



COLONY AND PROTECTORATE OF KENYA.

ORDINANCES

ENACTED DURING THE YEAR

1925.

VOL. IV (NEW SERIES)

NAIROBI.

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COLONY AND PROTECTORATE OF KENYA.

No. 1 OF 1925.

An Ordinance further to amend the Non-Native Poll Tax Ordinance, 1912.

[28TH FEBRUARY, 1925.] Date of
Commencement

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

1. This Ordinance may be cited as “ The Non-Native Poll Tax (Amendment) Ordinance, 1925,” and shall be read as one with the Non-Native Poll Tax Ordinance, 1912, (hereinafter referred to as “ the Principal Ordinance ”) and all amendments thereto. Short title.

2. Section 4 of the Principal Ordinance is hereby amended by the addition of the following paragraph :— Amendment of
Section 4 of
Principal
Ordinance.

“And provided further that any Non-Native who fails to pay such tax within three months of the expiry of the period hereinbefore set forth for such payment shall be liable for a tax double the amount of such tax and in lieu thereof, provided always that such liability shall not accrue if such Non-Native can show that such default was due to causes beyond his own control.”

3. This Ordinance shall commence and take effect immediately after three months from the date of assent. Commencement
of Ordinance

No. II. *The Natives' Trust Fund (Amendment) Ordinance* **1925.**

No. 2 OF 1925.

An Ordinance to Amend the Natives' Trust Fund Ordinance, 1921.

Date of commencement.

[28TH FEBRUARY, 1925.]

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

Short title.

1. This Ordinance may be cited as "The Natives' Trust Fund (Amendment) Ordinance, 1925," and shall be read as one with the Natives' Trust Fund Ordinance, 1921, hereinafter referred to as "the Principal Ordinance."

Amendment of Section 6 of the the Principal Ordinance.

2. Section 6 of the Principal Ordinance is hereby amended by the re-insertion of the following paragraph :—

"(2) Rents, fees or royalties paid to the Crown in respect of lands situate in Native Reserves."

The above paragraph shall be deemed to have been in force continuously since the enactment of the Principal Ordinance.

Payments into Local Native Funds.

3. The Principal Ordinance is hereby amended by the addition of the following section :—

"10. (1) The Governor-in-Council may direct that the Trustees shall pay into any specified Local Native Fund any specified monies in the hands of the Trustees and thereupon the Trustees shall pay such monies into such Local Native Fund and the receipt of the Local Native Council administering such fund shall be a complete discharge to the Trustees in respect of such monies.

(2) The Governor-in-Council may direct that any monies which may lawfully be paid into the fund under the provisions of Section 6 hereof shall in lieu of being so paid be paid into a Local Native Fund."

No. 3 OF 1925.

An Ordinance Relating to Mining.

[28TH MARCH, 1925.]

Date of
Commencement.

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

PART I.*Preliminary.*

1. This Ordinance may be cited as the "Mining Ordinance, 1925," and shall come into operation on such date as the Governor by notice in the Gazette shall determine.

Short title and
commencement.

2. In this Ordinance unless there shall be something repugnant in the subject or context :—

Definition

"Alluvial" means any loose soil, earth or other substance containing or supposