such colon, the following proviso:—

“Provided that the provisions of this section shall not apply to any sugar produced in, or imported into, the Colony for the consumption of His Majesty's Naval, Military or Air Forces in the Colony.”

(2) This section shall be deemed to have come into operation on the ninth day of November, 1943.

Amendment of section 4 of the principal Ordinance.

3. Section 4 of the principal Ordinance is hereby amended by deleting the words “before the issue of such permit” and the words “to be” which occur in the fifth and seventh lines respectively of paragraph (b) thereof.

Amendment of section 6 of the principal Ordinance.

4. Section 6 of the principal Ordinance is hereby amended by deleting the words “and paid the tax” which occur in the second line of paragraph (b) thereof.

*In operation from the 1st October
1946 - S.N. 320/46, 100*

ORDINANCE No. XII of 1945

*Repealed by
Ord. 27/49*

Assented to in His Majesty's name this third day of April, 1945.

P. E. MITCHELL,
Governor.

**An Ordinance to Make Provision against Third Party Risks
Arising out of the Use of Motor Vehicles**

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 Motor Vehicles Insurance (Third Party Risks) Ordinance, 1945.

Short title.

2. This Ordinance shall not come into operation until the Governor in Council declares, by notice in the Gazette, that it shall come into operation. The Governor in Council may, by notice in the Gazette, suspend or restrict the operation of this Ordinance.

Operation of
the Ordinance.

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

Interpretation.

“driver”, where a separate person acts as steersman of a motor vehicle, includes that person as well as any other person engaged in the driving of the vehicle, and the word “drive” shall be construed accordingly;

“motor vehicle” means a mechanically propelled vehicle intended or adapted for use on roads, but does not include a steam traction engine, a steam roller or a vehicle constructed and intended for use exclusively on rails;

“owner” in relation to a vehicle, which is the subject of a hiring agreement or a hire-purchase agreement, means the person in possession under that agreement;

“policy of insurance” includes a cover note;

“road” means any public road within the meaning of the Public Travel and Access Roads Ordinance and includes any other road or wharf to which motor vehicles are capable of being driven.

Cap. 113.

4. (1) Subject to the provisions of this Ordinance it shall not be lawful for any person to use, or to cause or permit any other person to use, a motor vehicle on a road unless there is in force in relation to the user of the vehicle by that person or that other person, as the case may be, such a policy of insurance or such a security in respect of third party risks as complies with the requirements of this Ordinance.

Motor vehicles
to be insured
against third
party risks.

(2) If a person acts in contravention of this section he shall be liable to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment, and a person convicted of an offence under this section shall (unless the court for special reasons thinks fit to order otherwise and without prejudice to the power of the court to order a longer period of disqualification) be disqualified for holding or obtaining a certificate of competency for a period of twelve months from the date of the conviction.

*Repealed by
Ord. 27/49*

(3) This section shall not apply to a motor vehicle owned by the Government of the Colony or by the Kenya and Uganda Railways and Harbours.

Requirements
in respect of
insurance
policies.

5. In order to comply with the requirements of the last preceding section the policy of insurance must be a policy which—

- (a) is issued by a person who is approved by the Governor, by notice in the Gazette, as an insurer for the purposes of this Ordinance; and
- (b) insures such person, persons or classes of persons as may be specified in the policy in respect of any liability which may be incurred by him or them in respect of the death of, or bodily injury to, any person caused by or arising out of the use of the vehicle on a road:

Saving of
liability.

Provided that a policy in terms of this section shall not be required to cover—

- (i) liability in respect of the death arising out of and in the course of his employment of a person in the employment of a person insured by the policy or of bodily injury sustained by such a person arising out of and in the course of his employment; or
- (ii) except in the case of a vehicle in which passengers are carried for hire or reward or by reason of or in pursuance of a contract of employment, liability in respect of the death of, or bodily injury to persons being carried in or upon or entering or getting on to or alighting from the vehicle at the time of the occurrence of the event out of which the claims arise; or
- (iii) any contractual liability.

Requirements
in respect of
securities.

6. (1) In order to comply with the requirements of this Ordinance a security must—

- (a) consist of an undertaking by the giver of the security to make good, subject to any conditions specified therein, and up to an amount approved by the Governor, any failure by the owner of the vehicle or such other persons or classes of persons as may be specified in the security duly to discharge any such liability as is required to be covered by a policy of insurance under paragraph (b) of section 5 of this Ordinance which may be incurred by him or them; and

(b) be approved by the Governor and deposited with him.

(2) Whenever such a security is approved by the Governor and deposited with him, the Governor shall give to the owner of the vehicle concerned a certificate (hereinafter referred to as "a certificate of security") in the prescribed form and containing such particulars of any conditions subject to which the security is given as may be prescribed.

(3) References in sections 8, 9 and 11 of this Ordinance to a policy, a certificate of insurance, an insurer or an insured shall be deemed to include references to a security, a certificate of security, a giver of a security or a person secured, respectively, as the case may be.

Certificate of
insurance.

7. A certificate of insurance shall be issued by the insurer to the person by whom a policy of insurance is effected at the same time as the cover note is issued. Such certificate shall be in the prescribed form and shall contain such particulars of any conditions subject to which the policy is issued and of any matters as may be prescribed and different forms and different particulars may be prescribed in relation to different cases or circumstances.

8. Any condition in a policy of insurance providing that no liability shall arise under the policy, or that any liability so arising shall cease in the event of some specified thing being done or omitted to be done after the happening of the event giving rise to a claim under the policy, shall, as respects such liabilities as are required to be covered by a policy under section 5 of this Ordinance, be of no effect:

Certain conditions in policies of insurance of no effect.

Provided that nothing in this section shall be taken to render void any provision in a policy requiring the persons insured to repay to the insurer any sums which the latter may have become liable to pay under the policy and which have been applied to the satisfaction of the claims of third parties.

9. (1) Any person driving a motor vehicle on a road shall, on being required by a police officer give his name and address and the name and address of the owner of the vehicle and produce his certificate of insurance and if he fails so to do he shall be guilty of an offence:

Production of certificate of insurance.

Provided that, if the driver of a motor vehicle within five days after the date on which the production of his certificate of insurance was so required produces the certificate of insurance or policy of insurance at such police station as may have been specified by him at the time its production was required, he shall not be convicted of an offence under this sub-section by reason only of failure to produce his certificate of insurance to the police officer.

(2) If, in any case where, owing to the presence of a motor vehicle on a road, an accident occurs involving personal injury to another person, the driver of the vehicle does not at the time produce his certificate of insurance to a police officer, or to some person who, having reasonable grounds for so doing, has required its production, the driver shall as soon as possible, and in any case within forty-eight hours of the occurrence of the accident, report the accident at a police station, to a district officer, or to a police officer, and thereupon produce his certificate of insurance and, if he fails so to do, he shall be guilty of an offence:

Provided that a person shall not be convicted of an offence under this sub-section by reason only of failure to produce his certificate of insurance if, within five days after the occurrence of the accident, he produces the certificate of insurance or policy of insurance at such police station as may be specified by him at the time the accident was reported.

(3) It shall be the duty of the owner of a motor vehicle to give such information as he may be required by or on behalf of the Commissioner of Police to give for the purpose of determining whether the vehicle was or was not being driven in contravention of section 4 of this Ordinance on any occasion when the driver was required under this section to produce his certificate of insurance, and if the owner fails to do so he shall be guilty of an offence.

10. (1) If, after a policy of insurance has been effected, judgment in respect of any such liability as is required to be covered by a policy under paragraph (b) of section 5 of this Ordinance (being a liability covered by the terms of the policy) is obtained against any person insured by the policy, then, notwithstanding that the insurer may be entitled to avoid or cancel, or may have avoided

Duty of insurers to satisfy judgments against persons insured in respect of third party risks.

or cancelled, the policy, the insurer shall, subject to the provisions of this section, pay to the persons entitled to the benefit of the judgment any sum payable thereunder in respect of the liability, including any amount payable in respect of costs and any sum payable in respect of interest on that sum by virtue of any enactment relating to interest on judgments.

(2) No sum shall be payable by an insurer under the foregoing provisions of this section—

(a) in respect of any judgment, unless before or within fourteen days after the commencement of the proceedings in which the judgment was given, the insurer had notice of the bringing of the proceedings; or

(b) in respect of any judgment, so long as execution thereon is stayed pending an appeal; or

(c) in connexion with any liability, if before the happening of the event which was the cause of the death or bodily injury giving rise to the liability, the policy was cancelled by mutual consent or by virtue of any provision contained therein, and either—

(i) before the happening of the said event the certificate was surrendered to the insurer, or the person to whom the certificate was issued made a statutory declaration stating that the certificate had been lost or destroyed; or

(ii) after the happening of the said event, but before the expiration of a period of fourteen days from the taking effect of the cancellation of the policy, the certificate was surrendered to the insurer, or the person to whom the certificate was issued made such a statutory declaration as aforesaid; or

(iii) either before or after the happening of the said event, but within the said period of fourteen days, the insurer has commenced proceedings under this Ordinance in respect of the failure to surrender the certificate.

(3) It shall be the duty of a person who makes a statutory declaration, as provided in sub-paragraphs (i) and (ii) of paragraph (c) of sub-section (2) of this section, to cause such statutory declaration to be delivered to the insurer.

(4) No sum shall be payable by an insurer under the foregoing provisions of this section, if, in an action commenced before, or within three months after, the commencement of the proceedings in which the judgment was given, he has obtained a declaration that, apart from any provision contained in the policy, he is entitled to avoid it on the ground that it was obtained by the nondisclosure of a material fact, or by a representation of fact which was false in some material particular, or, if he has avoided the policy on that ground, that he was entitled so to do apart from any provision contained in it:

Provided that an insurer who has obtained such a declaration as aforesaid in an action shall not thereby become entitled to the benefit of this sub-section as respects any judgment obtained in proceedings commenced before the commencement of that action, unless before

or within fourteen days after the commencement of that action he has given notice thereof to the person who is the plaintiff in the said proceedings specifying the nondisclosure or false representation on which he proposes to rely, and any person to whom notice of such action is so given shall be entitled, if he thinks fit, to be made a party thereto.

(5) If the amount which an insurer becomes liable under this section to pay in respect of a liability of a person insured by a policy exceeds the amount for which he would, apart from the provisions of this section, be liable under the policy in respect of that liability, he shall be entitled to recover the excess from that person.

(6) In this section the expression "material" means of such a nature as to influence the judgment of a prudent insurer in determining whether he will take the risk, and, if so, at what premium and on what conditions, and the expression "liability covered by the terms of the policy" means a liability which is covered by the policy or which would be so covered but for the fact that the insurer is entitled to avoid or cancel, or has avoided or cancelled, the policy.

(7) In this Ordinance references to a certificate of insurance in any provision relating to the surrender, or the loss or destruction of a certificate of insurance shall, in relation to policies under which more than one certificate is issued, be construed as references to all the certificates, and shall, where any copy has been issued of any certificate, be construed as including a reference to that copy.

11. If any person, for the purpose of obtaining a policy of insurance as required by section 5 of this Ordinance, makes any false statement, in consequence whereof the policy is liable to be avoided, or wilfully does any act which disentitles him to claim under the policy he shall be guilty of an offence. Penalty for false statements and wilful avoidance of policy.

12. (1) Any person against whom a claim is made in respect of any such liability as is required to be covered by a policy under paragraph (b) of section 5 of this Ordinance shall, on demand by or on behalf of the person making the claim, state whether or not he was insured in respect of that liability by any policy having effect for the purposes of this Ordinance or would have been so insured if the insurer had not avoided or cancelled the policy, and, if he was or would have been so insured, give such particulars with respect to that policy as were specified in the certificate of insurance issued in respect thereof under section 7 of this Ordinance. Duty of persons against whom claims are made to give information as to insurance.

(2) If, without reasonable excuse, any person fails to comply with the provisions of this section, or wilfully makes any false statement in reply to any such demand as aforesaid, he shall be guilty of an offence.

13. Where a certificate of insurance has been issued under section 7 of this Ordinance to the person by whom a policy has been effected and the policy is cancelled by mutual consent or by virtue of any provision in the policy, the person to whom the certificate was issued shall, within seven days from the taking effect of the cancellation, surrender the certificate to the insurer or, if it has been lost or destroyed, make a statutory declaration to that effect, and if he fails so to do he shall be guilty of an offence. Duty to surrender certificate of insurance on cancellation of policy.

Production of certificate of insurance on application for motor vehicle licence.
No. 26 of 1928.

14. A person who applies for a licence or the renewal of a licence in respect of a motor vehicle under the Traffic Ordinance, 1928, shall produce such evidence as may be prescribed that either—

- (a) a certificate of insurance stating that on the date when the licence comes into operation there will be in force the necessary policy of insurance or the necessary security in relation to the user of the vehicle by the applicant or by other persons on his order or with his permission; or
- (b) the vehicle is a vehicle to which sub-section (3) of section 4 of this Ordinance applies.

Rights of third parties against insurers on bankruptcy, etc., of the insured.

15. (1) Where under any contract of insurance a person (in this section referred to as "the insured") is insured against liabilities to third parties which he may incur, then—

- (a) in the event of the insured becoming bankrupt or making a composition or arrangement with his creditors; or
- (b) in the case of the insured being a company, in the event of a winding-up order being made, or a resolution for a voluntary winding-up being passed, with respect to the company, or of a receiver or manager of the company's business or undertaking being duly appointed, or of possession being taken, by or on behalf of the holders of any debentures secured by a floating charge, of any property comprised in or subject to the charge,

if, either before or after that event, any such liability as aforesaid is incurred by the insured, his rights against the insurer under the contract in respect of the liability shall, notwithstanding anything in any law to the contrary, be transferred to and vest in the third party to whom the liability was so incurred.

No. 32 of 1930.

(2) Where an order is made under section 117 of the Bankruptcy Ordinance, 1930, for the administration of the estate of a deceased debtor according to the law of bankruptcy, then, if any debt provable in bankruptcy is owing by the deceased in respect of a liability against which he was insured under a contract of insurance as being a liability to a third party, the deceased debtor's rights against the insurer under the contract in respect of that liability shall, notwithstanding anything in the said Ordinance, be transferred to and vest in the person to whom the debt is owing.

No. 32 of 1930.

(3) In so far as any contract of insurance made after the commencement of this Ordinance in respect of any liability of the insured to third parties purports, whether directly or indirectly, to avoid the contract or to alter the rights of the parties thereunder upon the happening to the insured of any of the events specified in paragraph (a) or paragraph (b) of sub-section (1) of this section or upon the making of an order under section 117 of the Bankruptcy Ordinance, 1930, in respect of his estate, the contract shall be of no effect.

(4) Upon a transfer under sub-section (1) or sub-section (2) of this section, the insurer shall be under the same liability to the third party as he would have been under to the insured, but—

- (a) if the liability of the insurer to the insured exceeds the liability of the insured to the third party, nothing in this section shall affect the rights of the insured against the insurer in respect of the excess; and

(b) if the liability of the insurer to the insured is less than the liability of the insured to the third party, nothing in this section shall affect the rights of the third party against the insured in respect of the balance.

(5) For the purposes of this section, the expression "liabilities to third parties", in relation to a person insured under any contract of insurance, shall not include any liability of that person in the capacity of insurer under some other contract of insurance.

(6) This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

16. Where a certificate of insurance has been issued under section 7 of this Ordinance to the person by whom a policy has been effected, so much of the policy as purports to restrict the insurance of the persons insured thereby by reference to any of the following matters:—

Avoidance of restrictions on scope of policies covering third party risks.

- (a) the age or physical or mental condition of persons driving the vehicle; or
- (b) the condition of the vehicle; or
- (c) the number of persons that the vehicle carries; or
- (d) the weight or physical characteristics of the goods that the vehicle carries; or
- (e) the times at which or the areas within which the vehicle is used; or
- (f) the horse-power or value of the vehicle; or
- (g) the carrying on the vehicle of any particular apparatus; or
- (h) the carrying on the vehicle of any particular means of identification other than any means of identification required to be carried by or under the Traffic Ordinance, 1928,

No. 26 of 1928.

shall, as respects such liabilities as are required to be covered by a policy under paragraph (b) of section 5 of this Ordinance, be of no effect:

Provided that nothing in this section shall require an insurer to pay any sum in respect of the liability of any person otherwise than in or towards the discharge of that liability, and any sum paid by an insurer in or towards the discharge of any liability of any person which is covered by the policy by virtue only of this section shall be recoverable by the insurer from that person.

17. The Governor in Council may make Rules prescribing anything required by this Ordinance to be prescribed, and generally for the better carrying out of the provisions of this Ordinance.

Power to make Rules.

18. Any person who is guilty of an offence against this Ordinance or any person who contravenes or fails to comply with any of the provisions of this Ordinance or of any Rules made thereunder, for which no other penalty is specifically provided, shall be liable on summary conviction before a subordinate court of the first or second class to a fine not exceeding fifty pounds or to imprisonment for any term not exceeding three months, or to both such fine and imprisonment.

Penalty for offence.

19. Section 30 of the Traffic Ordinance, 1928, is hereby repealed.

Repeal.
No. 26 of 1928

ORDINANCE No. XIII of 1945

Assented to in His Majesty's name this third day of April, 1945.

P. E. MITCHELL,
Governor.

An Ordinance to Amend the Penal Code

Date of commencement.

3rd April, 1945

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, 1945, and shall be read as one with the Consolidated Edition of the Penal Code prepared under the provisions of section 25 of the Penal Code (Amendment) Ordinance, 1939, hereinafter referred to as the principal Ordinance.

No. 34 of 1939.

Amendment of section 298 of the principal Ordinance.

2. Section 298 of the principal Ordinance is hereby amended by substituting a comma for the full stop after the words "imprisonment for ten years" at the end thereof and adding thereto the words "with or without corporal punishment."

Insertion of new section 317A in the principal Ordinance.

3. The Principal Ordinance is hereby amended by inserting immediately after section 317 thereof the following section:—

Unlawful possession of service stores.

"317A. (1) Any person conveying or having in his possession, or keeping in any building or place, whether open or enclosed, any stores being the property of His Majesty's Army, Navy or Air Force, which may reasonably be suspected of having been stolen or unlawfully obtained, and who shall not give an account to the satisfaction of the court of how he came by the same, shall be guilty of a misdemeanour.

(2) For the purposes of this section the term "stores" includes all goods and chattels and any single article or part thereof."

ORDINANCE No. XIV of 1945

Assented to in His Majesty's name this third day of April, 1945.

P. E. MITCHELL,
Governor.

An Ordinance to Amend the Local Government (District Councils) Ordinance, 1928

3rd April, 1945

Date of commencement.

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

1. This Ordinance may be cited as the Local Government (District Councils) (Amendment) Ordinance, 1945, and shall be read as one with the Local Government (District Councils) Ordinance, 1928, hereinafter referred to as the principal Ordinance.

Short title.
No. 21 of 1928.

2. Section 6 of the principal Ordinance is hereby amended by deleting from the second proviso to paragraph (a) of sub-section (1) thereof the words "but in each case the Governor may, if he shall deem it desirable so to do, nominate a fit and proper person to be a member of the Council in the place of such elected member.", and by substituting therefor the words following:—

Amendment of section 6 of the principal Ordinance.

"but in each such case the Governor may, if he shall deem it desirable so to do, nominate a fit and proper person to be a member of the Council to fill any such vacancy."

3. Section 35 of the principal Ordinance is hereby amended by inserting between the word "salaries" and the word "and" in line three of sub-section (2) thereof a comma followed by the word "fees".

Amendment of section 35 of the principal Ordinance.

4. Section 72 of the principal Ordinance is hereby amended by inserting immediately before the definition of "Occupier" the following definition:—

Amendment of section 72 of the principal Ordinance.

"'Elected members of the Council' means the persons who are members of the Council by virtue of the provisions of paragraph (a) of sub-section (1) of section 6 of this Ordinance;"

5. The principal Ordinance is hereby amended by inserting immediately after section 73 thereof the following new section:—

Insertion of new section 73A in the principal Ordinance.

"73A. (1) The Council may, by resolution passed by a majority of not less than two-thirds of the elected members of the Council, in addition to the rate imposed under the immediately preceding section, impose a special rate (hereinafter referred to as 'an industrial rate') upon areas of land used for other than agricultural or residential purposes, in the manner provided by section 89E of this Ordinance.

Industrial rate.

(2) Before the Council may vote upon any such resolution the procedure provided by paragraph (b) of sub-section (2) of the immediately preceding section shall be complied with."

No. XIV*Local Government (District Councils)***1945**

Amendment of section 81 of the principal Ordinance.

6. Section 81 of the principal Ordinance is hereby amended by deleting the words "the Magistrate having jurisdiction" in line five of sub-section (1) thereof and by substituting therefor the words "a magistrate holding a subordinate court of the first class".

Amendment of section 84 of the principal Ordinance.

7. Section 84 of the principal Ordinance is hereby amended by deleting sub-section (2) thereof and by substituting the following therefor:—

"(2) Where the method of rating adopted is that of a graduated rate upon the area of land, the Council shall classify every rateable property by one of the following methods:—

(a) Every rateable property shall be classified according to the purposes for which it is used, or, in the case of unused land, according to the purposes for which it is suitable, and the particulars of such classification in respect of each rateable property shall be shown in the area roll. For the purposes of this method of valuation land shall, in the first place, be classified as either agricultural land or pastoral land; and agricultural land shall be classified further under headings which shall indicate its character and relative unimproved value;

(b) in every ward within the district every rateable property shall be classified into divisions on a graduated scale according to its size, each division containing such number of acres as the Council may, by resolution passed by a majority of the elected members of the Council, resolve in respect of each ward, and such resolution may provide that the number of acres in each division may vary in different areas of each ward; and the divisions into which each rateable property is classified shall be shown in the area roll."

Amendment of section 86 of the principal Ordinance.

8. Section 86 of the principal Ordinance is hereby amended by deleting the words "the Magistrate having jurisdiction" in line five of sub-section (3) thereof and by substituting therefor the words "a magistrate holding a subordinate court of the first class".

Amendment of section 88 of the principal Ordinance.

9. Section 88 of the principal Ordinance is hereby amended by deleting the proviso and by substituting the following therefor:—

"Provided that—

(a) no such rate shall exceed ten cents per acre in any one financial year without the sanction of the Governor in Council;

(b) the total sum payable in respect of any rateable property under the provisions of this section shall not be less than twenty shillings for each financial year."

Amendment of section 89 of the principal Ordinance.

10. Section 89 of the principal Ordinance is hereby amended—

(a) by inserting between the words "class" and "of" in lines five and six of sub-section (1) thereof the words "or division";

(b) by substituting a colon for the full stop at the end of sub-section (1) thereof and adding the following proviso:—

"Provided that the total sum payable in respect of any rateable property under the provisions of this sub-section

shall not be less than twenty shillings for each financial year.”;

- (c) by inserting between the words “classes” and “of” in line two of sub-section (2) thereof the words “or divisions”;
- (d) by deleting the words “such different classes” in line three of sub-section (2) thereof and by substituting therefor the words “the different classes or divisions”;
- (e) by substituting a colon for the full stop at the end of sub-section (3) thereof and adding the following proviso:—

“Provided that for the purpose of calculating the aggregate under this sub-section no account shall be taken of the proviso to sub-section (1) of this section.”.

11. The principal Ordinance is hereby amended by inserting immediately after section 89 thereof the following heading and sections:—

Insertion of new sections in the principal Ordinance.

“SPECIAL PROVISIONS WHEN AN INDUSTRIAL RATE IS IMPOSED

89A. (1) As soon as may be after the Council has resolved to impose an industrial rate the Council shall cause to be prepared a separate area roll (hereinafter referred to as ‘the industrial area roll’) of all rateable properties used for other than agricultural or residential purposes.

Industrial area roll to be prepared.

(2) The industrial area roll shall show in respect of each such rateable property—

- (a) the name and address of the owner or occupier;
- (b) the description and situation of the property;
- (c) the area of the property in acres;
- (d) the purposes for which the property is used;
- (e) the area of land in acres which is used for each purpose.

89B. For the purpose of compiling the industrial area roll, the Council or any person authorized by the Council shall have all the powers conferred upon valuers by section 77 of this Ordinance, and all the provisions of the said section shall *mutatis mutandis* apply.

Powers of Council for compilation of industrial area roll.

89C. (1) When the industrial area roll has been completed it shall lie at the office of the Council for public inspection, and any person may at all reasonable times inspect the same and take copies or extracts therefrom. The Council shall, by notice published in the Gazette and in one or more newspapers (if any) circulating in the district, call upon all persons interested to lodge in writing with the clerk, within a specified time not less than one month from the first publication of such notice, statements of any objections they may have in respect of the inclusion of any rateable property shown in the industrial area roll, or in respect of the omission therefrom of property alleged to be rateable property and to be used for other than agricultural or residential purposes and whether held by the person objecting or by others, or in respect of any other error, omission or misdescription.

Provisional industrial area roll; inspection and objection.

(2) After the expiration of the period specified in such notice, the Council shall inquire into all objections received and shall make such alterations and amendments to the industrial area roll as they may deem necessary, and the chairman shall then sign and certify the industrial area roll, and shall cause to be inserted once in the Gazette and in one or more newspapers (if any) circulating in the district not less than twice within a period of two weeks, an advertisement informing all persons interested of the completion of the industrial area roll, and that the same will become fixed and binding upon all parties concerned who shall not before a date fixed in such advertisement, not being less than one month from the date of the first publication thereof, appeal from the decision of the Council in manner provided in the next succeeding sub-section.

(3) It shall be lawful for any person who feels himself aggrieved by the inclusion in the industrial area roll of any property owned or occupied by him to appeal within the period of one month aforesaid against the decision of the Council to the court of a magistrate holding a subordinate court of the first class within the district, and the decision of such court shall be final and conclusive.

Powers to remit industrial rate and amend industrial area roll.

89D. Notwithstanding anything in this Ordinance contained, it shall be lawful for the Council from time to time and at any time—

- (a) to remit any industrial rate imposed on any rateable property in such cases as may be approved by the Governor in Council;
- (b) to cause any rateable property omitted from the industrial area roll or new rateable property to be added to the industrial area roll; and to cause the current industrial rate to be collected in respect thereof;
- (c) to amend the industrial area roll in respect of any rateable property which is sub-divided and to cause any industrial rate in respect thereof to be assessed and collected according to such sub-division;
- (d) to amend the industrial area roll from time to time in any case where some clerical error or some error as to the name of the owner or occupier has been made in such roll, and to cause any industrial rate due in respect thereof to be collected according to the corrected roll;
- (e) to remove from the industrial area roll any property which shall at any time cease to be rateable property.

Imposition of industrial rate.

89E. Where the Council resolves, under the provisions of section 73A of this Ordinance, to impose an industrial rate, such rate shall be imposed for each financial year in respect of each rateable property shown in the industrial area roll of such amount per acre of land as the Council shall in each case determine:

Provided that the total amount payable under this section in respect of any such rateable property shall not be less than twenty shillings, nor, except with the consent of the Governor in Council, shall exceed one thousand shillings."

ORDINANCE No. XV of 1945

Assented to in His Majesty's name this third day of April, 1945.

P. E. MITCHELL,
Governor.

An Ordinance to Amend the Traffic Ordinance, 1928

3rd April, 1945

Date of
commencement

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

1. This Ordinance may be cited as the Traffic (Amendment) Ordinance, 1945, and shall be read as one with the Traffic Ordinance, 1928, hereinafter referred to as the principal Ordinance.

Short title.
No. 26 of 1928.

2. Section 2 of the principal Ordinance is hereby amended by substituting a comma for the full stop at the end of the definition of "Road", and by adding thereto the words following:—

Amendment of
section 2 of
the principal
Ordinance.

"and includes any footpath which is capable of being used for riding, driving or leading any animal or vehicle."

ORDINANCE No. XVI of 1945

Assented to in His Majesty's name this twenty-eighth day of March, 1945.

P. E. MITCHELL,
Governor.

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

Date of commencement.

By Notice

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

Short title.

1. This Ordinance may be cited as the King's African Rifles (Amendment) Ordinance, 1944, and shall be read as one with the King's African Rifles Ordinance, 1932, hereinafter referred to as the principal Ordinance, and shall not come into operation unless and until the Governor has declared by notice in the Gazette that it is His Majesty's pleasure not to disallow the same.

No. 48 of 1932.

Amendment of section 13 (1) of the principal Ordinance.

2. Sub-section (1) of section 13 of the principal Ordinance is hereby amended by deleting therefrom the words "subject to this Ordinance" which occur in the second and third lines of paragraph (b) thereof and by substituting therefor the words "subject to military law".

Amendment of section 15 of the principal Ordinance.

3. Section 15 of the principal Ordinance is hereby amended by deleting therefrom the words "subject to this Ordinance" which occur in the third and in the sixth lines thereof and by substituting therefor in each case the words "subject to military law".

Amendment of section 52A of the principal Ordinance.

4. Section 52A of the principal Ordinance is hereby amended—
(a) by deleting therefrom the words "of desertion or" which occur in the second line of sub-section (4) thereof; and
(b) by adding thereto the following sub-section immediately after sub-section (9) thereof:—

“(10) Where an accused person is charged before a court martial with a civil offence and has been found guilty of any other offence as provided in sub-section (9) of this section the court shall not, when awarding punishment for such other offence, award any punishment greater than that provided for such an offence by the law of the Colony.”

Insertion of new section 105A in the principal Ordinance.

5. The principal Ordinance is hereby amended by adding thereto, immediately after section 105 thereof, the following new section:—

Transfer to other military forces.

“105A. (1) Notwithstanding anything to the contrary contained in any law in force in the Colony any member of the King's African Rifles may be transferred to any other military force lawfully established or serving in any East African territory:

Provided that any member of the King's African Rifles so transferred shall for the purposes of pay, good conduct pay and gratuities on discharge retain his rights as a member of the King's African Rifles and his service in such other military force shall for the aforesaid purposes be taken into account to the same extent as if it were service in the King's African Rifles.

(2) For the purposes of this section the term "East African territory" means the Colony, the Tanganyika Territory, the Uganda Protectorate, the Nyasaland Protectorate, the Zanzibar Protectorate, and the Somaliland Protectorate."

6. The sections of the principal Ordinance set out in the first column of the Schedule to this Ordinance shall have effect subject to the amendments respectively specified in the second column of the Schedule. Minor amendments.

7. Sections 9 and 10 of the King's African Rifles (Amendment) Ordinance, 1943, are hereby repealed. Repeal.
No. 38 of 1943.

SCHEDULE

| <i>First Column</i> | <i>Second Column</i> |
|---------------------|---|
| Section 7 (3) | By inserting immediately before the words "non-commissioned officer" in the second and seventh lines of paragraph (c) thereof, the words and comma "warrant officer,". |
| Section 38 | By inserting immediately before the words "non-commissioned officer" in the first line thereof, the words "warrant officer or". |
| Section 44 | By inserting immediately before the words "non-commissioned officer" in the first line of paragraph (d), in the first line of paragraph (g) and in the first line of proviso (2) thereof, the words "warrant officer or". |
| Section 45 (4) | By inserting immediately before the words "non-commissioned officer" in the third and ninth lines thereof, and where it secondly appears in the twelfth and eighteenth lines thereof, the words "warrant officer or". |
| Section 46 | By inserting immediately before the words "non-commissioned officer" in the first line of paragraph (1) thereof, in the second line of item B of paragraph (1) thereof, in the second line of item C of paragraph (1) thereof and in the first line of sub-item (c) of item C of paragraph (1) thereof, the words "warrant officer or". |
| Section 47 | By inserting immediately before the words "non-commissioned officer" in the first line of paragraph (1) and in the first line of paragraph (2) thereof, the words "warrant officer or". |

SCHEDULE—(Contd.)

- Section 48 (1) By inserting immediately before the words "non-commissioned officer" which occur in the sixth and seventh lines thereof, the words "warrant officer or".
- Section 49 By inserting immediately before the words "non-commissioned officer" in the first line of paragraphs (1) and (2) thereof the words "warrant officer or".
- Section 57 By inserting immediately before the words "non-commissioned officer" in the first line thereof, the words "warrant officer or", and by inserting immediately before the words "non-commissioned officer" in the marginal note thereof, the words "warrant officer and".
- Section 60 (2) By inserting immediately before the words "non-commissioned officer" which occur in the first and fourth lines thereof the words "warrant officer or".
- Section 105 (b) By inserting immediately before the words "non-commissioned officer" in the fifteenth line thereof, the words "warrant officer or".

ORDINANCE No. XVII of 1945

Assented to in His Majesty's name this sixteenth day of May, 1945.

P. E. MITCHELL,
Governor.

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

16th May, 1945

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, 1945, and shall be read as one with the Local Government (Municipalities) Ordinance, 1928, hereinafter called the principal Ordinance.

Short title.
No. 19 of 1928.

2. Section 52 of the principal Ordinance is hereby amended by deleting paragraph (9) thereof and substituting therefor the following paragraph:—

Amendment of section 52 of the principal Ordinance.

“(9) to establish, erect, maintain, let, control and manage markets and market buildings, lodging houses, eating houses, shops, stalls and stands, and to control the occupation and use thereof, and to acquire land or buildings for any purpose provided for in this paragraph;”.

3. Section 87 of the principal Ordinance is hereby amended by repealing sub-section (1) thereof and by substituting therefor the following sub-section:—

Amendment of section 87 of the principal Ordinance

“(1) This section shall apply only to the municipalities of Nairobi and Mombasa:— *-S.C.S.N. 1007/46*

Provided that the Governor may order that all or any of the provisions of this section shall apply to any other area which has been declared, or which may from time to time be declared, by the Governor to be a municipality in the exercise of his powers under sub-section (1) of section 11 of this Ordinance.”.

4. Section 99 of the principal Ordinance is hereby amended by inserting in sub-section (1) thereof the words “in municipalities”—

Amendment of section 99 of the principal Ordinance.

(a) between the words “government” and “and” in line 5 thereof; and

(b) between the words “government” and “for” in line 7 thereof.

5. Sections 104 and 105 of the principal Ordinance are hereby repealed.

Repeal of sections 104 and 105 of the principal Ordinance.

ORDINANCE No. XVIII of 1945

Assented to in His Majesty's name this sixteenth day of May,
1945.

P. E. MITCHELL,
Governor.

An Ordinance to Amend the Central Roads and Traffic Board Ordinance, 1929

Date of
commencement

16th May, 1945

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 Central Roads and Traffic Board (Amendment) Ordinance, 1945, and shall be read as one with the Central Roads and Traffic Board Ordinance, 1929, hereinafter called the principal Ordinance.

No. 18 of 1929.

Repeal and
replacement of
section 4 of
the principal
Ordinance.

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

Powers and
duties of
the Board.

4. The powers and duties of the Board shall be as follows:—

(a) To advise the Governor upon the following matters:—

(i) The contributions payable from the general revenue of the Colony under section 87 of the Local Government (Municipalities) Ordinance, 1928, in respect of the construction, reconstruction and maintenance of roads;

(ii) the classification of roads in respect of which such contributions are payable;

(iii) all grants to any Municipal Council or Municipal Board in respect of the construction, reconstruction or maintenance of roads;

(iv) all other matters concerning roads in municipalities.

(b) To exercise such of the powers of the Governor under the Traffic Ordinance, 1928, or under any other enactment relating to traffic for the time being in force, as the Governor may delegate to the Board.

(c) To advise the Governor upon any matter or thing relating to the public roads of the Colony and the traffic thereon and the dedication of lines of public travel."

No. 19 of 1928.

Govt. Notice No. 972/1945 bringing the Ordinance in force is revoked by Govt. Notice No. 1037/45. By Govt. Notice No. 1038/1945 sections 1 to 8, inclusive, 19, 22 to 25 inclusive, and 27 of the Ordinance are in force from 17.11.1945.

Sections 11, 12, 16 & 26 in operation from 18th April 1946. S.N. 29/46/9
9/10/12, 14, 15, 17, 18, 20 & 21 do 12th Jan 1946. S.N. 103/46/336
ORDINANCE No. XIX of 1945 In operation from 17th November 1945

Assented to in His Majesty's name this sixteenth day of May, 1945.

P. E. MITCHELL,
Governor.

An Ordinance to Provide for the Advancement and Control of the Pig Industry

By Notice

Date of commencement.
17. 11. 45

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.

1. This Ordinance may be cited as the Pig Industry Ordinance, 1945, and shall come into operation, either wholly or in part, on such date or dates as the Governor may, by notice in the Gazette, appoint, and different dates may be appointed for different provisions of this Ordinance.

Interpretation.

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

“bacon factory” means any building, structure or other place where pigs’ carcasses are dressed and cured for the manufacture of pig-meat, bacon or any other pig product, for sale or export;

“Board” means the Pig Industry Board established by section 3 of this Ordinance;

“butcher” means a person who slaughters pigs for sale, but shall not include any native residing in a native area who slaughters pigs produced in such native area for consumption in such native area or in a gazetted native area;

“export” means export from the Colony to a place outside the limits of the Colony, the Protectorate of Uganda or the Tanganyika Territory;

“Fund” means the Pig Industry Fund established by section 19 of this Ordinance;

“gazetted native area” means a native area, or part thereof, in which the Governor has by notice in the Gazette authorized the natives residing in a native area specified in the notice to sell pigs for consumption;

No. 28 of 1938.
Cap. 140.

“native area” includes native lands, native reserves, temporary native reserves and native leasehold areas as defined in section 3 of the Native Lands Trust Ordinance, 1938, and native settlement areas as established by section 57B of the Crown Lands Ordinance;

“pig producer” means any person who breeds or feeds pigs for sale;

“prescribed” means prescribed by rules made under this Ordinance;

“licensed pig producer” means a pig producer licensed under the provisions of section 11 of this Ordinance;

“to sell” includes to make an agreement or contract to sell;

“the Cess” means the cess provided for by the Resolution passed by the Legislative Council on the 18th day of June, 1941.

Establishment and constitution of the Board.

3. (1) There shall be established a Board, to be known as “the Pig Industry Board”, which shall consist of—

(a) the Director of Veterinary Services or, in his absence, an officer to be nominated by him;

- (b) two members to be appointed by the Governor;
- (c) two members to be appointed by the Governor to represent the interests of native pig producers, of whom at least one shall be an officer in the public service of the Colony;
- (d) six members to be elected in the manner prescribed, by a majority of the licensed pig producers present at meetings called by the Board in the second half of each calendar year after the passing of this Ordinance for the purpose of electing one member in each of the following six areas—

No. 26 of 1935.

- (i) the five electoral areas of Aberdare, Trans Nzoia, Uasin Gishu, Rift Valley and Nyanza, as described in Part A of Schedule I of the Legislative Council Ordinance, 1935;

No. 26 of 1935.

- (ii) an area to be known as the Kiambu-Ukamba area, which shall comprise the electoral areas of Kiambu, Ukamba, Nairobi North, Nairobi South and Coast, as described in Part A of Schedule I of the Legislative Council Ordinance, 1935:

Provided that in the first instance the members referred to in this paragraph shall be appointed by the Governor, and shall hold office until the first meetings are held under the provisions of this paragraph, and shall at such meetings be eligible for election in the manner prescribed.

(2) The Board shall elect by name a chairman and vice-chairman annually.

(3) The members of the Board referred to in paragraphs (b) and (c) of sub-section (1) of this section shall hold office for a period of two years, and may be re-appointed by the Governor.

(4) The members of the Board referred to in paragraph (d) of sub-section (1) of this section shall hold office for a period of one year, and shall be eligible for re-election.

(5) If the chairman of the Board is incapacitated by illness, absence or other sufficient cause from performing the duties of his office, the vice-chairman shall act in his place; and if both the chairman of the Board and the vice-chairman are so incapacitated the Board shall appoint a member of the Board to act as chairman, and such member shall have all the powers and authority of the chairman of the Board until either the chairman of the Board or the vice-chairman resumes the duties of his office.

(6) If any member of the Board is incapacitated by illness, absence or other sufficient cause from performing the duties of his office—

- (a) the Governor, in the case of a member appointed under paragraphs (b) or (c) of sub-section (1) of this section,

- (b) the Board, in the case of a member elected under paragraph (d) of sub-section (1) of this section,

may appoint some fit person to be a deputy to act for that member, and such deputy shall have all the powers and authority of the member for whom he is so acting.

(7) Where any member of the Board elected under the provisions of paragraph (d) of sub-section (1) of this section is absent

from three consecutive meetings of the Board without the leave of the chairman, his appointment shall be regarded as having terminated, and the Board may appoint any licensed pig producer carrying on business within the area for which he was elected to act in his place until a new member is elected under the provisions of the said paragraph.

4. (1) The Board shall be a body corporate having perpetual succession and a common seal, and may in their corporate name sue and be sued, and may purchase, hold, manage and dispose of land and other property for the purposes of this Ordinance. Board to be a corporate body

(2) The Board may raise or borrow such sums of money for the purposes of this Ordinance as they may in their discretion think fit, and may secure the repayment of or raise any such sums by mortgage or charge upon the whole or any part of the property of the Board.

5. (1) The Board shall meet not less than once in every six months. Meetings of the Board.

(2) At every meeting of the Board five members shall form a quorum.

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

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

(5) The chairman of the Board may, in his discretion, at any time convene a special meeting of the Board, and shall, upon receipt of a written request signed by not less than three members of the Board, convene a special meeting of the Board within one month of the date of such written request.

(6) Subject to the provisions of this section, the Board may, with the approval of the Governor, make Standing Orders for the regulation of the conduct of business and the procedure at their meetings.

6. At the end of every year the Board shall prepare a report of their operations during the year, and such report shall be published as soon as possible in such manner as the Governor may direct; and copies of such report shall be circulated to all licensed pig producers not less than two weeks prior to every meeting referred to in paragraph (d) of sub-section (1) of section 3 of this Ordinance. Annual report.

7. No member of the Board shall be personally liable for any act or default of the Board done or omitted to be done in good faith and without negligence in the course of the operations of the Board. Liability of members of the Board.

8. The Board may appoint and employ, on such terms and conditions as they may from time to time determine, such officers and servants as they may deem necessary for the proper and efficient administration of the Board, and may appoint agents to carry out any of the duties imposed upon them by this Ordinance on such terms and conditions as they may from time to time determine. Appointment of officers and servants.

Restrictions on purchase, sale and export of pigs.

9. From and after the commencement of this Ordinance—

- (a) no person shall sell or supply pigs, whether for consumption in the form of pig-meat or for the purpose of being manufactured into bacon or any other pig product, to any person other than the Board;
- (b) no person shall purchase pigs, whether for consumption in the form of pig-meat or for the purpose of being manufactured into bacon or any other pig product, from any person other than the Board;
- (c) subject to the provisions of section 10 of this Ordinance, no person other than the Board shall export pigs, pig-meat, bacon or any other pig product:

Provided that paragraphs (a) and (b) of this section shall not apply to any native residing in a native area who does not sell pigs except for consumption in such native area or in a gazetted native area.

Power of Board to export pigs.

10. The Board, or any person who, being the licensee of a bacon factory under the provisions of this Ordinance, is authorized in writing by the Board in that behalf, may export pigs, pig-meat, bacon or any other pig product:

Provided that where the Board authorizes any person under the provisions of this section the Board may attach to such authorization such terms and conditions as they may think fit.

Licensing of pig producers.

11. (1) Every person carrying on business as a pig producer, other than a native residing in a native area who does not sell pigs except for consumption in such native area or in a gazetted native area, shall, within one month after the commencement of this Ordinance, or within one month after becoming a pig producer, apply to the Board for a licence in the manner prescribed, and every application shall contain such particulars as may be prescribed.

(2) Upon receipt of an application for a licence under this section the Board shall have power either to grant the licence or to refuse the application.

(3) Every licence issued under this section shall be in the prescribed form and shall expire on the 31st day of December next following the date of issue, but shall be renewable annually, and the powers of the Board under sub-section (2) of this section shall apply to an application for the renewal of a licence as they apply to an application for the grant of a licence:

Provided that every application for the renewal of a licence shall be submitted to the Board on or before the 1st day of October in the year in which such licence expires.

(4) Upon the issue of every licence under this section, and upon every renewal thereof, a fee of two shillings and fifty cents shall be payable to the Board.

(5) Where the Board refuses an application for a licence under this section, or refuses an application for the renewal thereof, the Board shall notify the applicant in writing, and in the case of the refusal of an application for the renewal of a licence such notification shall be sent to the applicant not less than sixty days before the date

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Pig Industry

No. XIX

upon which the licence expires, and the applicant may, within thirty days after the date of such notification, appeal to the Governor in Council in the manner prescribed, and the Governor in Council shall determine whether such application should be granted or refused.

(6) Any determination by the Governor in Council under the provisions of sub-section (5) of this section shall be final and conclusive, and shall not be liable to appeal or to be questioned by any proceedings in any court.

12. (1) Every native pig producer shall, within one month after the commencement of this Ordinance, or within one month after becoming a pig producer, apply for registration in the manner prescribed to the District Commissioner of the district in which he resides, and such District Commissioner shall cause his name and address to be entered in a register, with such other particulars as may be prescribed, and thereupon such native shall become a registered native pig producer.

Registration of native pig producers.

(2) Every registered native pig producer shall, once in every year during which he carries on business as a pig producer, apply in the manner prescribed to the District Commissioner of the district in which he resides for a renewal of his registration, and such District Commissioner shall thereupon renew his registration in the manner prescribed.

(3) Upon the registration of any native pig producer and upon the renewal of any such registration, the District Commissioner shall furnish to the Board such particulars as may be prescribed.

13. The Board shall not purchase pigs from any person in the Colony who is not a licensed pig producer.

Board not to purchase pigs from unlicensed pig producers.

14. Subject to the provisions of section 15 of this Ordinance, the Board shall purchase all pigs which are offered to it for sale by any licensed pig producer, on terms which may be fixed by the Board from time to time.

Board to purchase all pigs offered by licensed pig producers.

15. (1) The Board may, by order, fix a quota of pigs which may be supplied to the Board by any licensed pig producer during any period specified in the order.

Power to fix quota by order.

(2) Every order made under the provisions of this section shall be sent, by registered post, to every licensed pig producer to whom such order relates.

(3) Any licensed pig producer who is aggrieved by any order made under the provisions of this section may, within the prescribed time and in the prescribed manner, appeal to the Governor who may make such order as he thinks fit, and any such order shall be final and conclusive, and shall not be liable to appeal or to be questioned by any proceedings in any court.

(4) No order made under the provisions of this section shall come into operation until such time, after the date thereof, as may be prescribed.

Licensing of
bacon factories.

16. (1) No person shall carry on the business of a bacon factory except on premises in respect of which he holds a current licence issued under the provisions of this section.

(2) Application for a licence under the provisions of this section shall be made to the Board in the manner prescribed, and in such application the applicant shall state his full name and fully describe the premises for which the licence is required, and give such other particulars as may be prescribed.

(3) Upon receipt of an application for a licence under this section the Board shall have power either to grant the licence or to refuse the application:

Provided that no application shall be refused in respect of any premises where the business of a bacon factory was being carried on at the date of the coming into operation of this Ordinance.

(4) Every licence issued under this section shall be in the prescribed form and shall be signed by the chairman of the Board, and shall contain such terms and conditions, including the maximum number of pigs which may be cured during the period covered by the licence, as the Board may think fit.

(5) Every licence issued under this section shall expire on the 31st day of December next following the date of issue, but shall be renewable annually, and the power of the Board under sub-sections (3) and (4) of this section shall apply to an application for the renewal of a licence as they apply to an application for the grant of a licence:

Provided that every application for the renewal of a licence shall be made to the Board on or before the 1st day of October in the year in which the licence expires:

Provided further that the proviso to sub-section (3) of this section shall not apply in the case of an application for renewal.

(6) Upon the issue of every licence under this section, and upon every renewal thereof, a fee of two hundred shillings shall be payable to the Board.

(7) Where the Board refuses an application for a licence under this section, or refuses an application for the renewal thereof, the Board shall notify the applicant in writing, and in the case of the refusal of an application for the renewal of a licence such notification shall be sent to the applicant not less than sixty days before the date upon which the licence expires, and the applicant may, within thirty days after the date of such notification, appeal to the Governor in Council in the manner prescribed, and the Governor in Council shall determine whether such application should be granted or refused.

(8) Any determination by the Governor in Council under the provisions of sub-section (7) of this section shall be final and conclusive and shall not be liable to appeal or to be questioned by any proceedings in any court.

Board may order
closure of
redundant
bacon factories.

17. (1) If the Board at any time considers that any bacon factory in the Colony is redundant, they may, not less than six months prior to the expiry of the current licence of such bacon factory, serve upon the licensee thereof written notice of their intention to issue an order

prohibiting the manufacture or curing thereof of pig-meat, bacon or any other pig product, and upon the expiration of the period of such notice the Board shall have power to issue such order.

(2) Where the Board issues an order under the provisions of sub-section (1) of this section, such compensation shall be payable by the Board to the owner of the bacon factory in respect of which the order is issued as may be mutually agreed between such owner and the Board, or, in the absence of agreement, as may be fixed by arbitration.

(3) Any licensee of a bacon factory upon whom a written notice has been served under the provisions of sub-section (1) of this section, may within thirty days of such service appeal to the Governor in Council in the manner prescribed, and the Governor in Council's decision shall be final and conclusive, and shall not be liable to appeal or to be questioned by any proceedings in any court.

18. (1) The Board may, either generally or in any particular case, authorize any person to inspect pigs, pig-meat, bacon or any other pig product at a bacon factory, and to grade the same in accordance with the prescribed standards of quality, and such person shall be paid by the Board such fees as may be prescribed. Inspection of
bacon factories.

(2) For the purpose of facilitating the inspection and grading of pigs, pig-meat, bacon or any other pig product at a bacon factory, the Board may, by notice in writing addressed to the licensee of such bacon factory, specify the days of the week on which pigs shall be slaughtered, and if pigs are slaughtered on days other than the days specified in the notice the licensee of such bacon factory shall be guilty of an offence.

19. (1) There shall be established a fund, to be known as "the Pig Industry Fund", which shall consist of all moneys derived from— Pig Industry
Fund.

- (a) contributions levied under the Cess, which have not been expended at the date of the coming into operation of this Ordinance;
- (b) contributions levied under any special cess that may be imposed under the provisions of section 25 of this Ordinance;
- (c) licence fees payable under the provisions of section 11 of this Ordinance;
- (d) licence fees payable under the provisions of section 16 of this Ordinance;
- (e) the sale or export by the Board of pigs, pig-meat, bacon and any other pig product;
- (f) dividends accruing from any ordinary shares of the Uplands Bacon Factory (Kenya), Limited, which are held by the Board;
- (g) any other source of which the Governor in Council may approve.

(2) The Board shall apply the moneys in the Fund to all or any of the following purposes:—

- (a) experiment, investigation and research in connexion with the pig industry;

- (b) the cost of advertising the merits of Kenya pigs, pig-meat, bacon and other pig products and increasing the sales thereof by extending existing markets and exploiting new markets, and any matters incidental thereto;
- (c) the costs of curing, transporting, marketing and insuring pigs, pig-meat, bacon and other pig products, and of performing any other duties imposed upon it by this Ordinance;
- (d) payments to licensed pig producers for pigs supplied;
- (e) the remuneration of individual members of the Board at rates to be approved by the Governor;
- (f) the payment of travelling and out of pocket expenses to individual members of the Board at rates to be approved by the Governor;
- (g) the employment of agents and of staff, and the purchase of such equipment as the Board may consider necessary for the purpose of carrying out its functions under this Ordinance;
- (h) the purchase, erection and operation of bacon factories;
- (i) the establishment of pig-breeding centres for the distribution of approved breeding stock to licensed pig producers, and the purchase of equipment and facilities ancillary thereto;
- (j) compensation payable under the provisions of sub-section (2) of section 17 of this Ordinance;
- (k) the investment in such securities as the Board may think fit;
- (l) the establishment of a reserve fund;
- (m) with the approval of the Governor in Council, any other purpose which, in the opinion of the Board, is calculated to promote the welfare of the pig industry.

Audit of accounts.

20. The accounts of the Fund, and of any reserve fund, shall be audited not less than once in every year by an auditor to be approved by the Governor, and, as soon as may be after the close of each financial year, and after audit, a copy thereof shall be forwarded to every licensed pig producer.

Records of bacon factories and of butcheries selling pork.

21. (1) Every licensee of a bacon factory and every butcher shall keep such annual records, in a form to be approved by the Board, as will clearly show the number of pigs slaughtered on each day of the year in his bacon factory or butchery, as the case may be; and every such record shall be preserved with due care until the expiration of a period of 18 months from the end of the year in respect of which such record was made.

(2) Any person who falsifies any record which is required to be kept under the provisions of this section, or who makes any entry therein which is false or incorrect in any material particular, or any person who neglects to make any entry which by this section he is required to make or who destroys any entry so made, shall be guilty of an offence.

Powers of entry and examination of records.

22. (1) Any person authorized in writing by the Board in that behalf is hereby empowered—

- (a) to require any licensee of a bacon factory, or any butcher or any retailer of pig-meat, bacon or any other pig product to

furnish verbally or in writing and in such form as may be required, any information in relation to his business;

(b) to examine any books, records, accounts or other documents relating to such business, and may require a copy of any such book, record, account or other document to be deposited at the office of the Board for examination;

(c) to enter and inspect any premises which are being used as a bacon factory or butchery, or for retailing pig-meat, bacon or any other pig product.

(2) Any person who obstructs any person authorized under the provisions of this section to enter and inspect any premises or to examine any books, records, accounts or other documents, or any person who refuses or delays or fails to produce any such book, record, account or other document or any copy thereof, or who refuses to furnish any information or furnishes false information upon demand being made by a person authorized under the provisions of this section, shall be guilty of an offence.

23. The Board shall have power—

(a) to appoint a management committee to operate any bacon factory which is held by the Board;

(b) to appoint and employ, on such terms and conditions as they may from time to time determine, such officers and servants as they may deem necessary for the proper and efficient operation of any bacon factory which is held by the Board.

Powers of Board to appoint management committees, officers and servants, to operate bacon factories.

24. The Board may, by resolution, delegate any of the powers conferred upon it by this Ordinance to any member, officer or servant of the Board.

Delegation of powers.

25. (1) The Governor in Council may, on the recommendation of the Board, by notice published in the Gazette, impose a special cess on all pigs supplied to the Board of such amount as may be specified in the notice.

Special cess.

(2) Any special cess shall be levied in the manner prescribed, and all amounts derived therefrom shall be paid into the Fund.

26. Any person who is guilty of an offence against this Ordinance, or who contravenes or fails to comply with any of the provisions of this Ordinance, or who fails to comply with any term or condition of any licence issued under sections 11 or 16 of this Ordinance shall, on conviction before a magistrate of the first or second class, be liable for a first offence to a fine not exceeding one hundred pounds or to imprisonment for six months, or to both such fine and such imprisonment, and for a second or subsequent offence to a fine not exceeding five hundred pounds or to imprisonment for twelve months, or to both such fine and such imprisonment.

Penalties.

27. The Board may, with the approval of the Governor in Council, make rules for the regulation and control of the pig industry, and without prejudice to the generality of the foregoing, for all or any of the following matters:—

Power to make Rules.

(a) prescribing the manner of electing the members of the Board referred to in paragraph (a) of sub-section (1) of section 3 of this Ordinance;

- (b) prescribing the manner of applying for licences under sections 11 and 16 of this Ordinance, and the particulars which shall be given in such applications;
- (c) prescribing the time within which, and the manner in which, appeals to the Governor under sub-section (3) of section 15 of this Ordinance shall be made;
- (d) prescribing the manner in which appeals to the Governor in Council under sections 11, 16 and 17 of this Ordinance shall be made;
- (e) prescribing the time within which orders made under section 15 of this Ordinance may come into operation after the date thereof;
- (f) prescribing the manner in which native pig producers shall apply for registration under section 12 of this Ordinance, and the particulars to be entered in the register;
- (g) prescribing the manner in which native pig producers shall apply for renewal of registration and the manner in which such registration shall be renewed;
- (h) prescribing the particulars which the District Commissioner shall furnish to the Board upon the registration of a native pig producer and upon the renewal of such registration;
- (i) prescribing the forms of licences issued under sections 11 and 16 of this Ordinance;
- (j) prescribing the standards of quality according to which pigs, pig-meat, bacon and other pig products shall be graded;
- (k) prescribing the fees to be paid to inspectors of bacon factories for grading pigs, pig-meat, bacon or other pig products;
- (l) controlling, regulating or prohibiting the breeding or keeping of pigs by licensed pig producers;
- (m) regulating the feeding and housing of pigs by licensed pig producers;
- (n) providing for the submission of returns by licensed pig producers relating to the breeding, keeping or feeding of pigs;
- (o) controlling, regulating or prohibiting the importation of breeding stock;
- (p) prescribing the conditions subject to which bacon factories may be erected and operated;
- (q) controlling and regulating the manufacture and curing by licensed bacon factories of pig-meat, bacon and other pig products for sale or export;
- (r) prescribing the procedure for the levying of any special cess that may be imposed under the provisions of section 25 of this Ordinance;
- (s) convening an annual conference of delegates of licensed pig producers, and prescribing the manner in which such delegates shall be elected;
- (t) generally for the better carrying out of the provisions of this Ordinance.

Amended by Ord. 13/47

In operation from 18th July 1946 - S.N. 21/46
65
L. 92

ORDINANCE No. XX of 1945

Assented to in His Majesty's name this sixteenth day of May, 1945.

P. E. MITCHELL,
Governor.

An Ordinance to Provide for the Constitution of the Uplands Bacon Factory (Kenya), Limited

By Notice

Date of commencement

WHEREAS on the 1st day of July, 1941, the Uplands Bacon Factory (hereinafter referred to as the Factory) with the land, fixed assets and goodwill appertaining thereto, and the stocks of consumable and saleable stores, was purchased by the Government from the British Colonial Provision Company, Limited:

AND WHEREAS an overdraft to the board of management of the Factory with the Standard Bank of South Africa, Limited, was guaranteed by the Government to a limit of £25,000:

AND WHEREAS on the 18th day of June, 1941, it was resolved by the Legislative Council of the Colony that a cess be levied on all pigs dealt with by the Pig Control of such amount as might be fixed by order of the Governor in Council from time to time, and that such cess should be applied in reduction of the said overdraft and to such other purposes as the Governor in Council might direct:

AND WHEREAS an amount of approximately £30,000 has been collected under the said cess:

AND WHEREAS it is considered equitable to give to each pig producer who has contributed to the said cess a limited individual interest in the Factory while placing the ultimate control and ownership thereof in the hands of the Pig Industry Board, and it has been proposed, on behalf of such pig producers, that a limited liability company be formed with a capital of £40,000 divided into 39,950 redeemable preference shares of twenty shillings each and 1,000 ordinary shares of one shilling each, in which the Factory with the land, fixed assets and goodwill appertaining thereto, and the stocks of consumable and saleable stores and existing capital thereof, subject to and with the benefit of all outstanding engagements should be vested, and that the pig producers who have contributed to the said cess should be given a financial interest in such company in the form of redeemable preference shares and that all ordinary shares of such company should be issued to the Pig Industry Board:

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 Uplands Bacon Factory (Kenya), Limited, (Constitution) Ordinance, 1945, and shall come into operation on such date as the Governor may, by notice in the Gazette, appoint.

Short title and date of commencement.

1.7.46 - S.N. 21/46

2. In this Ordinance, unless the context otherwise requires—
“cess” means the cess provided for by a resolution passed by the Legislative Council of the Colony on the 18th day of June, 1941;

Interpretation

- “company” means the Uplands Bacon Factory (Kenya), Limited, created by the provisions of section 3 of this Ordinance;
- “factory” means the Uplands Bacon Factory;
- No. 19 of 1945. “Pig Industry Board” means the Pig Industry Board established by section 3 of the Pig Industry Ordinance, 1945.
- “pig producer” means any person who breeds or feeds pigs for sale, and shall include the undertaking known as the Pig Finishing Station at Nyeri.
- Company incorporated, memorandum and articles of association and first shareholders of the company.
No. 28 of 1933.
3. (1) Upon the coming into operation of this Ordinance there shall be deemed to come into existence and thenceforth to exist as a public company limited by shares incorporated under the Companies Ordinance, 1933, a company having as its name the Uplands Bacon Factory (Kenya), Limited.
- No. 28 of 1933. (2) Notwithstanding anything contained in the Companies Ordinance, 1933, the company shall have as its memorandum and articles of association such memorandum and articles of association as may, from time to time, be approved by the Governor, and such memorandum and articles of association may, notwithstanding anything to the contrary contained in the Companies Ordinance, 1933, be modified from time to time by special resolution of the Company in such manner and to such extent as the Governor may then approve.
- No. 28 of 1933. (3) On or before the coming into operation of this Ordinance the Financial Secretary shall cause to be delivered to the Registrar of Companies the original memorandum and articles of association of the company, as approved by the Governor, and as soon thereafter as is practicable the Registrar of Companies shall issue a certificate of incorporation of the company under the Companies Ordinance, 1933.
- No. 28 of 1933. (4) Notwithstanding anything contained in the Companies Ordinance, 1933, the subscribers to the memorandum of the company shall be such persons as may be nominated by the Pig Industry Board, and any person so nominated shall not be required to take any share in the company in order to qualify him to be a subscriber to such memorandum.
- Ord. 13/47 p. 20 (5) The first shareholders of the company shall be the Pig Industry Board to which all the ordinary shares shall be allotted, and the pig producers who ~~have contributed to the cess~~ to whom preference shares shall be allotted in accordance with the provisions of the Schedule to this Ordinance, and such preference shares shall be in the form set out in the said Schedule.
- No. 28 of 1933. (6) Notwithstanding anything to the contrary contained in the Companies Ordinance, 1933, no payment or other consideration whatsoever shall be required from any shareholder to whom any preference shares or ordinary shares of the company are allotted under subsection (5) of this section, but all such shares shall nevertheless be credited as fully paid.
- No. 28 of 1933. (7) Sections 29 and 95 and paragraph (d) of section 167 of the Companies Ordinance, 1933, shall not apply to the Company.
- Cap. 57. (8) Notwithstanding anything to the contrary contained in the Stamp Ordinance no stamp duty shall be payable in respect of the original or any increased capital of the Company.

4. Whenever any doubt shall arise as to the person to whom any preference share in the company shall be given in pursuance of the provisions of the Schedule to this Ordinance, it shall be lawful for the secretary or other proper officer of the company to allot and issue such preference share to the Pig Industry Board, and thereupon the Pig Industry Board shall hold the same upon trust for such person and for such estate and interest as may thereafter be determined by any court or otherwise, and such secretary or other proper officer shall supply to the Pig Industry Board and every claimant of such share all information in his possession which is likely to determine or aid in the determination of the true ownership of such share. If and when the true ownership of such share shall thereafter be determined, it shall be lawful for the Pig Industry Board to transfer such share to the person who shall be determined the true owner thereof, and the company shall forthwith give effect to such transfer notwithstanding any restrictions as to the rights of transfer of such share contained in the articles of association of the company or otherwise.
5. No person shall be entitled to enforce against any shareholder in the company any agreement by such shareholder to vote at any general meeting of the company as any person may direct, any rule of law or equity to the contrary notwithstanding.
6. Saving as herein otherwise provided, the company shall be subject to all the provisions of the Companies Ordinance, 1933, and all statutory modifications thereof.
7. Upon the coming into operation of this Ordinance all the undertaking, business, goodwill, assets, property real and personal, effects, choses in action, claims, demands, rights and privileges then belonging to the factory or used for the purposes thereof shall be and the same are hereby vested in the company and shall and may be held, possessed, enjoyed, used, exercised, executed and enforced by the company in the same manner and to the same extent as they could or might have been by the board of management of the factory if this Ordinance had not been passed, notwithstanding that any of such property, effects, choses in action, claims, demands, rights or privileges were by virtue of any law or agreement or otherwise non-assignable or non-transferable without the consent of any person or at all.
8. Upon the coming into operation of this Ordinance the company shall forthwith become and be liable for all the liabilities and obligations of the board of management of the factory and any person who at such date had any charge, chose in action, claim, demand or right whatsoever against the board of management of the factory or any of the property appertaining to the factory shall be entitled to enforce the same against the company and such property in the same manner and to the same extent as such person could or might have enforced the same against the board of management of the factory and such property if this Ordinance had not been passed.
9. The Pig Industry Board or its duly appointed representative, shall be entitled to vote at any general meeting of the company in respect of any shares held by the Pig Industry Board in its own right, but not in respect of any preference shares held by them under the

Trusteeship of unascertained rights.

Agreements regarding voting at general meeting of company not enforceable.

Application of the Companies Ordinance. No. 28 of 1933.

Vesting of assets in company

All liabilities assumed.

Voting by Pig Industry Board.

No. 28 of 1933.

provisions of section 4 of this Ordinance. Any resolution passed by the Pig Industry Board while holding in its own right all the ordinary shares of the company in respect of any matter touching the affairs of the company on which no other shareholder has for the time being any right to vote, shall, notwithstanding anything to the contrary contained in the Companies Ordinance, 1933, or the articles of association of the Company be as valid and effectual for all purposes as if it was a special extraordinary or ordinary resolution of the company (as the case may require) duly passed at a general meeting of the company duly convened and held.

SCHEDULE
(Section 3 (5))

*Repealed & replaced by
Ord. 13/47 pp 84/85*

1. Every pig producer who has contributed to the cess shall be allotted one redeemable preference share for every twenty shillings contributed by him to the cess up to the date of the coming into operation of this Ordinance.

2. When the amount contributed to the cess by any pig producer is not a multiple of twenty shillings, such pig producer shall elect whether he will receive or pay the difference required to bring such amount to a multiple of twenty shillings.

3. Redeemable preference shares allotted under the provisions of this Ordinance shall be in the following form:—

THE UPLANDS BACON FACTORY (KENYA), LIMITED
Redeemable Preference Share Certificate

No Amount

THIS IS TO CERTIFY that
of has contributed Sh.
to the Cess, and that he is the registered holder of
Redeemable Preference Shares to the value of Sh. 20 each of the
above Company, subject to the Memorandum and Articles of Association of the Company.

Given under the seal of the Uplands Bacon Factory (Kenya), Limited, this day of, 19....

No transfer of the above shares will be registered without the production of this certificate.

Amended by Ord. 48/46

24/47

28/48

77/48

62/53

ORDINANCE No. XXI of 1945

Assented to in His Majesty's name this fifteenth day of August, 1945.

P. E. MITCHELL,
Governor.

In operation from 15th January 1946
S.N. 976/45
h. 491

**An Ordinance to Amend and Consolidate the Law
Relating to the Sisal Industry**

By Notice

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

Date of commencement.
1.1.1946

PART I—INTERPRETATION

1. This Ordinance may be cited as the Sisal Industry Ordinance, 1945, and shall come into operation upon such date as the Governor may, by notice in the Gazette, appoint.

Short title and commencement.

2. In this Ordinance, unless the context otherwise requires—
“Association” means the Kenya Sisal Growers' Association;
“Board” means the Sisal Board established under section 3 of this Ordinance;

Interpretation.

“export” means export from the Colony to a place outside the limits of the Colony, the Protectorate of Uganda or the Tanganyika Territory;

“prescribed” means prescribed by Rules made under this Ordinance;

“sisal” means the plant *Agave sisalana* or other species of *Agave* or its hybrids;

“sisal fibre” means processed, machined or carded fibre and tow and any other substance or by-product derived therefrom.

PART II—SISAL BOARD

3. (1) There shall be established a Board to be known as the “Sisal Board” which shall consist of—

Establishment and constitution of the Board.

(a) the Financial Secretary or, in his absence, an officer to be nominated by him;

(b) the Director of Agriculture or, in his absence, an officer to be nominated by him;

(c) one member to be appointed by the Governor;

(d) the chairman for the time being of the Association;

(e) ~~five members to be appointed by the Association.~~ *re placed by Ord. 28/48*

(f) two members of the Tanganyika Sisal Board to be appointed by the Tanganyika Sisal Board.

(2) The Board shall elect a Chairman annually.

(3) The following provisions shall apply in respect of the members of the Board referred to in paragraph (e) of sub-section (1) of this section—

(a) ~~they~~ *four* shall retire annually and shall be eligible for reappointment;

(b) the order of retirement shall be by rotation provided that in the case of members whose last appointment to the Board was on the same date the order of their retirement shall be determined by the Board by ballot.

(4) If any member of the Board is incapacitated by illness, absence or other sufficient cause from performing the duties of his office the Board may appoint some fit person to be a deputy to act for that member and such deputy shall have all the powers and authority of the member for whom he is so acting.

Board to be a corporate body.

4. (1) The Board shall be a body corporate having perpetual succession and a common seal and may in their corporate name sue and be sued and may purchase, hold, manage and dispose of land and other property for the purposes of this Ordinance.

Borrowing power.

(2) The Board may raise or borrow such sums of money for the purposes of this Ordinance as they may in their discretion think fit, and may secure the repayment of or raise any such sums by mortgage or charge upon the whole or any part of the property of the Board.

Meetings of the Board.

5. (1) The Board shall meet at such times as the Chairman of the Board shall decide.

(2) In the absence of the Chairman of the Board from any meeting of the Board a chairman for such meeting shall be chosen by the members present.

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

(4) Subject to the provisions of this section the Board may, with the approval of the Governor, make Standing Orders for the regulation of the conduct of business and the procedure at their meetings, and shall fix the number of members required to form a quorum.

(5) Every authorization or recommendation given by the Board in pursuance of the provisions of this Ordinance shall be signified under the hand of the Chairman of the Board:

Provided that if the Chairman of the Board is incapacitated by illness, absence or other sufficient cause from performing the duties of his office the Board may appoint some fit person to be a deputy to act for him and such deputy shall have all the powers and authority of the Chairman for whom he is so acting.

Appointment of officers and servants.

6. The Board may appoint and employ, on such terms and conditions as they may from time to time determine, such officers and servants as they may deem necessary for the proper and efficient administration of the Board and may appoint agents to carry out any of the duties imposed upon them by this Ordinance on such terms and conditions as they may from time to time determine.

Functions of the Board.

7. The functions of the Board shall be—

- 6A - Appointments of agents added by Ord. 77/48*
- (1) subject to the provisions of this Ordinance, to promote the advancement and welfare of the sisal industry;
 - (2) to receive any recommendation advanced by the Association or any other association of a like character in the interests of the sisal industry, and to advise the Governor thereon;
 - (3) to consider and advise the Governor upon measures for the promotion and protection of the sisal industry;
 - (4) to promote and undertake technical and scientific research in connexion with the sisal industry;

- (5) to draw up standard contracts providing for standard conditions for the sale and purchase of sisal or sisal fibre;
- (6) to take part in or promote any scheme for regulating or prohibiting the manufacture, import, export, production, treatment, planting, cultivation, storage, movement, transport, distribution, sale, purchase, use or consumption of sisal or sisal fibre, *and, from time to time, fixing the prices to be paid for sisal or sisal fibre;*

Provided that the Board shall not take part in or promote any scheme for any of the purposes referred to in this item except—

- (i) at the request of the Association made after the passing of a resolution in that behalf by members of the Association who represent not less than two-thirds of the ~~total~~ ^{aggregate} tonnage of sisal fibre produced during the ~~year~~ ^{three} ending on the 31st day of December immediately preceding; and
- (ii) with the consent of the Governor in Council, who may give his consent subject to such conditions and restrictions as he thinks fit:

Provided further that nothing in this item contained shall affect any valid licence to manufacture sisal bags issued under the provisions of section 4 of the Sisal Bag Industry Ordinance, 1932;

No. 31 of 1932.

- (7) to render to persons engaged in the production and sale of sisal or sisal fibre such services as may be prescribed, upon payment of such fees or other charges as may be prescribed;
- (8) to co-operate with all persons interested in the production and sale of sisal or sisal fibre, and especially with such persons who are represented by the Association and by the Tanganyika Sisal Growers' Association, and generally to represent their interests both in the Colony and outside it;
- (9) to administer any moneys which may be placed at their disposal by this Ordinance or otherwise for all or any of the following purposes—
- (a) remuneration of the officers, servants or agents employed by the Board and the purchase of such equipment as the Board may consider necessary for the purpose of carrying out its functions under this Ordinance;
- (b) experiment, investigation and research in connexion with the sisal industry;
- (c) the collection of statistics and other information relating to fibres, their production, distribution and consumption;
- (d) the formation of a library or information centre, and the preparation and publication of information concerning matters relating to the sisal industry;
- (e) the promotion of exhibitions for the display of sisal and sisal processes, and the uses of sisal and sisal fibre;
- (f) the establishment of laboratories, experimental stations, workshops and factories, and the provision of facilities ancillary thereto;

- (g) the endowment of scholarships and bursaries for the instruction of students engaged in research or experiment or in the study of the sisal industry, whether in the laboratories, experimental stations, factories and workshops of the Board or elsewhere;
- (h) the employment and remuneration of such technical advisers, instructors and staff as the Board may deem necessary for the purpose of carrying out any of its functions under this Ordinance;
- (i) the payment of travelling and out-of-pocket expenses of individual members of the Board at rates to be approved by the Governor;
- (j) with the approval of the Governor in Council, any other purpose which in the opinion of the Board is calculated to promote the welfare of the sisal industry.

Accounts of the Board.

8. The accounts of the Board shall be audited in such manner as the Governor may direct and shall, as soon as may be after the close of each financial year and after audit, be published in such manner as the Board may direct.

Liability of members of the Board.

9. No member of the Board shall be personally liable for any act or default of the Board done or omitted to be done in good faith and without negligence in the course of the operations of the Board.

Delegation of powers.

10. The Board may, by resolution, delegate any of the powers conferred upon them by this Ordinance to any member, officer or servant of the Board.

PART III—POWERS OF REGULATION AND CONTROL

Power to make Rules.

11. The Governor in Council, on the advice of the Board, may make Rules for any of the following purposes—

- (a) requiring the compulsory registration of all sisal plantations and the compulsory registration and compulsory use of plantation marks;
- (b) prescribing the persons by whom and the circumstances in which the registration of a plantation mark can be refused;
- (c) limiting the number of plantation marks to be used in respect of each registered sisal plantation;
- (d) prescribing the fees payable on application for registration of plantations or plantation marks;
- (e) prohibiting the use of any plantation mark in respect of a registered sisal plantation other than that registered in respect thereof;
- (f) prescribing the manner and the form in which the register of sisal plantations and plantation marks shall be kept;
- (g) requiring the submission by prescribed persons of periodical returns of—
 - (i) areas under sisal cultivation, with such particulars as may be prescribed;
 - (ii) particulars of the numbers of labourers employed on registered sisal plantations, and the nature of the work performed by them, classified as follows—
 - (a) employed under contracts in writing,
 - (b) employed under contracts not in writing, and

- (c) working for contractors, or in such other manner as may be prescribed;
- (iii) stocks of sisal fibre on registered sisal plantations and in transit, in customs or other premises classified as follows—
- (a) sold for export,
- (b) sold for local consumption, or
- (c) unsold;
- (iv) actual production of baled sisal fibre in grades and tons;
- (v) particulars of machinery, transportation and other equipment on registered sisal plantations;
- (h) prescribing the conditions to be fulfilled in respect of grading, conditioning, baling, packing and marking sisal fibre for export;
- (i) providing for the inspection, weighing and measuring of sisal fibre for export and for anything to be prescribed under this Part;
- (j) prescribing the records to be kept and the forms to be used for the submission of returns;
- (k) prescribing the services which the Board may render for payment to persons engaged in the production or sale of sisal or sisal fibre, and the fees or other charges to be paid therefor;
- (l) providing for superannuation, pension or provident funds for the officers and servants of the Board;
- (m) carrying into effect any scheme referred to in item (6) of section 7 of this Ordinance;
- (n) providing for the levying and collection of the cess imposed under the provisions of section 15 of this Ordinance;
- ⁹(~~g~~) generally for the better carrying into effect of the provisions of this Ordinance. *(B) and (B) - added by Ord. 77/48*

12. The Board shall be the registration authority for the purpose of any registration required by Rules made under section 11 of this Ordinance, and shall keep a register of sisal plantations and plantation marks in such manner and such form as may be prescribed.

Board to be the registration authority.

13. It shall be lawful for any person appointed in writing by the Board to inspect any sisal plantation which is registered under any Rules made under section 11 of this Ordinance, and any person who obstructs any person so appointed shall be guilty of an offence:

Inspection of plantations.

Provided that not less than fourteen days notice in writing of such inspection shall be given to the manager of such sisal plantation.

14. (1) Save as provided in sub-section (2) of this section, every person having any official duty or being employed in the administration of this Part shall regard and deal with all documents and returns and copies thereof and all information which he receives in the course of such duty or employment as secret and confidential.

Official secrecy.

(2) Every person having possession of or control over any such documents or returns or copies thereof or being possessed of such

information, who at any time communicates or attempts to communicate such information or anything contained in such documents, returns or copies to any person—

(a) other than the person to whom he is required in the course of his duty or employment to communicate it or to any person approved by the Governor; or

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

shall be guilty of an offence and shall be liable on conviction to a fine of twenty-five pounds or to imprisonment for two months.

PART IV—CESS

Power to impose a cess.

15. (1) The Governor in Council may, upon application made in that behalf by the Board, by order impose a cess to be levied on all sisal fibre produced in the Colony at such rate as may be specified in the order; and the moneys received from the collection of such cess shall be placed at the disposal of the Board.

(2) The Governor in Council may, upon the advice of the Board, at any time by order alter the rate of such cess, and such altered rate shall come into force on such date, not being less than two months from the date of the order, as may be specified in the order.

(3) Any cess imposed under the provisions of this section shall be levied and collected in the manner prescribed.

Restriction on export of sisal fibre.

16. No sisal fibre shall be exported from the Colony unless the amount due thereon in respect of any cess levied under this Part has been paid.

Grant-in-aid.

17. An annual grant-in-aid from the Government of the Colony of a sum equal in amount to the sum collected from any cess imposed under the provisions of this Part shall be placed at the disposal of the Board:

Provided that in respect of any year any sum which would otherwise be payable by the Government of the Colony in excess of one thousand pounds shall be such sum as may be determined by the Governor in Council.

PART V—GENERAL

Penalties.

18. Any person who is guilty of an offence under section 13 of this Ordinance, or who contravenes the provisions of section 16 of this Ordinance, shall, on conviction before a magistrate of the first or second class, be liable to a fine not exceeding fifty pounds or to imprisonment not exceeding six months, or to both such fine and such imprisonment.

Repeal of Ordinance No. 19 of 1939.

19. The Sisal Ordinance, 1939, is hereby repealed:

Provided that—

(a) all moneys standing to the credit of the fund established under section 7 of the Ordinance so repealed shall be placed at the disposal of the Board;

(b) any rule, notice, order, registration, appointment or nomination made or given under the Ordinance so repealed and in force immediately prior to the coming into operation of this Ordinance and not being inconsistent with the provisions of this Ordinance shall continue in force until other provisions shall be made under and by virtue of this Ordinance.

ORDINANCE No. XXII of 1945

Assented to in His Majesty's name this fifteenth day of August, 1945.

P. E. MITCHELL,
Governor.

An Ordinance to Make Provision for Raising a Loan in the Colony not Exceeding the Sum of Two Million Pounds

15th August, 1945

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 Loan Ordinance, 1945.

2. In this Ordinance, unless the context otherwise requires—
“Accountant General” means the Accountant General of the Colony;

“Crown Agents” means the person or persons acting for the time being as Crown Agents for the Colonies in England;

“the Loan” means the loan authorized by this Ordinance;

“prescribed” means prescribed by regulations made under this Ordinance;

“the register” includes any book kept by the Accountant General under the provisions of this Ordinance;

“stock” means Kenya Stock issued under the provisions of this Ordinance, and includes any share or interest in such stock;

“stockholder” means a person holding stock, who is entered as proprietor thereof in the register.

3. (1) The Governor is hereby empowered to raise in the Colony a loan not exceeding the sum of two million pounds.

(2) All moneys borrowed under the authority of this Ordinance shall be applied—

(a) to supplement the sinking fund of any loan raised under the provisions of any Specific Loan Ordinance;

(b) to such other purposes as the Governor may, with the sanction of the Legislative Council of the Colony and the Secretary of State, determine.

4. Notwithstanding the provisions of the General Loan and Inscribed Stock Ordinance, the Loan may be raised by the creation and issue in the Colony of stock registered under the provisions of this Ordinance. Such stock shall be known as Kenya Stock.

5. Such stock shall from time to time be issued in the Colony by the Accountant General, upon the directions of the Governor, upon the best and most favourable terms that can be obtained, and to such amounts and on such conditions, subject to the provisions of this Ordinance, as the Governor may before the issue thereof from time to time direct.

6. (1) The Accountant General shall keep a register in which all stock issued under the provisions of this Ordinance shall be registered, and in which all transfers and all dealings in such stock under the

Date of commencement.

Short title.

Interpretation.

Authority to raise a loan.

Loan to be raised by Kenya Stock issued in the Colony. Cap. 46.

Stock to be issued by the Accountant General on the Governor's directions.

Accountant General to keep register of stock.

provisions of this Ordinance shall be registered, and in which shall be entered all matters and things which by this Ordinance are required to be entered in the register.

(2) Such register or a copy of any entry therein as certified by the Accountant General, or by a person nominated by him for that purpose, shall be prima facie evidence of title of any person in respect of any stock of which he is entered as the stockholder.

Stock
Certificates.

7. The Accountant General shall within thirty days of the receipt of the final instalment payable on any stock send to the stockholder a certificate, which shall be known as a Stock Certificate, showing that stock to the value specified therein has been registered in the name of the stockholder. Such Stock Certificate shall be prima facie evidence of the title of the stockholder to the stock specified therein.

List of stock-
holders of
unclaimed
interest.

8. The Accountant General shall keep, in a separate book, a list of the stockholders on whose stock the interest has been unclaimed for ten years, together with their registered addresses and descriptions, and such list shall be open for inspection upon payment of a fee of one shilling.

Transfer of
stock.

9. Stock shall be transferable by an instrument of transfer to be approved by the Accountant General, and a certificate issued by the Accountant General in pursuance of such transfer and in respect of the stock so transferred shall be prima facie evidence of the title of the holder of the certificate to the stock specified therein.

Closing of
register.

10. (1) The Accountant General may, for a period not exceeding fourteen days previous to each payment of interest on any stock registered under the provisions of this Ordinance, close the register of that stock as regards transfers upon giving not less than seven days notice of such closing. Such notice shall be published in the Gazette and in one newspaper published in the Colony.

(2) The persons who on the day of such closing are registered as stockholders shall, as between them and their transferees, be entitled to the interest then next payable on the stock.

Loan to be a
charge upon
general revenues.

11. The principal moneys and interest represented by the Loan are hereby charged upon and shall be payable out of the general revenues and assets of the Colony.

Interest and
payment thereof.

12. Interest shall be payable on stock half yearly by the Accountant General on behalf of the Colony at the rate fixed by the Governor at the time of the issue of such stock.

When stock
redeemable.

13. Stock shall be redeemable at par on a date to be named by the Accountant General in that behalf when issuing the stock, and from and after that date all interest on the principal moneys secured thereby shall cease and determine whether payment of the principal shall have been demanded or not.

Appropriation
out of general
revenue of sums
to meet interest
when due.

14. So long as any portion of the Loan remains outstanding the Governor shall in each half-year ending with the day on which the interest on the Loan falls due appropriate out of the general revenues and assets of the Colony a sum equal to one half-year's interest on the whole of the Loan outstanding, and shall authorize the Accountant

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Local Loan

No. XXII

General to pay out of such sum the then current half-year's interest on the day on which it falls due.

15. (1) The Governor shall also in each half-year ending with the day on which the interest on the Loan falls due appropriate out of the general revenues and assets of the Colony for the formation of a sinking fund for the redemption of stock for the repayment of the Loan at par an additional sum in respect of the total nominal amount of the Loan outstanding equal to one per centum of such nominal amount, and shall remit that sum to the Crown Agents.

(2) The Crown Agents shall invest the money remitted to them under the provisions of subsection (1) of this section in the purchase of such securities as may be approved by the Secretary of State as a sinking fund for the final extinction of the debt, and the Crown Agents shall also invest the dividends, interest or produce of such investment in the purchase of like securities and may from time to time with the approval of the Secretary of State change any such investments and shall hold such funds in trust for the payment of the principal moneys for the time being represented by the Loan.

(3) In case the sinking fund provided for by this section shall be insufficient for the payment of all the principal moneys borrowed under the authority of this Ordinance at the time the same shall have become due the Governor shall make good the deficiency out of the general revenues and assets of the Colony.

16. No notice of any trust in respect of any stock shall be entered in the register or be receivable by the Accountant General.

No notice of trust to be received or registered.

17. No stamp duty shall be payable in respect of any interest, warrant or transfer of stock.

Exemption from stamp duty.

18. All interest on stock shall be deemed to be debenture interest within the meaning of section 2 of the Income Tax Ordinance, 1940, and sub-sections (3) and (4) of section 28 of the said Ordinance shall apply upon payment of such interest as if the references therein to a company which is resident in the Colony were read as references to the Accountant General.

Interest to be deemed debenture interest for the purposes of income tax. No. 11 of 1940.

19. The Governor in Council may make regulations for all or any of the following purposes:—

Power to make regulations.

- (a) Registering stock in the register;
- (b) prescribing the persons who may be registered as stockholders;
- (c) prescribing the method by which any payment in respect of stock shall be made;
- (d) prescribing the method by which stock may be transferred;
- (e) providing for the registration, payment of interest, repayment of principal, and transfer of stock in the case of persons who are under legal disability;
- (f) providing for the replacement of lost certificates;
- (g) generally for the better carrying out of the provisions of this Ordinance.

For Reg. - see S.N.
727/25.6. 408

ORDINANCE No. XXIII of 1945

Assented to in His Majesty's name this fifteenth day of August, 1945.

P. E. MITCHELL,
Governor.

An Ordinance to Confer on the Supreme Court Temporary Jurisdiction in Certain Matrimonial Causes where the Relevant Marriage took place on or after the Third day of September, Nineteen Hundred and Thirty-nine.

Date of commencement.

15th August, 1945

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 Matrimonial Causes (War Marriages) Ordinance, 1945.

Interpretation.

2. (1) In this Ordinance, unless the context otherwise requires—
“the appointed day” means such day as His Majesty may by Order in Council appoint in pursuance of the provisions of the Matrimonial Causes (War Marriages) Act, 1944;

Ch. 43, 7 and 8,
Geo. 6.

“marriage” includes a purported marriage which was void *ab initio* and “husband” and “wife” shall be construed accordingly.

(2) The jurisdiction conferred by or under this Ordinance on any court shall be concurrent with any jurisdiction as respects the same matters which would, apart from this Ordinance, be exercisable by any other court.

Extension of jurisdiction of Supreme Court to certain marriages irrespective of domicile.
No. 33 of 1939.

3. (1) In the case of marriages to which this section applies—

(a) the Supreme Court shall have jurisdiction in and in relation to proceedings for divorce or for nullity of marriage as if both parties were at all material times domiciled in the Colony;

(b) section 5 of the Matrimonial Causes Ordinance, 1939 (which restricts the presentation of petitions for divorce during the first three years after marriage) shall not apply:

Provided that this sub-section shall not apply in relation to any proceedings for divorce or for nullity of marriage unless those proceedings were commenced not later than five years after the appointed day.

(2) The marriages to which this section applies are marriages celebrated on or after the 3rd day of September, 1939, but before the appointed day, where the husband was, at the time of the marriage, domiciled outside the Colony, and the wife was, immediately before the marriage, domiciled in the Colony:

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Matrimonial Causes

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Provided that this section shall not apply to any marriage if, since the celebration thereof, the parties thereto have at any time resided together in the country in which the husband was domiciled at the time of the residence, and for the purposes of this proviso the whole of the United States of America, the whole of India and the whole of any British possession outside India shall each be treated as one country.

(3) This section shall not extend or alter the jurisdiction of the Supreme Court in, or in relation to, any proceedings for divorce or for nullity of marriage where, at the commencement of those proceedings, the parties are domiciled anywhere in the Colony.

ORDINANCE No. XXIV of 1945

Assented to in His Majesty's name this fifteenth day of August, 1945.

P. E. MITCHELL,
Governor.

An Ordinance to Amend the Criminal Procedure Code

Date of commencement.

15th August, 1945

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 Criminal Procedure Code (Amendment) Ordinance, 1945, and shall be read as one with the Consolidated Edition of the Criminal Procedure Code prepared under the provisions of section 43 of the Criminal Procedure Code (Amendment) Ordinance, 1939, hereinafter referred to as the principal Ordinance.

No. 35 of 1939.

Amendment of section 89 of the principal Ordinance.

2. Sub-section (4) of section 89 of the principal Ordinance is hereby amended by inserting between the words "shall" and "draw" in line three thereof a comma followed by the words "subject to the provisions of section 89A."

Insertion of new section 89A in the principal Ordinance.

3. The principal Ordinance is hereby amended by inserting immediately after section 89 thereof the following section:—

Power of magistrate to reject complaint or formal charge.

"89A. Where the magistrate is of opinion that any complaint or formal charge made or presented under section 89 does not disclose any offence, the magistrate shall make an order refusing to admit such complaint or formal charge and shall record his reasons for such order."

Repeal and replacement of first paragraph of section 360 of the principal Ordinance.

4. The first paragraph of section 360 of the principal Ordinance is hereby repealed and the following paragraph is substituted therefor:—

Appeals to Court of Appeal for Eastern Africa.

"360. Any party to proceedings under this Part, other than proceedings by way of revision under sections 361 to 366, may appeal to the Court of Appeal for Eastern Africa on a matter of law (not including severity of sentence) but not on a matter of fact."

ORDINANCE No. XXV of 1945

Assented to in His Majesty's name this fifteenth day of August,
1945.

P. E. MITCHELL,
Governor.

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

1st January, 1945 1726

Date of
commencement

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

1. (1) This Ordinance may be cited as the Widows and Orphans Pension (Amendment) Ordinance, 1945, and shall be read as one with the Widows and Orphans Pension Ordinance (Chapter 34 of the Revised Edition), hereinafter referred to as the principal Ordinance.

Citation
and com-
mencement.
Cap. 34.

(2) Subject to the provisions of sub-section (2) of section 2 of this Ordinance, this Ordinance shall be deemed to have come into operation on the 1st day of January, 1944.

2. (1) Sub-section (1) of section 2 of the principal Ordinance shall be amended as follows:—

Amendment of
section 2 (1) of
the principal
Ordinance.

(a) In the definition of the expression "Of a pensionable age" for the word "eighteen" in both places in which it occurs there shall be substituted the word "twenty-one";

(b) For the definition of the word "Contributor" the following shall be substituted:—

“Contributor” means a contributor to the Scheme and includes a person who has ceased to contribute in such circumstances that he continues to rank for benefit under this Ordinance”;

(c) The following definitions shall be inserted immediately after the definition of the expression "East African Service":—

“Public Service” means service in a civil capacity under the Government of the Colony or the Government of any part of His Majesty's Dominions, or of any British Protected State or Protectorate, or of any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty or of the Anglo-Egyptian Sudan, or under the High Commissioner for Transport in Kenya and Uganda, or any other service which the Secretary of State may determine to be public service for the purposes of this Ordinance;

“Other public service” means public service not under the Government of the Colony”;

(d) The following definition is hereby inserted immediately after the definition of the "The Scheme":—

“Approved scheme” means a scheme or fund for the granting of pensions to the widows and children of officers in the public service, which has been declared by the Secretary of State to be an approved scheme for the purposes of this Ordinance”.

(2) Paragraph (a) of sub-section (1) of this section shall be deemed to have come into operation on the 8th day of May, 1942:

Provided that where, before the date of the commencement of this Ordinance, by reason of the attainment of the age of eighteen years by a child of a deceased contributor, pension payable to any other person from the funds of the Colony has been increased, this increase shall cease to be payable on the date aforesaid and not earlier.

(3) For the avoidance of doubts it is hereby declared that where any child of a deceased contributor shall have attained the age of eighteen years on or before the 7th day of May, 1942, the pension thereupon ceasing to be payable to such child shall not become again payable by reason of provisions of paragraph (a) of sub-section (1) of this section.

Amendment of section 4 of the principal Ordinance.

3. Section 4 of the principal Ordinance is hereby amended—

(a) by repealing paragraph (b) of sub-section (1) thereof and substituting therefor the following paragraphs—

“(b) Officers, non-commissioned officers and men on the active list of the Royal Navy, the Regular Army or the Royal Air Force temporarily employed by an East African Government in either a military or a civil capacity and not holding pensionable appointments under this Government;

(bb) persons in the service of this Government by reason only of their membership of any Naval, Military or Air Force constituted by local legislation in force in the Colony;”;

(b) by repealing sub-section (3) thereof and substituting therefor the following sub-section:—

“(3) Where an officer who is a contributor to an approved scheme in other public service is transferred from such other public service to service under this Government—

(a) if he ceases to contribute to such approved scheme he shall become a contributor under this Ordinance;

(b) if he does not cease to contribute to such approved scheme he shall not be eligible to become a contributor under this Ordinance:

When officer transferred from other service shall become a contributor.

Provided that so long as the contribution of any such officer to such approved scheme is less than the contribution for which he would from time to time be liable under this Ordinance he shall contribute under this Ordinance to the extent of the difference between the contribution he continues to make to such approved scheme and the contribution for which he would for the time being be liable under this Ordinance and shall upon the date upon which he first so contributes become a contributor for the purposes of this Ordinance:

When officer transferred from other service may become a contributor.

And provided further that any such officer who prior to the 1st day of January, 1944, has been exempted under the provisions of the Ordinance then in force from becoming a contributor under this Ordinance and who marries subsequently to that date may at his option become a contributor under this Ordinance notwithstanding that he continues to contribute to such approved scheme”.

4. Sub-section (1) of section 5 of the principal Ordinance is hereby amended by inserting therein immediately after paragraph (d) thereof the following new paragraph:—

Amendment of section 5 (1) of the principal Ordinance.

“(e) the provisions of paragraph (b) of this sub-section shall not apply to any officer who becomes a contributor after the 1st day of January, 1944”.

5. Sub-section (2) of section 7 of the principal Ordinance is hereby amended by deleting therefrom the words “The Government shall deduct the contributions from the salaries of contributors”, which occur in the first and second lines thereof and by substituting therefor the words:—

Amendment of section 7 (2) of the principal Ordinance.

“The Crown Agents shall deduct the contributions from the salaries of contributors when they are on leave, or when their salaries are wholly paid through the Crown Agents or from the pensions of contributors who retire on pension and elect to contribute under this Ordinance and whose pensions are payable through the Crown Agents. When a contributor's salary or pension is not wholly paid through the Crown Agents, his contributions shall be deducted from his salary or pension as the case may be by the Government”.

6. The principal Ordinance is hereby amended by inserting therein the following new section immediately after section 11 thereof:—

Amendment of the principal Ordinance.

“11A. Upon the death of a contributor who is married or a widower with children of a pensionable age, the full pension registered in his name shall be payable subject to the other provisions of this Ordinance”.

Pension when officer with beneficiaries dies.

7. The principal Ordinance shall have effect as if the following sub-sections were substituted for sub-section (1) of section 16 thereof:—

Amendment of section 16 of the principal Ordinance.

“(1) No widow of a contributor whose marriage with him is contracted after he has left the public service (unless he has elected to contribute under section 8 of the Widows and Orphans Pension (Amendment) Ordinance, 1932, and at the date of the marriage is so contributing or has ceased to do so by virtue of section 7 (1)) or has attained the age of fifty-five and no issue of such marriage shall constitute a beneficiary for the purpose of this Ordinance or become entitled to pension.

No. 28 of 1932.

(1A) Sub-section (1) of this section—

(a) shall not be inapplicable (notwithstanding the previous operation of that part of section 27 of the principal Ordinance which is repealed by this Ordinance) by reason only of a contributor's having ceased to contribute before the date of his marriage and before the commencement of this Ordinance; but

(b) shall not apply in respect of any contributor dying before the 8th day of May, 1942, or, save with the approval of the Secretary of State, in respect of any contributor who ceased to rank for benefit before the 1st day of January, 1934”.

Repeal and replacement of section 17 of the principal Ordinance.

Provisions consequent upon an officer being dismissed for misconduct.

8. Section 17 of the principal Ordinance is hereby repealed and the following section is substituted therefor:—

“17. Notwithstanding any other provisions of this Ordinance a contributor who is dismissed from the East African Service or other public service for misconduct shall cease to contribute under this Ordinance, and

- (a) where such contributor is a bachelor the total amount of his contributions under the Ordinance shall be repaid to him without interest subject to the deduction of any sums due by him to the Government; and
- (b) where such contributor is a widower without children of a pensionable age the total amount of the contributions which he has paid since the death of his last wife or the ceasing to be of a pensionable age of his last child, whichever event shall have last happened, shall be repaid to him without interest subject to the deduction of any sums due by him to the Government; and
- (c) where such contributor is married or is a widower with a child of pensionable age he shall continue to rank for benefit to the extent of such part of the pension registered in his name as his past contributions have earned.”

Repeal and replacement of section 26 of the principal Ordinance.

Refund of contribution to bachelor and widower without children of pensionable age.

9. Section 26 of the principal Ordinance is hereby repealed and the following section is substituted therefor:—

“26. (1) If a contributor being—

- (a) a bachelor, or
- (b) a widower without children of pensionable age, leaves, attains the age of 55 years while still serving in, or dies in, the East African Service, there shall be payable to him or his legal representative—

(A) if such contributor is a bachelor, the total amount of his contributions together with compound interest thereon calculated with annual rests at the rate of two and one-half per centum, and

(B) if such contributor is a widower without children of a pensionable age the total amount of contributions which he has paid since the death of his last wife or the ceasing to be of a pensionable age of his last child whichever event shall have last happened, together with compound interest thereon calculated with annual rests at the rate of two and one-half per centum:

Option for bachelor and widower without children of pensionable age who is transferred.

Provided that if any such contributor leaves the East African Service and is, without break of service, transferred to other public service in which an approved scheme has been established, he may, at his option exercisable within three months, after he ceases to draw salary from this Government, elect not to receive a refund of his contributions with interest thereon as hereinbefore

provided. The total amount to which he would be entitled on such refund shall thereupon remain as part of the funds of the scheme, and, together with an amount representing compound interest calculated as from the date of his transfer with annual rests at the rate of two and one-half per centum, shall—

- (a) if the contributor marries, be taken into account for the purpose of calculating any pension under this Ordinance; or
- (b) if the contributor dies or retires from the public service, be paid to him or to his legal representative:

And provided further that if any such contributor who so leaves the East African Service is transferred to any other public service in which no approved scheme has been established, he may, at his option exercisable within three months after he ceases to draw salary from this Government, elect not to receive a refund with interest thereon as hereinbefore provided but to continue to contribute under this Ordinance at the rate at which he was contributing immediately before he left the East African Service.

Option for bachelor and widower without children of pensionable age who is transferred to service which has no approved scheme.

Such contributor may at any time thereafter cease to continue his contributions and in the event of his so ceasing to contribute—

- (a) if he is then married or is a widower with children of a pensionable age, any pension payable on his death shall be reduced so as to correspond with the payments he has made; and
- (b) in any other case, the first paragraph of this section shall apply as if he had left the East African Service at the date on which he so ceased to contribute.

(2) A contributor who has become entitled to a refund of contributions shall cease to rank for benefit by way of pension under this Ordinance.

(3) Where a contributor is entitled to elect under this Ordinance not to receive such refund he shall not become entitled to a refund unless and until the time prescribed for the exercise of the election has expired and the election has not been exercised."

10. Sub-section (1) of section 27 of the principal Ordinance is hereby repealed and the following sub-section is substituted therefor:—

Repeal and replacement of section 27 (1) of the principal Ordinance.

"27. (1) If a contributor in the service of this Government who is married or who is a widower with children of a pensionable age and whose period of payment of contribution has not expired—

- (a) is transferred to other public service not being East African Service; or
- (b) being an officer who became a contributor prior to the 1st day of January, 1944, otherwise leaves the East African Service, except on retirement on pension, and his service is of such a nature and of such length as

Contributor married or widower with pensionable children leaving the East African Service, on transfer, or pension, or when of pensionable standing.

would have rendered him eligible for a pension if he had been retired from the East African Service on medical certificate,

he may continue to contribute at the rate at which he was contributing immediately before he left the East African Service. He may, on or at any time after so leaving the East African Service, cease to contribute. If he so ceases to contribute, any pension payable on his death shall be reduced so as to correspond with the payments he has made."

Amendment of the principal Ordinance.

Option to contributor retiring on pension to cease or continue contributing.

11. The principal Ordinance is hereby amended by inserting therein the following new sections immediately after section 27 thereof:—

"27A. (1) If a contributor who is married or who is a widower with children of a pensionable age and whose period of payment of contributions has not expired, retires on pension from the East African Service or from other public service and at such date was contributing under this Ordinance he shall continue to contribute at the rate at which he was contributing immediately prior to the date of his retirement:

Provided that any such contributor in lieu of so contributing may, at any time, elect at his option either—

(a) to cease contributing under this Ordinance; or

(b) notwithstanding the provisions of section 16 to pay contributions assessed on the amount of his pension;

and in the event of his exercising his option the amount of the pension registered in his name shall be adjusted accordingly:

Provided further that should any such contributor after the date of his retirement become a widower without children of a pensionable age he shall forthwith cease to contribute and shall cease to be entitled to rank for the benefit under this Ordinance either by way of pension or return of contributions.

Full pension payable where contributor who retires on grounds of ill-health and ceases contributing dies within two years.

(2) Where any such contributor who has elected under (a) of sub-section (1) of this section ceases contributing under this Ordinance dies within two years of his retirement on pension on the grounds of ill-health, the full pension registered in his name on the day immediately preceding his retirement shall be payable subject to the other provisions of this Ordinance.

Full pension payable where contributor who retires on grounds of ill-health and contributes on pension dies within three years.

(3) Where any such contributor who has elected under (b) of sub-section (1) of this section to pay contributions assessed on his pension dies within three years of the date of his retirement on pension on the grounds of ill-health the full pension registered in his name under this Ordinance on the day immediately preceding his retirement shall be payable subject to the other provisions of this Ordinance.

Provisions for officers re-appointed.

(4) Where any such contributor who has exercised his option and elected under (a) or (b) of sub-section (1) of this section to cease contributing under this Ordinance or to pay contributions assessed on his pension is appointed or re-appointed to the

service of this Government before the expiration of his period of payment of contributions, he shall as from the date of his appointment, or reappointment, commence or recommence to pay contributions assessed on the amount of his salary in accordance with the provisions of section 5.

(5) Where an officer has elected or been compelled to receive a reduced pension and gratuity, in lieu of pension which he might have received but for such election or compulsion, his pension shall, for the purpose of calculating his contributions under paragraph (b) of sub-section (1) of this section, be deemed to be the amount of the unreduced pension which he might have so received.

27B. If a contributor who is married or who is a widower with children of pensionable age and who has not served the period necessary to qualify him for pension but who is otherwise eligible therefor retires from the East African Service or other public service on a medical certificate before his period of contribution has expired, ceases to contribute and dies within two years, of the date of his retirement the full pension registered in his name on the date immediately preceding his retirement shall be payable subject to the other provisions of this Ordinance."

Pension payable when a pensionable officer retires on account of ill-health and dies within two years.

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

Repeal and replacement of section 28 of the principal Ordinance.

"28. (1) A contributor who is married or who is a widower with children of a pensionable age and—

Registered pension in the case of non-pensionable officers leaving the service.

(a) whose service is not of such a nature or is not of such length as would render him eligible for a pension if retired from the East African Service on a medical certificate and who retires from the East African Service or other public service; or

(b) whose service is of such a nature and of such length as would have rendered him eligible for pension if he had retired from the East African Service on a medical certificate and who, being an officer who became a contributor under this Ordinance on or after the 1st day of January, 1944, retires from the East African Service otherwise than on pension,

shall have registered in his name the pension actually earned by his past contributions and shall not be eligible to continue to contribute after the date of his retirement:

Provided that—

(i) any such contributor may at his option exercisable as hereinafter provided in lieu of having registered such pension elect to have registered the full pension which was registered in his name at the date of his retirement for a period commencing from such date and equal to one-half of the period during which he contributed under this Ordinance and if he is alive on the expiration of the

above-mentioned period during which he was entitled to rank for benefit under the scheme, he shall cease to be entitled to rank for benefit whether by way of pension or return of contributions; and

- (ii) where any such contributor who has exercised his option and elected under the preceding proviso to have the full pension registered in his name is appointed or re-appointed to the service of this Government before the expiration of the period for which the full pension is registered as aforesaid he shall as from the date of his appointment or reappointment commence or recommence to pay contributions under this Ordinance or if he so elects within three months of his appointment or reappointment as from the expiration of the said period.

(2) (a) The option referred to in proviso (i) of the preceding sub-section shall be exercisable not later than three months after the date on which the contributor ceases to draw salary.

(b) The date of the exercise of the options under this section shall be deemed to be the date of the receipt of the officer's written notification addressed either to the Accountant General in the Colony or to the Crown Agents."

Amendment of
section 8 (1)
of Ordinance
No. 28 of 1932.

13. Sub-section (1) of section 8 of the Widows and Orphans Pension (Amendment) Ordinance, 1932, is hereby amended—

- (a) by deleting therefrom the word "and" which occurs in the second line of paragraph (c) thereof; and
(b) by deleting therefrom paragraph (d) thereof

No. 28 of 1932.

14. In paragraph (b) of sub-section (1) of section 8 and section 9 of the Widows and Orphans Pension (Amendment) Ordinance, 1932, the words "public service" are hereby substituted for the words "service under the Crown".

Position of
officers on
war service.

15. (1) Where an officer shall be on leave from the service of this Government for the purpose of serving with His Majesty's Forces in time of war, or in consequence of having so served, then, notwithstanding anything contained in the principal Ordinance, his salary shall, for the purpose of computing his contributions under the principal Ordinance, be deemed to be the salary which he would have received had he remained on duty in his substantive office.

(2) Where an officer shall, with the approval of the Governor or the Secretary of State, have left the service of this Government for the purpose aforesaid, then, notwithstanding anything contained in the principal Ordinance, so long as it shall be the expressed intention of this Government and of the officer that he should, as soon as practicable after the termination of his service with His Majesty's Forces, return to the service of this Government, he may, by electing in such manner and within such time as may be directed by the Governor, continue to contribute. If he so elects his salary shall, for the purpose of computing his contributions be deemed to be the salary which he would have received, with all increments for which he would

have been eligible, if he had continued to hold the substantive office held by him immediately before so leaving the service of this Government:

Provided that—

(a) if and so long as the officer shall be in receipt from the funds of this Government of payment in the nature of salary or other emoluments equivalent to, or greater than, the contributions which would be due from him if he elected under this sub-section to continue to contribute, he shall continue to contribute as aforesaid whether he shall or shall not elect so to do; and

(b) where and so long as the provisions of this sub-section relating to the return of the officer to the service of this Government are inapplicable by reason only of a proposal that such officer should be appointed to other service under the Crown, this sub-section shall continue to apply to him until he is so appointed; and when he shall be so appointed he shall be deemed, for the purposes of the principal Ordinance, to have been transferred to such other service.

(3) Where in any case to which sub-section (1) or sub-section (2) of this section applies, payment is being made from the funds of this Government to the officer in the nature of salary or other emoluments, his contributions may be deducted from the sums so payable; and where no such payment is being made, or if the contributions of the officer exceed such payments, the contributions or the balance thereof, as the case may be, shall be paid by the officer.

(4) If any officer who is entitled, under sub-section (2) of this section, to elect to continue to contribute does not duly so elect, or if any officer fails to pay when due any sum payable by him under sub-section (3) of this section, the Governor or the Secretary of State may give either or both of the following directions, that is to say—

(a) that the officer shall cease to contribute as from a date (which may be prior to the date of the direction) to be specified in the direction, and

(b) that the Pensions (War Service) Ordinance, 1940, shall not apply to this case,

and any such direction shall have the force of law.

(5) This section, notwithstanding anything contained therein, shall not apply where the office in the service of this Government last held by the officer prior to service in His Majesty's Forces was not a pensionable office for the purposes of the European Officers' Pensions Ordinance, 1927, except where in any particular case the Governor otherwise directs.

ORDINANCE No. XXVI of 1945

Assented to in His Majesty's name this fifteenth day of August, 1945.

P. E. MITCHELL,
Governor.

An Ordinance to Amend the Asian Officers' Family Pensions Ordinance, 1942

15th August, 1945

Date of commencement.

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

Short title.

1. This Ordinance may be cited as the Asian Officers' Family Pensions (Amendment) Ordinance, 1945, and shall be read as one with the Asian Officers' Family Pensions Ordinance, 1942, hereinafter referred to as the principal Ordinance.

No. 10 of 1942.

Amendment of section 2 of the principal Ordinance.

2. Section 2 of the principal Ordinance is hereby amended by deleting the proviso to sub-section (4) thereof and substituting therefor the following proviso:—

“Provided that on the dissolution of any marriage, which is under this section deemed to be a valid marriage for the purposes of this Ordinance, by reason of the death of the wife of that marriage or by reason of a divorce or annulment, then for the purposes of this Ordinance—

(a) the first marriage after such death or divorce or annulment shall also be deemed to be a valid marriage, and

(b) such divorce or annulment only and no other divorce or annulment shall be deemed to be a valid divorce or annulment.”.

Amendment of section 5 of the principal Ordinance.

3. Section 5 of the principal Ordinance is hereby amended by inserting between the comma and the word “all” in line one of sub-section (3) thereof the words “all contributions made from the general revenue of the Colony to the credit of members,”.

Amendment of section 12 of the principal Ordinance.

4. Section 12 of the principal Ordinance is hereby amended by deleting item (a) of sub-section (1) thereof, and by re-numbering items (b) to (f) as items (a) to (e) respectively.

Insertion of new section 13A in the principal Ordinance.

5. The principal Ordinance is hereby amended by inserting the following new section immediately after section 13 thereof:—

Contributions to Fund from public revenue.

“13A. (1) Upon the coming into operation of this section there shall be paid to the Fund from the general revenue of the Colony to the credit of each member a sum equal to the total amounts which would have been paid to his credit if contributions had been made from the general revenue of the Colony at the rate of two and one-half per centum of his annual salary or pension for the time being from the commencement of this Ordinance, plus three and one-half per centum interest compounded annually.

(2) From and after the coming into operation of this section there shall be paid to the Fund from the general revenue of the Colony to the credit of each member a contribution at the rate of two and one-half per centum of his annual salary or pension as the case may be:

Provided that no contribution shall be paid from the general revenue of the Colony in the case of a member—

(a) who is transferred from the service of the Government to other public service and the provisions of section 19 or section 20 of this Ordinance apply;

(b) whose contributions to the Fund have ceased under the provisions of this Ordinance.

(3) Notwithstanding the provisions of sub-section (1) of section 21 of this Ordinance, in the case of a member who is married or is a widower with children of pensionable age, who retires from the public service before attaining the age of 55 and is granted a pension from the funds of the Colony, who continues to contribute at the rate at which he was contributing immediately prior to his retirement, the contributions from the general revenue of the Colony shall be paid to his credit in the Fund at the rate of two and one-half per centum of his annual pension.

(4) All contributions payable to the Fund from the general revenue of the Colony to the credit of any member under the provisions of this section shall be paid on the last day of each calendar month, and shall accrue daily.

(5) Any Asian officer who has not elected to become a member of the Fund under the provisions of section 11 of this Ordinance may within ninety days from the coming into operation of this section or within such extended period as the Governor may in any particular case allow, and subject to the provisions of section 11 of this Ordinance, elect to become a member of the Fund."

6. Section 17 of the principal Ordinance is hereby amended by deleting the word "thereunder" and substituting therefor the words "made by a member and no contributions paid from the general revenue of the Colony to the credit of a member".

Amendment of section 17 of the principal Ordinance.

7. Schedule B of the principal Ordinance is hereby amended by inserting immediately below the words "INSTRUCTIONS FOR THE USE OF THE TABLES" the words following:—

Amendment of Schedule B of the principal Ordinance.

"N.B.—In these Tables wherever the word 'contribution' or 'contributions' appears, the reference is both to the members' contribution or contributions and to the contribution or contributions from the general revenue of the Colony to the credit of each member."

ORDINANCE No. XXVII of 1945

Assented to in His Majesty's name this fifteenth day of August, 1945.

P. E. MITCHELL,
Governor.

An Ordinance to Amend the Personal Tax Ordinance, 1940

15th August, 1945

Date of commencement.

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

Short title.

1. This Ordinance may be cited as the Personal Tax (Amendment) Ordinance, 1945, and shall be read as one with the Personal Tax Ordinance, 1940, hereinafter referred to as the principal Ordinance.

No. 45 of 1940.

Amendment of section 2 of the principal Ordinance.

2. Section 2 of the principal Ordinance is hereby amended by substituting a colon for the full-stop at the end of the definition of "total income" and adding thereto the following proviso:—

No. 11 of 1940.

"Provided that, with effect from the 1st day of January, 1940, item (k) of sub-section (1) of section 10 of the Income Tax Ordinance, 1940, shall not apply for the purposes of this definition."

Amendment of section 7 of the principal Ordinance.

3. Section 7 of the principal Ordinance is hereby amended by deleting sub-section (3) thereof and by substituting therefor the following sub-sections:—

"(3) If any individual is aggrieved by the demand of a collector under the provisions of this section he may, within thirty days after the date of such demand, apply to the collector in writing to revise the amount of the demand. Such application shall state the precise grounds of his objection, and if such collector refuses to revise the amount of the demand, or if the individual and the collector are unable to reach agreement as to the amount of tax and penalty for which such individual is liable, such individual may, within twenty-one days after the date of such refusal or of such failure to reach agreement, appeal to any magistrate having jurisdiction in the district or place in which such individual is for the time being staying or residing.

(4) The Supreme Court may make Rules governing appeals to magistrates under sub-section (3) of this section and providing for the method of tendering evidence and prescribing the procedure to be followed."

Repeal and replacement of section 10 of the principal Ordinance.

4. Section 10 of the principal Ordinance is hereby repealed and the following section is substituted therefor:—

Power of magistrate.

"10. If it appears that any individual makes default in the payment of any tax or penalty due from him, and whether or not a demand has been made upon such individual under the provisions of sub-section (2) of section 7 of this Ordinance, any

magistrate, having jurisdiction in the district or place in which the individual in default is for the time being staying or residing, may, and upon an application in writing by a collector shall, issue a summons directing the individual to attend before him at a time to be named in the summons, to show cause why he should not be ordered to pay the amount due as a judgment debt.”.

5. Section 16 of the principal Ordinance is hereby amended as follows—

Amendment of section 16 of the principal Ordinance.

(a) by inserting the figure and brackets “(1)” between the figures “16” and the word “There” in line one thereof;

(b) by adding thereto the following sub-sections:—

“(2) The Governor may exempt any person or class of persons from payment of the whole or any portion of the tax, and may in like manner rescind or vary any such exemption..

(3) The onus of proving exemption from the payment of the tax under the provisions of this section shall be upon the person claiming such exemption.”.

ORDINANCE No. XXVIII of 1945

Assented to in His Majesty's name this fifteenth day of August,
1945.

P. E. MITCHELL,
Governor.

An Ordinance to Amend the Stamp Ordinance

15th August, 1945

Date of
commencement.

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

Short title.

1. This Ordinance may be cited as the Stamp (Amendment) Ordinance, 1945, and shall be read as one with the Stamp Ordinance (Chapter 57 of the Revised Edition), hereinafter referred to as the principal Ordinance.

Cap. 57.

Amendment of
section 4 of
the principal
Ordinance.

2. Section 4 of the principal Ordinance is hereby amended by deleting the words "the transfer or hypothecation of" in lines 6 and 7 thereof.

Amendment of
section 22 of
the principal
Ordinance.

3. Section 22 of the principal Ordinance is hereby amended by substituting a colon for the full stop at the end thereof and by adding the following proviso:—

"Provided that where such stock or security is the consideration for any conveyance or transfer of property, and, in the opinion of the commissioners, such consideration is inadequate having regard to the actual value of the stock or security, *ad valorem* duty shall be chargeable on the value of the property to be conveyed or transferred."

ORDINANCE No. XXIX of 1945

Assented to in His Majesty's name this fifteenth day of August,
1945.

P. E. MITCHELL,
Governor.

An Ordinance to Amend the Game Ordinance, 1937

15th August, 1945

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

- | | Date of
commencement. |
|---|--|
| <p>1. This Ordinance may be cited as the Game (Amendment) Ordinance, 1945, and shall be read as one with the Game Ordinance, 1937, hereinafter referred to as the principal Ordinance.</p> | <p>Short title. No. 38 of 1937.</p> |
| <p>2. Section 2 of the principal Ordinance is hereby amended—</p> <p>(a) by inserting between the definitions of "an animal mentioned in a Schedule" and "Government" the following definition:— " 'forest officer' has the same meaning as in section 2 of the Forest Ordinance, 1941;";</p> <p>(b) by inserting between the definitions of "meat" and "private land" the following definition:— " 'police officer' means any person who is a member of the Police Force constituted under the Police Ordinance, 1930;".</p> | <p>Amendment of section 2 of the principal Ordinance. No. 26 of 1941. No. 64 of 1930.</p> |
| <p>3. Section 20 of the principal Ordinance is hereby repealed and the following section is substituted therefor:—</p> <p style="padding-left: 40px;">"20. (1) Every person shall produce a valid licence or permit issued to him under the provisions of this Ordinance, and shall sign his name and give his address in writing, upon being required so to do by any magistrate, justice of the peace, police officer, forest officer, honorary game warden, any officer appointed under the provisions of section 3 of this Ordinance or any servant of the Game Department who is duly authorized in writing in that behalf by the Game Warden.</p> <p style="padding-left: 40px;">(2) Any person who fails without reasonable cause to comply with any of the provisions of this section shall be guilty of an offence."</p> | <p>Repeal and replacement of section 20 of the principal Ordinance. Power to demand licence, signature and address.</p> |
| <p>4. Section 48 of the principal Ordinance is hereby amended—</p> <p>(a) by deleting the words "game warden or" in lines two and eleven thereof;</p> <p>(b) by inserting a comma followed by the words "any officer appointed under the provisions of section 3 of this Ordinance or any servant of the Game Department who is duly authorized in writing in that behalf by the Game Warden"</p> | <p>Amendment of section 48 of the principal Ordinance.</p> |

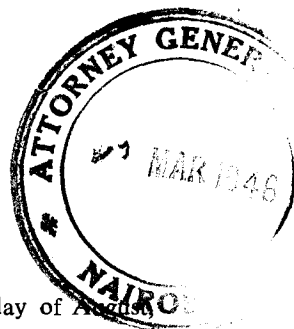
between the words "warden" and "thinks" in line three and between the words "warden" and "finds" in line 12 thereof respectively.

Amendment of section 49 of the principal Ordinance.

5. Sub-section (1) of section 49 of the principal Ordinance is hereby amended—

- (a) by deleting the words "game warden or" in lines four, eight and ten thereof;
- (b) by inserting a comma followed by the words "any officer appointed under the provisions of section 3 of this Ordinance or any servant of the Game Department who is duly authorized in writing in that behalf by the Game Warden" between the words "warden" and "may" in line five, "warden," and "or" in line nine, and "warden" and "has" in line 10 thereof respectively.

ORDINANCE No. XXX of 1945



Assented to in His Majesty's name this fifteenth day of August 1945.

P. E. MITCHELL,
Governor.

**An Ordinance to Amend the Control of Grass Fires
Ordinance, 1941**

15th August, 1945

Date of
commencement

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

- | | |
|---|--|
| <p>1. This Ordinance may be cited as the Control of Grass Fires (Amendment) Ordinance, 1945, and shall be read as one with the Control of Grass Fires Ordinance, 1941, hereinafter called the principal Ordinance.</p> | <p>Short title. No. 41 of 1941.</p> |
| <p>2. Section 2 of the principal Ordinance is hereby amended by inserting the following definition between the definitions of "firebreak" and "local authority":— " 'High Commissioner' means the High Commissioner for Transport established by the Kenya and Uganda (Transport) Orders in Council, 1925 to 1938;".</p> | <p>Amendment of section 2 of the principal Ordinance.</p> |
| <p>3. Section 5 of the principal Ordinance is hereby amended by deleting sub-section (1) thereof and substituting the following therefor:— "(1) (a) The local authority, in the case of any area referred to in paragraphs (a) or (b) of the definition of 'local authority' in section 2 of this Ordinance, and (b) in the case of any other area, the Director after consulting the local authority of such area, may by order prohibit the burning of vegetation except at such times and under such conditions as may be stated in the order, and by such order may exempt any person from the provisions thereof."</p> | <p>Amendment of section 5 of the principal Ordinance.</p> |
| <p>4. The principal Ordinance is hereby amended by inserting immediately after section 7 thereof the following section:— "7A. (1) Notwithstanding anything contained in the immediately preceding section a local authority may by order require that in any specified place or area within its jurisdiction firebreaks shall be constructed and maintained by any owners or occupiers of land situate in such place or area; and such order shall be published in the Gazette and in one newspaper circulating within such place or area at least one month prior to the coming into operation of such order. (2) Any owner or occupier who, in contravention of any order made under the provisions of sub-section (1) of this section,</p> | <p>Insertion of new section 7A in the principal Ordinance. Local authorities empowered to order compulsory firebreaks.</p> |

fails to construct or maintain the half firebreak on his side of a boundary shall be guilty of an offence.

(3) Where any owner or occupier, in contravention of any order made under the provisions of sub-section (1) of this section, fails to construct or maintain the half firebreak on his side of a boundary, then, without prejudice to any penalty to which such owner or occupier may be liable under the provisions of sub-section (2) of this section, the local authority or the owner or occupier of the land adjoining such boundary shall be entitled to—

(a) enter upon the land of such first-mentioned owner or occupier without being answerable for any act of trespass, and may construct and maintain the half firebreak on the side of the boundary which is occupied by such first-mentioned owner or occupier; and

(b) recover from such first-mentioned owner or occupier the cost of such construction and maintenance.

(4) Nothing in this section contained shall apply to—

(a) any native area;

(b) the boundary of any owner or occupier where such boundary adjoins a native area;

(c) railway land adjoining a railway; and

(d) land which is contiguous to railway land adjoining a railway.

Repeal and replacement of section 10 of the principal Ordinance.
State of danger.

5. Section 10 of the principal Ordinance is hereby repealed and the following section is substituted therefor:—

“10. (1) In the case of any area referred to in paragraphs (a) or (b) of the definition of ‘local authority’ in section 2 of this Ordinance, the local authority may by order declare a state of danger in respect of any area within its jurisdiction, and in the same or any subsequent order may prohibit the burning of vegetation within the whole or any part of such area for such period and under such conditions during the continuance of the state of danger as it may think fit, and by such order may exempt any person from the provisions thereof. Every order made under the provisions of this sub-section shall be published in the Gazette and in one newspaper circulating within such area, and, in the case of an order prohibiting the burning of vegetation shall be so published at least seven days prior to its coming into operation.

(2) (a) In the case of any area referred to in paragraphs (c), (d) or (e) of the definition of ‘local authority’ in section 2 of this Ordinance, the Provincial Commissioner may by order declare a state of danger. Every such order shall be published in the Gazette and in one newspaper circulating within such area.

(b) Upon a state of danger being declared under the provisions of this sub-section, every District Commissioner having

jurisdiction within such area may by order prohibit the burning of vegetation within the whole or any part of his district, for such period as he may think fit during the continuance of the state of danger.

(c) Every order made by a District Commissioner under the provisions of this sub-section shall—

- (i) in the case of any district, or part thereof, which is not within a native area, be published in one newspaper circulating within such district or part thereof at least seven days prior to its coming into operation;
- (ii) in the case of any district, or part thereof, which is within a native area, be communicated by the District Commissioner to the appropriate native authority in such manner as he shall think fit at least seven days prior to its coming into operation.”.

ORDINANCE No. XXXI of 1945

Assented to in His Majesty's name this fifteenth day of August, 1945.

P. E. MITCHELL,
Governor.

An Ordinance to Amend the Medical Practitioners and Dentists Ordinance

Date of commencement.

15th August, 1945

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 Medical Practitioners and Dentists (Amendment) Ordinance, 1945, and shall be read as one with the Medical Practitioners and Dentists Ordinance (Chapter 119 of the Revised Edition), hereinafter referred to as the principal Ordinance.

Cap. 119.

Repeal and replacement of section 10 of the principal Ordinance.

2. Section 10 of the principal Ordinance is hereby repealed and the following sections are substituted therefor:—

Assistant surgeons, sub-assistant surgeons and assistant medical officers may be licensed.

“10. Whenever the Director of Medical Services is satisfied that it is in the public interest that the privileges of persons registered under this Ordinance should be conferred upon any person who is in the service of the Government or of the Kenya and Uganda Railways and Harbours Administration as an assistant surgeon, a sub-assistant surgeon or an African assistant medical officer, he may license such person as a medical practitioner in the Colony. Every such licence may be cancelled by the Director of Medical Services and shall immediately expire on the date upon which the person to whom it shall have been granted ceases to be in such service.

Licensing of retired persons who have performed meritorious service under Government or the Kenya and Uganda Railways and Harbours Administration.

10A. Whenever the Director of Medical Services is satisfied that it is in the public interest that the privileges of persons registered under this Ordinance should be conferred upon any person who, having performed meritorious service under the Government of the Colony or the Kenya and Uganda Railways and Harbours Administration as an assistant surgeon, a sub-assistant surgeon or an African assistant medical officer, has retired from such service and is otherwise suitable, he may, with the consent of the Board but not otherwise, license such person as a medical practitioner in the Colony. Every such licence shall contain such conditions as the Director of Medical Services may, with the consent of the Board, impose.

Licences under sections 10 or 10A to be published in Gazette.

10B. ~~The~~ issue, cancellation or revocation of any licence under sections 10 or 10A of this Ordinance shall be published in the Gazette.”

ORDINANCE No. XXXII of 1945

Assented to in His Majesty's name this twenty-fourth day of November, 1945.

P. E. MITCHELL,
Governor.

**An Ordinance to Allow and Confirm Certain Expenditure
Incurred in the Financial Year 1944**

24th November, 1945

Date of
commencement

WHEREAS the amount of seven million six hundred and eighty-nine thousand two hundred and sixty-four pounds, ten shillings and seventy-nine cents was necessarily incurred during the Financial Year 1944 on certain services, of which the sum of five million eight hundred and sixty thousand two hundred and ten pounds has been provided by the 1944 Appropriation Ordinance, 1943, and it is now requisite to make a further provision of one million eight hundred and twenty-nine thousand and fifty-four pounds, ten shillings and seventy-nine cents:

No. 42 of 1943.

IT IS 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 Supplementary Appropriation (1944) Ordinance, 1945. Short title.

2. The expenditure during the Financial Year 1944 to the amount of one million eight hundred and twenty-nine thousand and fifty-four pounds, ten shillings and seventy-nine cents on the several services specified in the Schedule to this Ordinance and not provided for or not fully provided for by the 1944 Appropriation Ordinance, 1943, is hereby allowed and confirmed. Further expenditure for the Financial Year 1944 authorized. No. 42 of 1943

SCHEDULE

| Head No. | Department | Amount | | |
|----------|---|---------|----|------|
| | | £ | s. | cts. |
| 1A | His Excellency the Governor Extraordinary | 621 | 5 | 00 |
| 2 | Accountant General's Department .. | 2,998 | 10 | 68 |
| 2A | Accountant General's Department Extraordinary | 14 | 14 | 83 |
| 3 | Administration | 19,146 | 17 | 66 |
| 3A | Administration Extraordinary | 264,433 | 1 | 29 |

SCHEDULE—(Contd.)

| Head No. | Department | Amount | | |
|----------|---|---------|----|------|
| | | £ | s. | cts. |
| 4 | Agricultural Department | 4,578 | 8 | 54 |
| 4A | Agricultural Department Extraordinary .. | 115,185 | 4 | 96 |
| 4B | Agricultural Production and Settlement Board Extraordinary | 106,735 | 17 | 39 |
| 5 | Audit | 1,918 | 13 | 14 |
| 6A | Civil Aviation Extraordinary | 29 | 11 | 68 |
| 7 | Coast Agency | 735 | 17 | 02 |
| 9 | Customs | 4,251 | 17 | 25 |
| 10 | Education Department | 16,717 | 14 | 62 |
| 10A | Education Department Extraordinary .. | 1,489 | 13 | 19 |
| 11 | Forest Department | 4,181 | 0 | 58 |
| 11A | Forest Department Extraordinary | 56,186 | 7 | 83 |
| 12 | Game Department | 1,003 | 8 | 33 |
| 14A | Inland Revenue Department Extraordinary | 2,377 | 16 | 73 |
| 15 | Judicial Department | 3,600 | 3 | 65 |
| 16A | Kenya Auxiliary Air Unit Extraordinary .. | 3,924 | 18 | 23 |
| 17 | Labour Department | 742 | 13 | 42 |
| 17A | Labour Department Extraordinary | 2,062 | 3 | 24 |
| 18 | Lands, Settlement and Local Government | 3,064 | 2 | 35 |
| 19 | Legal Department | 1,367 | 4 | 81 |
| 20 | Local Government Contributions | 25,984 | 14 | 38 |
| 21 | Medical Department | 9,916 | 2 | 42 |
| 22 | Military | 833 | 6 | 67 |
| 24 | Miscellaneous Services | 44,046 | 17 | 99 |
| 24A | Miscellaneous Services Extraordinary .. | 108,220 | 3 | 17 |
| 27A | Police Extraordinary | 1,860 | 0 | 00 |
| 28 | Posts and Telegraphs | 2,009 | 10 | 35 |
| 29 | Printing and Stationery | 1,149 | 19 | 71 |
| 30 | Prisons | 21,045 | 1 | 06 |
| 30A | Prisons Extraordinary | 990 | 14 | 92 |

1945

Supplementary Appropriation

No. XXXII

SCHEDULE—(Contd.)

| <i>Head No.</i> | <i>Department</i> | <i>Amount</i> | | |
|-----------------|--|---------------|----|------|
| | | £ | s. | cts. |
| 32 | Public Works Department | 95,657 | 1 | 88 |
| 33 | Public Works Recurrent | 20,579 | 18 | 55 |
| 34 | Registrar General's Department | 461 | 5 | 18 |
| 36 | Secretariat and Legislative Council | 1,385 | 0 | 86 |
| 36A | Secretariat and Legislative Council Extra-ordinary | 56 | 13 | 58 |
| 38 | Veterinary Services | 3,236 | 6 | 80 |
| 39 | Public Works Extraordinary | 200,396 | 16 | 91 |
| 40 | War Expenditure—Civil | 673,857 | 9 | 94 |
| Total: | | £1,829,054 | 10 | 79 |

ORDINANCE No. XXXIII of 1945

Assented to in His Majesty's name this twenty-fourth day of
November, 1945.

P. E. MITCHELL,
Governor.

**An Ordinance to Amend the Pensions (Increase)
Ordinance, 1945**

Date of
commencement.

24th November, 1945

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 Pensions (Increase) (Amendment) Ordinance, 1945, and shall be read as one with the Pensions (Increase) Ordinance, 1945, hereinafter referred to as the principal Ordinance.

No. 7 of 1945.

Amendment of
Second Schedule
to the principal
Ordinance.

2. The Second Schedule to the principal Ordinance is hereby amended—

(a) by deleting all the words which appear after the word "Ordinance" in line three of paragraph 1 thereof to the end of the paragraph;

(b) by deleting paragraph 7 thereof and by substituting therefor the following paragraph:—

"7. For the purpose of determining the percentage by reference to which the authorized increase of a pension specified in the First Schedule to this Ordinance is to be calculated, there shall be aggregated with that pension any other pension so specified and any similar pension received by the pensioner from any other Colonial Administration:

Provided that such similar pension is subject to temporary increase at the rates prescribed in this Ordinance and under conditions similar to those prescribed in this Ordinance.";

(c) by deleting paragraph 8 thereof; and

(d) by re-numbering paragraphs 9 and 10 thereof as paragraphs 8 and 9 respectively.

*Replaced by
Ord. 44/57*

ORDINANCE No. XXXIV of 1945

Assented to in His Majesty's name this twenty-fourth day of
November, 1945.

P. E. MITCHELL,
Governor.

An Ordinance to Amend the Excise Duties Ordinance, 1935

24th November, 1945

Date of
commencement.

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

- | | |
|--|---|
| <p>1. This Ordinance may be cited as the Excise Duties (Amendment) Ordinance, 1945, and shall be read as one with the Excise Duties Ordinance, 1935, hereinafter referred to as the principal Ordinance.</p> | <p>Short title. No. 40 of 1935.</p> |
| <p>2. The principal Ordinance is hereby amended by inserting immediately after section 3A thereof the following new section:—</p> <p style="margin-left: 40px;">“3B. (1) No holder of a licence to manufacture tobacco shall sell or otherwise dispose of any tobacco, which is not liable to excise duty, without the consent of the Commissioner, who may grant or refuse his consent at his discretion and may impose such conditions as he thinks fit.</p> <p style="margin-left: 40px;">(2) No holder of a hawker's licence or a trading licence granted under the Traders Licensing Ordinance, 1936, may purchase, except in accordance with the provisions of any licence granted under the Marketing of Native Produce Ordinance, 1935, have in his possession or sell any tobacco which is not liable to excise duty.”</p> | <p>Insertion of new section 3B in the principal Ordinance. Restrictions on sale, possession or disposal of tobacco not liable to excise duty. No. 51 of 1936. No. 28 of 1935.</p> |
| <p>3. Paragraph (d) of sub-section (1) of section 12 of the principal Ordinance is hereby amended by inserting the figure, letter and comma “3B,” immediately after the word “sections” which appears in line one thereof.</p> | <p>Amendment of section 12 (1) of the principal Ordinance.</p> |

ORDINANCE No. XXXV of 1945

Assented to in His Majesty's name this twenty-fourth day of
November, 1945.

P. E. MITCHELL,
Governor.

An Ordinance to Amend the Public Health Ordinance

Date of commencement.

24th November, 1945

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

Short title.

1. This Ordinance may be cited as the Public Health (Amendment) Ordinance, 1945, and shall be read as one with the Public Health Ordinance (Chapter 124 of the Revised Edition), hereinafter referred to as the principal Ordinance.

Cap. 124.

Amendment of section 3 of the principal Ordinance.

2. Section 3 of the principal Ordinance is hereby amended by deleting therefrom the definition of "dairy" and substituting therefor the following definition:—

" 'dairy' means and includes any farmhouse, cow-shed, milk-shop, milkstore or other place from which milk is supplied on, or for, sale, or in which milk is kept or used for purposes of sale or in which only surplus milk is manufactured into butter or cheese, or in which vessels used for the sale of milk are kept, but does not include premises from which milk is not supplied otherwise than in receptacles which are properly closed and sealed on delivery to the premises and which remain properly closed and sealed during the whole time from their delivery to the premises until their removal by the purchaser;".

Amendment of section 19 (1) (b) of the principal Ordinance.

3. Paragraph (b) of sub-section (1) of section 19 of the principal Ordinance is hereby amended by deleting the full stop, which occurs at the end thereof, and by substituting therefor a semi-colon, and by adding immediately after such semi-colon the following words:—

"and shall also inform the head of the household or the occupier of the premises or any person in attendance on such patient of the infectious nature of the disease and the precautions to be taken to prevent its conveyance to others."

Insertion of new section 27A in the principal Ordinance.

4. The principal Ordinance is hereby amended by adding immediately after section 27 thereof, the following new section:—

Isolation of persons who have been exposed to infection.

"27A. Where in the opinion of the medical officer of health any person has recently been exposed to the infection of, and may be in the incubation stage of any notifiable infectious disease and is not accommodated in such manner as adequately to guard against the spread of the disease, such person may, on a certificate signed by the medical officer of health, be removed by order of a magistrate and at the cost of the local authority of the district where such person is found, to a place of isolation and there

detained until, in the opinion of the medical officer of health, he is free from infection or able to be discharged without danger to the public health, or until the magistrate cancels the order."

5. Sub-section (1) of section 48 of the principal Ordinance is hereby amended by deleting therefrom the words "such notice as is prescribed by rules", which occur in the seventh and the eighth lines thereof, and by substituting therefor the word "notice".

Amendment of section 48 (1) of the principal Ordinance.

6. Paragraph (i) of sub-section (1) of section 118 of the principal Ordinance is hereby amended by deleting therefrom the word "building", which occurs in the second line thereof.

Amendment of section 118 (1) (i) of the principal Ordinance.

7. Section 119 of the principal Ordinance is hereby amended by deleting from paragraph (a) of the proviso thereto the words "of a structure or character", which occur in the second line thereof, and by substituting therefor the words "of a structural character".

Amendment of section 119 of the principal Ordinance.

8. Section 134 of the principal Ordinance is hereby amended—

Amendment of section 134 of the principal Ordinance.

(a) by substituting a semi-colon for the full stop, which occurs at the end of paragraph (k) thereof; and

(b) by adding, immediately after paragraph (k) thereof, the following new paragraph:—

"(1) In relation to food intended for sale in or for export from the Colony, prescribing standards of composition, strength and quality, for the prevention of adulteration, misbranding, misdescription or reduction below a prescribed standard and for securing the sale in a pure state and in a condition which conforms with such standards."

9. Section 142 of the principal Ordinance is hereby amended by inserting therein between the word "health" and the word "to", which occur in the sixth line thereof, the following comma and words:—

Amendment of section 142 of the principal Ordinance.

“, health inspector or any person specially authorized in writing, in that behalf, by the Director of Medical Services or the medical officer of health”.

10. Section 143 of the principal Ordinance is hereby amended by inserting therein between the word "health" and the word "to", which occur in the fifth line thereof, the following comma and words:—

Amendment of section 143 of the principal Ordinance.

“, health inspector or any other person appointed, in writing, by the Director of Medical Services or the medical officer of health as an inspector for the purpose,”.

Repeal and replacement of section 153 of the principal Ordinance.

Nursing homes and other institutions to be licensed.

11. Section 153 of the principal Ordinance is hereby repealed and the following section substituted therefor:—

“153. (1) The Governor in Council, on the advice of the board, may make rules for the conduct and inspection of nursing homes, convalescent homes, private hospitals, private mental hospitals, maternity homes, infirmaries or any institutions where invalids, convalescents or children are treated or received upon payment of fees or charges and no person shall open, or keep open, any such premises unless the premises and the keeper thereof are licensed by the board.

(2) The Director of Medical Services, on the advice of the board, may authorize a medical practitioner to visit and inspect any such premises, as are mentioned in sub-section (1) of this section, and to report to the board upon any matter or thing connected with such premises or the use thereof.

(3) Any person who knowingly obstructs an authorized medical practitioner in any inspection authorized by the Director of Medical Services, under the provisions of sub-section (2) of this section, shall be guilty of an offence.

(4) The board may refuse to grant a licence and may cancel any licence which has been granted under this section on any of the following grounds:—

- (a) that the premises in respect of which a licence is sought or has been granted are unsuitable or otherwise do not conform with the requirements of any rules made under this section;
- (b) that the granting or continuance of a licence would be contrary to the public interest;
- (c) that the person in respect of whom a keeper's licence is sought or has been granted has failed to satisfy the board that he or she is a fit and proper person to be trusted to conduct or to continue to conduct the premises for which the keeper's licence is sought or has been granted.”

ORDINANCE No. XXXVI of 1945

Assented to in His Majesty's name this twenty-fourth day of
November, 1945.

P. E. MITCHELL,
Governor.

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

24th November, 1945

Date of
commencement.

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

- | | |
|--|---|
| <p>1. This Ordinance may be cited as the Local Government (Municipalities) (Amendment, No. 2) Ordinance, 1945, and shall be read as one with the Local Government (Municipalities) Ordinance, 1928, hereinafter referred to as the principal Ordinance.</p> | <p>Short title. No. 19 of 1928.</p> |
| <p>2. Paragraph (c) of sub-section (19) of section 52 of the principal Ordinance is hereby amended by deleting therefrom all the words commencing with the word "where", which appear in the seventh line thereof, to the end of the paragraph.</p> | <p>Amendment of section 52 (19) (c) of the principal Ordinance.</p> |
| <p>3. Section 54 of the principal Ordinance is hereby amended—</p> <p>(a) by deleting the colon which appears at the end of the first proviso thereto and substituting therefor a full stop; and</p> <p>(b) by deleting the second proviso thereto.</p> | <p>Amendment of section 54 of the principal Ordinance.</p> |
| <p>4. Section 69 of the principal Ordinance is hereby amended—</p> <p>(a) by inserting therein after the word and the comma "sale," which appear in the fourth line of paragraph (a) of sub-section (6) thereof, the words "for preventing the contamination of any food or drink";</p> <p>(b) by deleting sub-section (17) thereof, and substituting therefor the following:—</p> <p style="padding-left: 40px;">“(17) For licensing pedlars and hawkers and for regulating or prohibiting peddling and hawking.”;</p> <p>(c) by inserting therein, immediately after sub-section (24) thereof, the following new sub-section:—</p> <p style="padding-left: 40px;">“(24A) For regulating the use of public lavatories, closets and urinals.”;</p> | <p>Amendment of section 69 of the principal Ordinance.</p> <p>Pedlars and hawkers.</p> <p>Use of public lavatories.</p> |

(d) by deleting paragraph (a) of sub-section (36) thereof, and substituting therefor the following:—

“(a) For regulating the level, width, curbing, paving, guttering, gravelling, drainage and cleansing of streets and the construction of new streets;”;

and

(e) by inserting therein the words “and prohibiting” between the word “regulating” and the word “street”, which appear in the first line of sub-section (37) thereof.

ORDINANCE No. XXXVII of 1945

Assented to in His Majesty's name this twenty-fourth day of
November, 1945.

P. E. MITCHELL,
Governor.

An Ordinance to Amend the Crown Lands Ordinance

24th November, 1945

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 Crown Lands (Amendment) Ordinance, 1945, and shall be read as one with the Crown Lands Ordinance (Chapter 140 of the Revised Edition), hereinafter referred to as the principal Ordinance.

Short title.

Cap. 140.

2. Sections 35, 36 and 37 of the principal Ordinance are hereby amended by the deletion of the figures "1945" which appear in lines three, six and two therein, respectively, and by the substitution therefor, in each case, of the figures "1950".

Amendment of
sections 35, 36
and 37 of the
principal
Ordinance.

3. Any lessee who objects that by reason of this Ordinance the rent payable under his lease for the period first day of January, 1946, to thirty-first day of December, 1950, is excessive, shall notify the Commissioner of Lands, in writing, to that effect on or before the thirty-first day of March, 1946, and upon receipt by him of such notification the Commissioner of Lands shall, notwithstanding the provisions of the principal Ordinance, determine the rent which shall be payable under such lease for such period.

Any lessee who
alleges that, by
reason of this
Ordinance, the
rent payable by
him is excessive
may object.

4. (1) When the Commissioner of Lands has determined, under the provisions of section 3 of this Ordinance, the rent which shall be payable under any lease he shall before the thirtieth day of June, 1946, cause a notice to be served upon the lessee setting forth the rent payable in respect of the land, the subject of the lease, for the period first day of January, 1946, to thirty-first day of December, 1950.

Lessee, who has
objected under
section 3, to be
given notice of
the amount of
rent payable
under his lease.

(2) If within one month of the date of the service of the notice mentioned in sub-section (1) of this section the lessee does not notify the Commissioner of Lands, in writing, that he objects to the amount of rent which the Commissioner of Lands has determined shall be payable in respect of the land, the subject of the lease, rent shall be payable as so determined.

(3) If within one month of the date of the service of the notice mentioned in sub-section (1) of this section the lessee notifies the Commissioner of Lands, in writing, that he objects to the amount of rent which the Commissioner of Lands has determined shall be payable in respect of the land, the subject of the lease, the question of the amount of rent which shall be payable in respect of such land shall be referred to, and determined by, arbitration in accordance with the provisions of section 150 of the principal Ordinance.

Service of
notices.

5. (1) A notice given under the provisions of sub-section (1) of section 4 of this Ordinance may be served on the lessee either personally or by being sent by registered post to his last known place of business or private address.

(2) Where a notice is served by registered post it 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 the service of such notice it shall be sufficient to prove that the envelope containing the notice was properly addressed and posted.

THE CO-OPERATIVE SOCIETIES ORDINANCE, 1945

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In operation from 18th December 1945
115

Amended by
Ord. 36/51

ORDINANCE No. XXXVIII of 1945

Assented to in His Majesty's name this thirteenth day of December, 1945.

P. E. MITCHELL,
Governor.

An Ordinance Relating to the Constitution and Regulation of Co-operative Societies

By Notice - *SN. 1069/45* / *J 29* Commencement Date of

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

PART I—SHORT TITLE AND INTERPRETATION

1. This Ordinance may be cited as the Co-operative Societies Ordinance, 1945, and shall come into operation on such date as the Governor may, by notice in the Gazette, appoint. Short title.

2. In this Ordinance, unless there is anything repugnant in the subject or context— Interpretation.

“committee” means the governing body of a registered society to whom the management of its affairs is entrusted;

“member” includes a person or registered society joining in the application for the registration of a society, and a person or registered society admitted to membership after registration in accordance with the by-laws;

“officer” includes a chairman, secretary, treasurer, member of committee, or other person empowered under any rules, made under the provisions of this Ordinance, or by-laws of a registered society to give directions in regard to the business of a registered society;

“registered society” means a co-operative society registered, or deemed to be registered, under this Ordinance;

“by-laws” means the registered by-laws made by a society in the exercise of any power conferred by this Ordinance or any rules made thereunder, and includes a registered amendment of the by-laws;

PART II—REGISTRATION

3. The Governor may appoint a person to be Registrar of Co-operative Societies for the Colony or any portion thereof (hereinafter referred to as “the Registrar”), and may appoint assistant registrars to assist such Registrar, and may, by general or special order published in the Gazette, confer on any such assistant registrars all or any of the powers of a Registrar under this Ordinance. Appointment of Registrar and assistant registrars.

4. Subject to the provisions hereinafter contained, a society which has for its object the promotion of the economic interests of its members in accordance with co-operative principles, or a society established for the purpose of facilitating the operations of such societies, may be registered under this Ordinance with or without limited liability: Societies which may be registered.

Provided that the liability of a society of which a member is a registered society shall be limited.

No individual to hold more than one-fifth of share capital of any society.

5. No member, other than a registered society, shall hold more than one-fifth of the share capital of any co-operative society.

Conditions of registration.

6. (1) No society, other than a society of which a member is a registered society, shall be registered under this Ordinance which does not consist of at least ten persons each of whom is above the age of eighteen years.

(2) When for the purposes of this section any question arises as to the age of any person, that question shall be decided by the Registrar, whose decision shall be final.

Application for registration.

7. (1) For the purposes of registration an application to register shall be made to the Registrar.

(2) The application shall be signed—

(a) in the case of a society of which no member is a registered society, by at least ten persons qualified in accordance with the requirements of sub-section (1) of section 6 of this Ordinance; and

(b) in the case of a society of which a member is a registered society, by a duly authorized person on behalf of every such registered society, and where all the members of the society are not registered societies, by ten other members or, when there are less than ten other members, by all of them.

(3) The application shall be accompanied by two copies of the proposed by-laws of the society, and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as the Registrar may require.

Registration.

8. If the Registrar is satisfied that a society has complied with the provisions of this Ordinance and any Rules made thereunder, and that its proposed by-laws are not contrary to the provisions of this Ordinance or to any rules made thereunder, he may, in his discretion, register the society and its by-laws.

Amendment of the by-laws of a registered society.

9. (1) Any registered society may, subject to this Ordinance and any rules made thereunder, amend its by-laws, including the by-law which declares the name of the society.

(2) No amendment of the by-laws of a registered society shall be valid until the amendment has been registered under this Ordinance, for which purpose a copy of the amendment shall be forwarded to the Registrar.

(3) If the Registrar is satisfied that any amendment of the by-laws is not contrary to the provisions of this Ordinance or to any rules made thereunder, he may, in his discretion, register the amendment.

(4) An amendment which changes the name of a registered society shall not affect any right or obligation of the society or of any of its members or past members, and any legal proceedings pending may be continued by or against the society under its new name.

(5) When the Registrar registers an amendment of the by-laws of a registered society, he shall issue to the society a copy of the amendment certified by him, which shall be conclusive evidence of the fact that the amendment has been duly registered.

(6) In this section, "amendment" includes the making of a new by-law and the variation or rescission of a by-law.

10. From every refusal of the Registrar to register a society or its by-laws or any amendment of its by-laws an appeal shall lie, in the manner prescribed, to the Governor in Council, whose decision shall be final. Appeal.

11. (1) No society shall be registered under a name identical with that under which any other existing society is registered, or under any name likely, in the opinion of the Registrar, to mislead the members or the public as to its identity. Provisions regarding name of a registered society.

(2) The word "Co-operative" shall form part of the name of every society registered under this Ordinance, and the word "Limited" shall be the last word in the name of every society with limited liability registered under this Ordinance.

12. A certificate of registration signed by the Registrar shall be conclusive evidence that the society therein mentioned is duly registered unless it is proved that the registration of the society has been cancelled. Evidence of registration.

PART III—RIGHTS AND LIABILITIES OF MEMBERS

13. No member of a registered society shall exercise any of the rights of a member unless and until he has made such payment to the society in respect of membership or has acquired such interest in the society as may be prescribed by the by-laws of the society. Member not to exercise rights until due payment made.

14. No person shall be a member of more than one registered society with unlimited liability, except with the sanction of the Registrar first had and obtained. Restriction on membership in society.

15. The minority of any person duly admitted as a member of any registered society shall not debar that person from executing any instrument or giving any acquittance necessary to be executed or given under the provisions of this Ordinance or any rules made thereunder, and shall not be a ground for invalidating or avoiding any contract entered into by any such person with the society; and any such contract entered into by any such person with the society, whether as principal or as surety, shall be enforceable at law by or against such person notwithstanding his minority. Contracts with society of members who are minors.

16. Each member of a registered society shall have one vote only as a member in the affairs of the registered society: Votes of members.

Provided that a registered society which is a member of any other registered society shall have as many votes as may be prescribed by the by-laws of such other society, and may, subject to such by-laws, appoint any number of its members, not exceeding the number of such votes, to exercise its voting power.

17. (1) The transfer or charge of the share or interest of a member in the capital of a registered society shall be subject to such conditions as to maximum holding as may be prescribed. Restrictions on transfer of share or interest.

(2) In the case of a society registered with unlimited liability, a member shall not transfer or charge any share held by him or his interest in the capital of the society or any part thereof, unless—

(a) he has held such share or interest for not less than one year; and

(b) the transfer or charge is made to the society or to a member of the society.

PART IV—DUTIES OF REGISTERED SOCIETIES

Address of society.

18. Every registered society shall have a registered address to which notices and communications may be sent, and shall send to the Registrar notice of every change thereof.

Audit.

19. (1) The Registrar shall audit or cause to be audited by some person authorized by him by general or special order in writing in that behalf the accounts of every registered society once at least in every year.

(2) The audit under sub-section (1) of this section shall include an examination of overdue debts, if any, and an examination of the valuation of the assets and liabilities of the society.

(3) The Registrar or any person authorized by general or special order in writing in that behalf by the Registrar shall at all times have access to all books, accounts, papers and securities of a registered society, and every officer of the society shall furnish such information in regard to the transactions and working of the society as the person making such inspection may require.

(4) The Registrar and any other person appointed to audit the accounts of a registered society shall have power when necessary—

(a) to summon at the time of his audit any officer, agent, servant or member of the society who he has reason to believe can give valuable information in regard to any transactions of the society or the management of its affairs; or

(b) to require the production of any book or document relating to the affairs of, or any cash or securities belonging to, the society by the officer, agent, servant or member in possession of such book, document, cash or securities.

PART V—PRIVILEGES OF REGISTERED SOCIETIES

Societies to be bodies corporate.

20. A society on registration shall become a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to hold movable and immovable property of every description, to enter into contracts, to institute and defend suits and other legal proceedings and to do all things necessary for the purpose of its constitution.

By-laws to bind members.

21. (1) The by-laws of a registered society shall, when registered, bind the society and the members thereof to the same extent as if they were signed by each member, and contained covenants on the part of each member, his heirs, executors, administrators and assigns, to observe all the provisions of the by-laws.

(2) It shall not be competent for a member of a registered society to contest any suit, claim, action or proceeding between such member and the society or any other member of the society on the ground that any by-law of the society constitutes a contract in restraint of trade.

22. (1) A registered society, having as one of its objects the disposal of any produce of agriculture or animal husbandry or handicrafts, may contract with its members, either in its by-laws or by a separate document, that they shall dispose of all their produce, or of such amounts or descriptions as may be stated therein, to or through the society, and may in the contract provide for payment of a specific sum per unit of weight or other measure as liquidated damages for infringement of the contract, and such sum shall be a debt due to the society.

Contract with members to dispose of produce.

(2) Any such contract as is mentioned in sub-section (1) of this section shall create in favour of the society a first charge upon all produce mentioned therein, whether existing or future.

(3) The covenants or obligations imposed by any such contract as is mentioned in sub-section (1) of this section shall run with any lands, trees, buildings or other structures mentioned therein, and shall be binding on all assignees and transferees, and any transfer or conveyance of property subject to such contract shall be deemed to operate also as a like transfer or assignment of the contract.

(4) No contract entered into under the provisions of this section shall be contested in any court on the ground that it constitutes a contract in restraint of trade.

23. (1) The by-laws of a registered society may, subject to the provisions of any rules made under this Ordinance, provide for the imposition of fines on its members for any infringement of its by-laws, but no such fine shall be imposed upon any member until written notice of intention to impose the fine and the reason therefor has been transmitted to him and he has had an opportunity of showing cause against the imposition of the fine, and, if he so desires, of being heard with or without witnesses. Any such fine may be recovered by suit in any competent court. The whole or any part of a fine may be set off against any moneys due to such member in respect of produce delivered by him to the society.

Imposition of fines upon members.

(2) A member shall not be deemed to have infringed the by-laws of a registered society by reason of his having failed to deliver produce to the society if such failure was due to the fact that before becoming a member of the society such member had contracted to deliver such produce to some other person.

(3) It shall be the duty of every person applying for membership of a registered society to disclose to the society particulars of all such contracts as are mentioned in sub-section (2) of this section.

- Priority of claim of registered society as against crops, agricultural produce, cattle, implements, raw material and manufactured articles.
- 24.** Subject to the prior claims of the Government of the Colony on property of its debtors and of landlords in respect of rent, or any money recoverable as rent, or to any prior charge duly registered under any law for the time being in force, a registered society shall have a first charge—
- (a) upon the crops or other agricultural produce of a member or past member, at any time within two years from the date when seed or manure was advanced, or money was lent to such member or past member in respect of the unpaid portion of such advance or loan;
 - (b) in respect of the supply of cattle, fodder for cattle, agricultural or industrial implements or machinery, or raw material for manufacture or of the loan of money for the purchase of any of the foregoing animals or things upon any such animals or things so supplied or purchased in whole or in part from any such loan or on any articles manufactured from raw materials supplied or purchased.
- Charge and set-off in respect of shares or interest of members.
- 25.** A registered society shall have a first charge upon the shares or interest in the capital and on the deposits of a member or past member and upon any dividend, bonus, or accumulated funds payable to a member or past member in respect of any debt due from such member or past member to the society, and may set off any sum credited or payable to a member or past member in or towards payment of any such debt.
- Share or interest not liable to attachment.
- 26.** Subject to the provisions of section 25 of this Ordinance, the share or interest of a member in the capital of a registered society shall not be liable to attachment or sale under any decree or order of a court in respect of any debt or liability incurred by such member, and a trustee in bankruptcy under the law relating to bankruptcy for the time being in force shall not be entitled to or have any claim on such share or interest: Provided that, where a society is dissolved, the property in the shares of any member who has been adjudicated a bankrupt under the provisions of any such law relating to bankruptcy shall vest in the trustee in bankruptcy.
- Liability of past member.
- 27.** The liability of a past member for the debts of a registered society as they existed at the time when he ceased to be a member shall continue for a period of two years from the date of his ceasing to be a member:
- Provided that, if the first audit of the accounts of the society after his ceasing to be a member discloses a credit balance in favour of the society, the financial liability of such past member shall forthwith cease.
- Liability of estate of deceased member.
- 28.** The estate of a deceased member shall be liable for a period of one year from the time of his decease for the debts of a registered society as they existed at the time of his decease:
- Provided that, if the first audit of the accounts of the society after his decease discloses a credit balance in favour of the society, such liability shall forthwith cease.

29. (1) On the death of a member a registered society may transfer the share or interest of the deceased member to the person nominated in accordance with any rules made, under the provisions of this Ordinance, in that behalf, or, if there is no person so nominated to such person as may appear to the committee of the society to be the legal personal representative of the deceased member or pay to such nominee or legal representative as the case may be a sum representing the value of such member's share or interest, as ascertained in accordance with any rules, made under the provisions of this Ordinance, or the by-laws of the society:

Transfer of interest on death of member.

Provided that—

- (a) in the case of a society with unlimited liability, such nominee or legal personal representative, as the case may be, may require payment by the society of the value of the share or interest of the deceased member ascertained as aforesaid; or
- (b) in the case of a society with limited liability the society shall transfer the share or interest of the deceased member to such nominee or legal personal representative as the case may be, being qualified in accordance with any rules, made under the provisions of this Ordinance, and by-laws for membership of the society, or on his application within one month of the death of the deceased member to any person specified in the application who is so qualified.

(2) A registered society may pay all other moneys due to the deceased member from the society to such nominee or legal personal representative, as the case may be.

(3) All transfers and payments made by a registered society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

30. A copy of any entry in a book of a registered society regularly kept in the course of business, shall, if certified in such manner as may be prescribed, be received in any suit or legal proceedings as prima facie evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is admissible.

Proof of entries in society's books.

31. No officer of a registered society shall in any legal proceedings to which the society is not a party be compelled to produce any of the society's books, the contents of which can be proved under section 30 of this Ordinance, or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of the court or a judge made for special cause.

Restriction on the production of societies' books.

32. The Governor may, by notice in the Gazette, in the case of any registered society or class of registered societies reduce or remit—

Power to exempt from duty or tax.

- (a) the duty or tax which, under any law for the time being in force, may be payable in respect of the accumulated funds of the society or of the dividends or other payments received by the members of the society on account of accumulated funds;

- (b) the stamp duty with which, under any law for the time being in force, instruments executed by or on behalf of a registered society or by an officer or member and relating to the business of such society or any class of such instruments, are respectively chargeable;
- (c) any fee payable under the law of registration for the time being in force.

PART VI—PROPERTY AND FUNDS OF REGISTERED SOCIETIES

Restrictions
on loans.

33. (1) A registered society shall not make a loan to any person other than a member:

Provided that, with the general or special sanction of the Registrar, a registered society may make loans to another registered society.

(2) Save with the sanction of the Registrar a society with unlimited liability shall not lend money on the security of movable property.

(3) The Governor may by general or special order prohibit or restrict the lending of money on a charge of immovable property or any kind thereof by any registered society or class of registered society.

Restrictions
on borrowing.

34. A registered society shall receive deposits and loans from persons who are not members only to such extent and under such conditions as may be prescribed.

Restrictions
on other
transactions
with non-
members.

35. Save as provided in sections 33 and 34 of this Ordinance, the transactions of a registered society with persons other than members shall be subject to such prohibitions and restrictions, if any, as may be prescribed.

Investment
of funds.

36. A registered society may invest or deposit its funds only—

- (a) in the Post Office Savings Bank;
- (b) in any Government securities approved by the Registrar;
- (c) in the shares of any other registered society;
- (d) with any bank or person carrying on the business of banking, approved for that purpose by the Registrar; or
- (e) in any other mode as may be prescribed.

Compulsion to
sell produce
through a
registered
society in
certain cases.

37. (1) Upon application by any registered society which can show that its membership in the whole Colony or in any province, district or other area comprises seventy-five per centum of all the producers of any kind of commodity mentioned in sub-section (1) of section 22 of this Ordinance, producing seventy-five per centum of the total output of such commodity in that province, district or area, the Governor may by notice in the Gazette declare that each producer of that commodity, in the whole Colony or in the province, district or other area named in the notice, shall sell such commodity produced by him to or through the society, whether he be a member thereof or not.

(2) Each such producer who is not a member of the society shall be subject to all such conditions and obligations to which he would have been subject as a member, and the society may and shall if so requested by the producer deduct from any funds received or held on his account a part or the whole of a share subscription sufficient to qualify him for membership, and shall admit him to membership on the complete payment of such subscription.

38. (1) No society shall pay a dividend or bonus or distribute any part of its accumulated funds before the balance sheet has been certified by the Registrar and the amount of the dividend, bonus or distribution, as the case may be, has been approved of by the Registrar. Dividends and bonus.

(2) No society shall pay a dividend to its members exceeding the maximum rate prescribed, which rate shall not in any case exceed ten per centum per annum.

(3) No society with unlimited liability, which advances money or goods to any member in excess of money or goods deposited by him, shall pay a dividend before ten years from the date of its registration without the sanction of the Registrar.

39. (1) Every society which does or can derive a profit from its transactions shall maintain a reserve fund. Reserve fund.

(2) A society with unlimited liability, which advances money or goods to any member in excess of money or goods deposited by him, shall carry at least one-fourth of the net profit in each year to the reserve fund.

(3) All societies other than societies referred to in sub-section (2) of this section shall carry to the reserve fund such portion of the net profit in each year as may be prescribed.

40. Subject to the provisions of sections 38 and 39 of this Ordinance, the net balance of each year, with any sum available for distribution from previous years, may be distributed as may be prescribed by any rules, made under the provisions of this Ordinance, or by the by-laws of the registered society. Distribution of net balance.

41. Any registered society may, with the previous sanction of the Registrar, after such allocation has been made to the reserve fund as any rules, made under this Ordinance, or the by-laws of the society may require, contribute an amount not exceeding ten per centum of the remaining net balance to any charitable or educational purpose. Contribution to charitable and educational purposes.

PART VII—INSPECTION OF AFFAIRS

42. (1) The Registrar may, of his own motion, and shall, on the application of a majority of the committee, or of not less than one-third of the members, hold an enquiry or direct some person authorized by him by order in writing in that behalf to hold an inquiry into the constitution, working and financial condition of a registered society. Inquiry by Registrar.

(2) All officers and members of the society shall produce such cash, accounts, books, documents and securities of the society and furnish such information in regard to the affairs of the society, as the Registrar or such person authorized by the Registrar may require.

43. (1) The Registrar shall, on the application of a creditor of a registered society, inspect or direct some person authorized by him by order in writing in that behalf to inspect the books of the society: Inspection of books of indebted society.

Provided that—

(a) the applicant satisfies the Registrar that the debt is a sum then due, and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and

(b) the applicant deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require.

(2) The Registrar shall communicate the results of any such inspection to the creditor.

Costs of inquiry.

44. Where an inquiry is held under section 42 or an inspection is made under section 43 of this Ordinance the Registrar may by a certificate under his hand make an award apportioning the costs, or such part of the costs as he may think right, between the society, the members or creditor demanding an inquiry or inspection, and the officers or former officers of the society.

Recovery of costs.

45. Any sum awarded by way of costs under section 44 of this Ordinance may be recovered, on production of the certificate referred to in that section, to the court having jurisdiction over the person from whom the money is claimable, by attachment and sale of any movable property belonging to such person within the limits of the jurisdiction of such court, notwithstanding that the sum awarded may be in excess of the ordinary jurisdiction of such court, and the necessary jurisdiction is hereby conferred upon such court.

PART VIII—DISSOLUTION OF SOCIETY

Dissolution.

46. (1) If the Registrar, after an inquiry has been held under section 42 or after an inspection has been made under section 43 of this Ordinance is of opinion that the society ought to be dissolved, he may cancel the registration of the society.

(2) Upon receipt, by the Registrar, of an application made by three-fourths of the members of a registered society applying for the cancellation of the registration of that society, he shall cancel the registration of the society.

(3) Any member of a society may, within two months after the date of an order made under sub-sections (1) or (2) of this section, appeal from such order to the Governor.

(4) Where no appeal is presented within two months after the making of an order cancelling the registration of a society, the order shall take effect on the expiry of that period.

(5) Where an appeal is presented within two months the order shall not take effect until it is confirmed by the Governor.

(6) Where the Registrar cancels the registration of a society under sub-sections (1) or (2) of this section he may make such order as he may deem fit respecting the custody of the books and documents and the protection of the assets of the society until the order cancelling the registration of the society takes effect.

Cancellation of registration of society.

47. Where it is a condition of the registration of a society that it should consist of at least ten members the Registrar may, by order in writing, cancel the registration of the society if at any time it is proved to his satisfaction that the number of the members has been reduced to less than ten.

48. Where the registration of a society is cancelled the society shall cease to exist as a corporate body— Effect of cancellation of registration.

- (a) in the case of cancellation in accordance with the provisions of section 46 of this Ordinance from the date on which the order of cancellation takes effect;
- (b) in the case of cancellation in accordance with the provisions of section 47 of this Ordinance from the date of the order.

49. Where the registration of a society is cancelled under section 46 or under section 47 of this Ordinance, the Registrar may appoint one or more persons to be liquidator or liquidators of the society and all the property of such society shall vest in such liquidator or liquidators with effect from the date on which the order of cancellation takes effect or from the date of the order, as the case may be. Winding-up.

50. (1) A liquidator appointed under section 49 of this Ordinance shall, subject to the guidance and control of the Registrar and to any limitation imposed by the Registrar by order under section 51 of this Ordinance, have power to— Liquidator's powers.

- (a) appoint a day, in the manner prescribed, before which creditors whose claims are not already recorded in the books of the society shall state their claims for admission or be excluded from any distribution made before they have proved them;
- (b) institute and defend suits and other legal proceedings by and on behalf of the society by his name or office and to appear in court as a litigant in person on behalf of the society;
- (c) refer disputes to arbitration, in the manner prescribed;
- (d) determine from time to time the contribution to be made by the members and past members and by the estates of deceased members of the society, respectively, to the assets of the society;
- (e) investigate all claims against the society, and, subject to the provisions of this Ordinance, to decide questions of priority arising between claimants;
- (f) determine from time to time by what persons and in what proportion the costs of liquidation are to be borne;
- (g) take possession of the books, documents and assets of the society;
- (h) arrange for the distribution of the assets of the society in a convenient manner when a scheme of distribution has been approved by the Registrar; and
- (i) give such directions in regard to the disposal of the books and documents of the society as may appear to him to be necessary for winding up the affairs of the society.

(2) A liquidator appointed under this section shall, in so far as such powers are necessary for carrying out the purposes of this section, have power to summon and enforce the attendance of witnesses and to compel the production of documents by the same means and (so far as may be) in the same manner as is provided in the case of a court under the Civil Procedure Ordinance, 1924, or any law amending or replacing the same. No. 3 of 1924.

Power of Registrar to control liquidation.

51. (1) A liquidator shall exercise his powers subject to the control and revision of the Registrar, who may—

- (a) rescind or vary any order by a liquidator and make whatever new order is required;
- (b) remove a liquidator from office;
- (c) call for all books, documents and assets of the society;
- (d) by order in writing limit the powers of a liquidator under section 50 of this Ordinance;
- (e) require accounts to be rendered to him by the liquidator at his discretion;
- (f) procure the auditing of the liquidator's accounts and authorize the distribution of the assets of the society;
- (g) make an order for the remuneration of the liquidator; and
- (h) refer any subject of dispute between a liquidator and any third party to arbitration if that party shall have consented in writing to be bound by the decision of the arbitrator.

(2) The decision of an arbitrator, on any matter referred to him under paragraph (h) of sub-section (1) of this section, shall be binding upon the parties and shall be enforceable in like manner as an order made by the Registrar under paragraph (a) of sub-section (1) of this section.

Appeal against an order of a liquidator or the Registrar.

52. An appeal to a subordinate court of the first class having jurisdiction over the area in which the headquarters of the society are situate from any order made by a liquidator under the provisions of section 50 of this Ordinance or by the Registrar under the provision of paragraph (a) of section 51 of this Ordinance may, with the written consent of the Attorney General, be made in the manner prescribed.

Enforcement of orders.

53. Orders made under sections 50, 51 and 52 of this Ordinance may be enforced as follows—

- (a) when made by a liquidator or the Registrar, by any court having jurisdiction, in the same manner as a decree of such court;
- (b) when made by a subordinate court of the first class on appeal, in the same manner as a decree of such court in any suit pending therein.

Limitation of the jurisdiction of the civil courts.

54. Save in so far as is hereinbefore expressly provided, no civil court shall have any jurisdiction in respect of any matter concerned with the dissolution of a registered society under this Ordinance.

PART IX—SETTLEMENT OF DISPUTES

Settlement of disputes.

55. (1) If any dispute touching the business of a registered society arises—

- (a) among members, past members and persons claiming through members, past members and deceased members; or
- (b) between a member, past member or person claiming through a member, past member or deceased member, and the society, its committee or any officer of the society; or
- (c) between the society or its committee and any officer of the society; or

(d) between the society and any other registered society, such disputes shall be referred to the Registrar for decision.

A claim by a registered society for any debt or demand due to it from a member, past member or the nominee, heir or legal representative of a deceased member, whether such debt or demand be admitted or not, shall be deemed to be a dispute touching the business of the society within the meaning of this sub-section.

(2) The Registrar may, on receipt of a reference under sub-section (1) of this section—

- (a) decide the dispute himself; or
- (b) refer it for disposal to an arbitrator or arbitrators.

(3) Any party aggrieved by the award of an arbitrator or arbitrators appointed under the provisions of sub-section (2) of this section may appeal therefrom to the Registrar within such period and in such manner as may be prescribed.

(4) A decision of the Registrar under sub-section (2) of this section or in appeal under sub-section (3) of this section shall be final and shall not be called in question in any court *and shall be enforced in the same manner as if the decision had been a judgment of a civil court.*

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(5) The award of an arbitrator or arbitrators appointed under the provisions of sub-section (2) of this section shall, if no appeal is preferred to the Registrar under sub-section (3) of this section or if any such appeal is abandoned or withdrawn, be final and shall not be called in question in any court *and shall be enforced in the same manner as if the award had been a judgment of a civil court.*

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PART X—GENERAL

56. (1) No person other than a registered society shall trade or carry on business under any name or title of which the word "co-operative" or its equivalent in any other language is part without the sanction of the Governor in Council.

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Prohibition of the use of the word "co-operative".

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and upon conviction therefor shall be liable to a fine not exceeding fifty pounds and in the case of a continuing offence to a further fine not exceeding five pounds for each day on which the offence is continued after conviction therefor.

57. (1) The Governor in Council may, for any registered society or class of such societies, make rules to carry out the purposes of this Ordinance.

Rules.

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

- (a) subject to the provisions of section 5 of this Ordinance prescribe the maximum number of shares or portion of the capital of a society which may be held by a member;
- (b) prescribe the forms to be used and the conditions to be complied with in the making of applications for the registration of a society and the procedure in the matter of such applications;
- (c) prescribe the matters in respect of which a society may or shall make by-laws and for the procedure to be followed in making, altering and abrogating by-laws, and the conditions to be satisfied prior to such making, alteration or abrogation;

- (d) prescribe the conditions to be complied with by persons applying for admission or admitted as members and provide for the election and admission of members, and the payment to be made and the interests to be acquired before the exercise of the right of membership;
- (e) regulate the manner in which funds may be raised by means of shares or debentures or otherwise and the form in which any application for financial assistance from the Government shall be made;
- (f) provide for general meetings of the members and for the procedure at such meetings and the powers to be exercised by such meetings;
- (g) provide for the appointment, suspension and removal of the members of the committee and other officers and for the procedure at meetings of the committee and for the powers to be exercised and the duties to be performed by the committee and other officers;
- (h) provide for audit of the accounts and books to be kept by a society and the charges, if any, to be made for such audit;
- (i) provide for the periodical publication of a balance sheet showing the assets and liabilities of a society;
- (j) provide for the persons by whom and the form in which copies of entries in books of societies may be certified;
- (k) provide for the inspection of documents and registers at the Registrar's office and the fees to be paid therefor and for the issue of copies of such documents or registers;
- (l) provide for the formation and maintenance of a register of members and, where the liability of members is limited by shares, of the register of shares;
- (m) provide for the resignation and expulsion of members and for the payments, if any, to be made to members who resign or are expelled and for the liabilities of past members;
- (n) provide for the mode in which the value of a deceased member's interest shall be ascertained and, subject to the provisions of section 29 of this Ordinance, for the nomination of a person to whom such interest may be paid or transferred;
- (o) provide for the mode in which the value of the interest of a member who has become of unsound mind and incapable of managing himself or his affairs shall be ascertained and for the nomination of any person to whom such interest may be paid or transferred;
- (p) prescribe the payments to be made and the conditions to be complied with by members applying for loans, the period for which loans may be made and the amount which may be lent to an individual member;
- (q) provide for the formation and maintenance of reserve funds, and the objects to which such funds may be applied, and for the investment of any funds under the control of the society;
- (r) prescribe the extent to which a society may limit the number of its members;

- (s) prescribe the conditions under which accumulated funds may be distributed to the members of a society with unlimited liability, and, subject to the provisions of sub-section (2) of section 38 of this Ordinance, prescribe the maximum rate of dividend which may be paid by societies;
- (t) prescribe the procedure to be followed in appeals under section 46 of this Ordinance;
- (u) prescribe the accounts and books to be kept by a society;
- (v) prescribe the returns to be submitted by a society to the Registrar and the persons by whom and the form in which such returns shall be submitted;
- (w) fix the maximum loan which may be made by a society to any of the members thereof without the prior consent of the Registrar; and
- (x) prescribe anything required by this Ordinance to be prescribed.

(3) In any case where the Registrar is satisfied that a substantial number of members of any society are unacquainted with the English language, he shall cause such rules to be translated into a language with which such members are acquainted, and additionally to be made known in such manner as is customary for the community concerned.

58. Notwithstanding anything contained in this Ordinance the Governor may, by special order in each case and subject to such conditions, if any, as he may impose, exempt any registered society from any of the provisions of this Ordinance or may direct that such provisions shall apply to such society with such modifications as may be specified in the order.

Power to exempt registered societies from provisions of the Ordinance.

59. (1) It shall be an offence under this Ordinance if—

Offences.

- (a) a registered society or an officer or a member thereof wilfully neglects or refuses to do any act or to furnish any information required for the purposes of this Ordinance by the Registrar or any person duly authorized by him in writing in that behalf; or
- (b) a registered society or an officer or member thereof wilfully makes a false return or furnishes false information; or
- (c) any person wilfully or without any reasonable excuse disobeys any summons, requisition or lawful written order issued under the provisions of this Ordinance, or does not furnish any information lawfully required from him by a person authorized to do so, or which he is required to furnish, under the provisions of this Ordinance.

(2) Every society, officer or member of a society or other person guilty of an offence under this section shall be liable to a fine not exceeding twenty-five pounds.

60. Any person, firm or company having knowledge or notice of the existence of a contract described in section 22 of this Ordinance or of an obligation upon producers as in section 37 of this Ordinance, who solicits or persuades any person to sell or deliver produce in violation of that contract or obligation shall be guilty of an offence and

Penalty for soliciting violation of contracts.

shall be liable on conviction therefor to a fine not exceeding twenty-five pounds for each offence, and shall in addition be ordered to pay to the society concerned such damages as to the court may seem fit.

Saving.
No. 28 of 1933.
Cap. 130.
Cap. 92.

61. The provisions of the Companies Ordinance, 1933, the Credit Trade with Natives Ordinance and the Registration of Business Names Ordinance shall not apply to a registered society.

Repeal.
No. 24 of 1931.

62. The Co-operative Societies (Registration) Ordinance, 1931, is hereby repealed: Provided that every co-operative society registered under the provisions of that Ordinance shall be deemed to have been registered under this Ordinance and that the regulations of such society shall be deemed to be by-laws for the purposes of this Ordinance.

ORDINANCE No. XXXIX of 1945

Assented to in His Majesty's name this thirteenth day of December, 1945.

P. E. MITCHELL,
Governor.

An Ordinance to Amend the Companies Ordinance, 1933

13th December, 1945

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, 1945, 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. The principal Ordinance is hereby amended by inserting therein immediately after section 296 thereof the following new Part:—

Insertion of new Part VIII A in the principal Ordinance.

"PART VIII A

PRODUCE COMPANIES

296A. (1) For the purposes of this Part of this Ordinance the expression "produce company" means a company membership whereof is by its articles restricted to persons engaged in—

Definition of produce company.

- (a) the occupation of agriculture; or
- (b) the occupation of processing, warehousing, manufacturing, storage, transport or marketing of any product of agriculture; or
- (c) either or both of the occupations mentioned in paragraphs (a) and (b) of this sub-section:

Provided that nothing in this sub-section contained shall prevent any person from becoming a member of any such produce company as the holder of preference shares which carry a limited dividend and in respect of which there are no voting rights unless payment of such dividend is in arrear.

(2) In this section the expression "agriculture" includes horticulture and forestry.

296B. The articles of a produce company may empower the directors thereof to make, and from time to time to amend, vary, rescind or revoke, any by-laws not inconsistent with the provisions of this Ordinance or with the memorandum and articles, for the time being, of such produce company, and any by-laws lawfully so made shall be binding on such produce company and the members thereof to the same extent in all respects as, under the provisions of sub-section (1) of section 21 of this Ordinance, the memorandum and articles of such produce company so bind such company and the members thereof.

Articles of a produce company may empower directors to make by-laws binding on the company and the members thereof.

Member may not plead that article or by-law constitutes a contract in restraint of trade.

Articles of a produce company may prescribe fines to be imposed on members.

Articles of a produce company may regulate the resignation and expulsion of members.

Amendment of section 323 of the principal Ordinance.

No. 27 of 1938.

296c. It shall not be competent for a member of a produce company to contest any suit, claim, action or proceeding between such member and such produce company or between such member and any other member of such produce company on the ground that any article of such produce company or that any by-law made under any such article constitutes a contract in restraint of trade.

296d. (1) The articles of a produce company may prescribe fines to be imposed on its members by the directors of such produce company for infringement of any article of such produce company or of any by-law lawfully made under any such articles:

Provided that no such fine shall be imposed upon any member of a produce company for infringement of any article of such produce company or of any by-law lawfully made under any such article until written notice of intention to impose the fine and the reason therefor has been transmitted to such member and he has had an opportunity of showing cause against the imposition of a fine, and, if he so desires, of being heard with or without witnesses.

(2) Any fine imposed in accordance with the provisions of sub-section (1) of this section may be recovered by suit in any competent court.

(3) The whole or any part of any fine imposed, in accordance with the provisions of sub-section (1) of this section, may be set off against any moneys due, on any account whatsoever, from the produce company to the member upon whom such fine has been imposed.

(4) A member of a produce company shall not be deemed to have infringed any article or by-law of such produce company requiring him to sell or deliver any product of agriculture to or through such produce company if his failure so to sell or deliver the same is due solely to the fact that before becoming a member of such produce company he had contracted to sell or deliver the same to some other person:

Provided that full and true particulars of any such contract were disclosed to the directors of such produce company by the person concerned before he became a member thereof.

296E. The articles of a produce company may regulate the resignation and provide for the expulsion of members thereof; and, in the case of any produce company having a share capital, may constitute the directors of such company compulsory agents for sale of all shares held in such company by any member who has died, resigned or who has been lawfully expelled therefrom."

3. Section 323 of the principal Ordinance is hereby amended by substituting a colon for the full stop which appears at the end thereof and by adding thereto, immediately after such colon, the following proviso:—

"Provided that no company incorporated outside the Colony shall have power to acquire land situate in the Highlands (as described in the Seventh Schedule to the Crown Lands (Amendment) Ordinance, 1938) unless such company is registered in accordance with the provisions of this Ordinance."

ORDINANCE No. XL of 1945

Assented to in His Majesty's name this twenty-first day of December, 1945.

G. M. RENNIE,
Acting Governor.

An Ordinance to Apply Certain Sums of Money for the Service of the Year Ending the 31st Day of December, 1946

1st January, 1946

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 1946 Appropriation Ordinance, 1945.

2. The public revenues for the year 1946 and other funds of the Colony and Protectorate of Kenya are hereby charged towards the service of the year ending the thirty-first day of December, one thousand nine hundred and forty-six, with the sum of seven million, seven hundred thousand, five hundred and fifty-eight pounds in respect of the Colony and Protectorate of Kenya, and with the further sum of two million, nine hundred and thirty-six thousand, three hundred and sixty-six pounds in respect of the Development and Reconstruction Fund.

3. The moneys granted by this Ordinance shall be applied for the purposes and services expressed in the Schedules hereto.

4. The Accountant General 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 Schedules hereto, the said sum of seven million, seven hundred thousand, five hundred and fifty-eight pounds and the said further sum of two million, nine hundred and thirty-six thousand, three hundred and sixty-six pounds which will come in course of payment during the year ending the thirty-first day of December, one thousand nine hundred and forty-six.

Date of commencement.

Short title.

Public revenue and other funds charged.

Application of moneys granted.

Accountant General's authority for payment.

FIRST SCHEDULE

| <i>No. of Head</i> | <i>Amount £</i> |
|--|---------------------|
| 1. His Excellency the Governor | 16,451 |
| 1A. His Excellency the Governor Extraordinary | 1,000 |
| 2. Accountant General's Department | 31,878 |
| 3. Administration | 310,809 |
| 3A. Administration Extraordinary | 84,592 |
| 4. Agricultural Department | 145,027 |
| 4A. Agricultural Department Extraordinary | 96,916 |
| 5. Agricultural Production and Settlement Board | 29,108 |
| 5A. Agricultural Production and Settlement Board Extraordinary | 111,000 |
| 5B. Agricultural Machinery Pool Extraordinary | 43,589 |
| 6. Audit Department | 27,805 |
| 7. Central Administration—Secretariat and Legislative Council | 45,118 |
| 8. Civil Aviation | 37,951 |
| 9. Coast Agency | 7,085 |
| 9A. Coast Agency Extraordinary | 100 |
| 10. Conference of East African Governors | 15,680 |
| 11. Customs Department | 95,801 |

FIRST SCHEDULE—Contd.

| <i>No. of Head</i> | <i>Amount £</i> |
|--|---------------------|
| 11A. Customs Department Extraordinary | 500 |
| 12. Education Department | 472,755 |
| 12A. Education Department Extraordinary | 28,780 |
| 13. Forest Department | 74,425 |
| 13A. Forest Department Extraordinary | 96,550 |
| 14. Game Department | 23,823 |
| 14A. Game Department Extraordinary | 1,450 |
| 15. Government Chemist's Department | 2,756 |
| 16. Inland Revenue Department | 81,862 |
| 17. Judicial Department | 46,394 |
| 18. Kenya Auxiliary Air Unit Extraordinary | 1,000 |
| 19. Labour Department | 30,327 |
| 19A. Labour Department Extraordinary | 10,000 |
| 20. Lands, Mines and Surveys | 59,191 |
| 20A. Lands, Mines and Surveys Extraordinary | 5,100 |
| 21. Legal Department | 13,367 |
| 22. Local Government Department | 6,745 |
| 23. Local Government Contributions | 203,099 |
| 23A. Local Government Contributions Extraordinary | 5,327 |
| 24. Medical Department | 425,287 |
| 24A. Medical Department Extraordinary | 19,360 |
| 25. Military | 136,822 |
| 26. Miscellaneous Services | 119,191 |
| 26A. Miscellaneous Services Extraordinary | 326,546 |
| 27. Naval Expenditure | 8,570 |
| 28. Pensions and Gratuities | 384,500 |
| 28A. Pensions and Gratuities Extraordinary | 100,000 |
| 29. Police | 291,591 |
| 29A. Police Extraordinary | 10,000 |
| 30. Posts and Telegraphs | 437,457 |
| 30A. Posts and Telegraphs Extraordinary | 30,805 |
| 31. Printing and Stationery | 48,372 |
| 31A. Printing and Stationery Extraordinary | 4,000 |
| 32. Prisons | 117,225 |
| 32A. Prisons Extraordinary | 700 |
| 33. Public Debt | 1,119,663 |
| 34. Public Works Department | 191,997 |
| 35. Public Works Recurrent | 224,600 |
| 36. Registrar of Co-operative Societies | 2,100 |
| 37. Registrar General's Department | 9,229 |
| 38. Rent and Interest to H.H. the Sultan of Zanzibar | 16,000 |
| 39. Subventions | 40,010 |
| 39A. Subventions Extraordinary | 6,500 |
| 40. Transport Licensing Board | 2,000 |
| 41. Veterinary Services | 108,877 |
| 41A. Veterinary Services Extraordinary | 8,446 |
| 42. Public Works Extraordinary | 324,648 |
| 43. War Expenditure, Civil | 922,701 |
| Total: | <u>£7,700,558</u> |

SECOND SCHEDULE

Development and Reconstruction Fund—£2,936,366

ORDINANCE No. XLI of 1945

Assented to in His Majesty's name this twenty-first day of December, 1945.

G. M. RENNIE,
Acting Governor.

An Ordinance to Amend the Excess Profits Tax Ordinance, 1941

21st December, 1945

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 Excess Profits Tax (Amendment) Ordinance, 1945, and shall be read as one with the Excess Profits Tax Ordinance, 1941, hereinafter referred to as the principal Ordinance.

Short title.
No. 14 of 1941.

2. Sub-section (3) of section 4 of the principal Ordinance is hereby amended by substituting a colon for the full stop, which appears at the end thereof, and by adding thereto the following proviso:—

Amendment of section 4 (3) of the principal Ordinance.

“Provided that for the purpose of this sub-section—

(i) any business carried on by a Custodian of Enemy Property appointed under the provisions of the Trading with the Enemy Ordinance, 1939, shall be deemed to be carried on by the person, who, but for the operation of the Trading with the Enemy Ordinance, 1939, would have carried on such business; and

No. 21 of 1939.
No. 21 of 1939.

(ii) it shall, except as far as the contrary is proved, be assumed that nothing has occurred since the third day of September, 1939, to change the person, who, but for the operation of the Trading with the Enemy Ordinance, 1939, would have carried on any such business.”

No. 21 of 1939.

3. Sub-section (2) of section 5 of the principal Ordinance is hereby repealed and the following sub-section is substituted therefor:—

Repeal and replacement of section 5 (2) of the principal Ordinance.

“(2) (a) Any accounting period beginning after the first day of July, 1940, and ending on or before the final date, shall be a chargeable accounting period.

(b) Where any accounting period began before the first day of July, 1940, and ended after that date, so much of such accounting period as falls after the thirtieth day of June, 1940, shall be a chargeable accounting period.

(c) Where any accounting period ended after the final date so much of such accounting period as falls within the period ending on the final date shall be a chargeable accounting period.

(d) The final date shall be the thirty-first day of December, 1945:

Provided that the person who was carrying on the business on the first day of January, 1946, may, by notice in writing to the Commissioner, require that the final date shall be—

- (i) in the case of a business which, under the provisions of sub-section (1) of section 10 of this Ordinance, is deemed to have been discontinued during the year ending the thirty-first day of December, 1946, the date upon which such business is deemed to be discontinued;
- (ii) in any other case, the thirty-first day of December, 1946,

and any such notice may be given at any time before the excess profits tax, payable in respect of such business, has been finally determined in accordance with such provisions as may be hereafter enacted.”

Insertion of new sections 23 and 24 in the principal Ordinance.

Transactions designed to avoid excess profits tax.

4. (1) The following new sections, to be numbered sections 23 and 24, respectively, are hereby inserted in the principal Ordinance:—

“23. (1) Where the Commissioner is of the opinion that the main purpose, or one of the main purposes, for which any transaction or transactions was or were effected was the avoidance or reduction of liability to excess profits tax, he may, if he thinks fit, direct that such adjustments shall be made as respects liability to excess profits tax as he considers appropriate so as to counteract the avoidance or reduction of liability to excess profits tax which would otherwise be effected by such transaction or transactions.

(2) If it appears in the case of any transaction or transactions, being a transaction which involves or transactions one or more of which involve—

- (a) the transfer or acquisition of shares in a company; or
- (b) a change in the person or persons carrying on a business or part of a business,

that, having regard to the provisions of this Ordinance, other than the provisions of this section, which were in force at the time the transaction or transactions was or were effected, the main benefit which might be expected to accrue from such transaction or transactions during the currency of excess profits tax was avoidance or reduction of liability to the tax, the avoidance or reduction of liability to excess profits tax shall be deemed for the purposes of this section to have been the main purpose, or one of the main purposes, of such transaction or transactions.

(3) Without prejudice to the generality of the powers conferred by sub-section (1) of this section, the powers conferred thereby extend—

- (a) to the charging with excess profits tax of persons who, but for the adjustments, would not be chargeable with any tax, or would not be chargeable to the same extent;

(b) to the charging of a greater amount of tax than would be chargeable but for the adjustments.

(4) Any person aggrieved by a direction of the Commissioner under the provisions of this section may appeal to a Local Committee or a Judge (as if an assessment to excess profits tax had been made upon him), whether on the ground that the avoidance or reduction of liability to excess profits tax was not the main purpose or one of the main purposes of the transaction or transactions, or on the ground that no direction ought to have been given, or that the adjustments directed to be made are inappropriate.

24. Where the accounts of any business in respect of which excess profits tax is chargeable under the provisions of this Ordinance, are made up for any accounting period which ended on or after the thirty-first day of December, 1945, and which includes the whole or any part of a chargeable accounting period, the person carrying on the business on the last day of such accounting period shall prepare and deliver to the Commissioner within two months after the end of such accounting period, or within such further period as the Commissioner may allow, a schedule of the whole of the trading stock of the business in hand on the date to which the accounts have been made up. Such schedule shall set out the quantities and usual description of each item or class of such stock and the cost price thereof:

Schedule of trading stock to be delivered.

Provided that—

(a) where, having regard to the nature of the trading stock, or of the business carried on, the Commissioner is satisfied that it is not practicable to ascertain the exact cost of the trading stock, the cost price shall be estimated on such basis as the Commissioner may determine;

(b) the Commissioner may, in his discretion, require production of the stock list or books of the business in lieu of the delivery of such schedule.”

(2) The provisions of section 23 shall be deemed always to have had effect.

5. Section 22 of the principal Ordinance is hereby repealed.

Repeal of section 22 of the principal Ordinance.

ORDINANCE No. XLII of 1945

Assented to in His Majesty's name this twenty-first day of
December, 1945.

G. M. RENNIE,
Acting Governor.

An Ordinance to Amend the Personal Tax Ordinance, 1940

Date of
commencement.

21st December, 1945

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

Short title.

No. 45 of 1940.

Amendment of
section 3 (2) of
the principal
Ordinance.

Increase of tax
payable by
Europeans for
the year 1946.

Provisions of
section 6 of
the principal
Ordinance not
to apply.

1. This Ordinance may be cited as the Personal Tax (Amendment No. 2) Ordinance, 1945, and shall be read as one with the Personal Tax Ordinance, 1940, hereinafter referred to as the principal Ordinance.

2. Sub-section (2) of section 3 of the principal Ordinance is hereby amended by deleting the word "sub-section", which appears in line two thereof, and by substituting therefor the word "section".

3. (1) The tax payable, under the provisions of section 3 of the principal Ordinance, for the year 1946, by every European resident in the Colony in that year, is hereby increased as follows—

(a) where the individual's total income does not exceed £60 per annum, by Sh. 5;

(b) where the individual's total income exceeds £60 but does not exceed £120 per annum, by Sh. 10;

(c) where the individual's total income exceeds £120, by Sh. 20.

(2) In this section, the expression "European" means any person of pure European origin or descent.

4. The provisions of section 6 of the principal Ordinance shall not apply to any increase in the amount of tax payable under the provisions of this Ordinance.

ORDINANCE No. XLIII of 1945

Assented to in His Majesty's name this twenty-first day of December, 1945.

G. M. RENNIE,
Acting Governor.

An Ordinance to Amend the Courts Ordinance, 1931

21st December, 1945

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 Courts (Amendment) Ordinance, 1945, and shall be read as one with the Courts Ordinance, 1931, hereinafter referred to as the principal Ordinance.

Short title.

No. 16 of 1931.

2. Sub-section (1) of section 7 of the principal Ordinance is hereby amended by deleting therefrom the words "In the coast districts within" which appear in the twelfth, the fifteenth and the eighteenth lines thereof, and by substituting therefor the following "Within".

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

3. Section 18 of the principal Ordinance is hereby amended by deleting therefrom the following:—

Amendment of section 18 of the principal Ordinance.

"Cadis' Courts . . . Full jurisdiction over Mohammedan natives in all matters relating to personal status, marriage, inheritance and divorce, and over all natives in all matters in which the value of the subject in dispute does not exceed fifty pounds.";

and by substituting therefor the following:—

"Cadis' Courts . . . Full jurisdiction over Mohammedan natives in all matters relating to personal status, marriage, inheritance and divorce, and, within the Coast districts, over all natives in all matters in which the value of the subject matter in dispute does not exceed fifty pounds."

ORDINANCE No. XLIV of 1945

Assented to in His Majesty's name this twenty-first day of December, 1945.

G. M. RENNIE,
Acting Governor.

An Ordinance to Amend the Criminal Procedure Code

Date of commencement.

21st December, 1945

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 Criminal Procedure Code (Amendment, No. 2) Ordinance, 1945, and shall be read as one with the Consolidated Edition of the Criminal Procedure Code prepared under the provisions of section 43 of the Criminal Procedure Code (Amendment) Ordinance, 1939, hereinafter referred to as the principal Ordinance.

No. 35 of 1939.

Amendment of section 10 of the principal Ordinance.

2. Section 10 of the principal Ordinance is hereby amended—

(a) by deleting sub-section (1) thereof and substituting therefor the following sub-sections:—

“10. (1) Liwalis' courts shall have the same powers in all matters with respect to Arabs, Somalis, Baluchis, Comoro Islanders, Malagasies and natives only as a subordinate court of the second class.

(2) Cadis' courts, established in the Coast districts, shall have the same powers in all matters with respect to Arabs, Somalis, Baluchis, Comoro Islanders, Malagasies and natives only as a subordinate court of the second class.”;

and

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

Amendment of First Schedule to the principal Ordinance.

3. (1) The First Schedule to the principal Ordinance is hereby amended by adding, in its respective numerical position, the following:—

| | | | | |
|------|---------------------------------------|----------------------------|----------------------------|--|
| 317A | Unlawful possession of service stores | May arrest without warrant | Imprisonment for two years | Subordinate court of the first or second class |
|------|---------------------------------------|----------------------------|----------------------------|--|

(2) This section shall be deemed to have come into operation on the 3rd day of April, 1945.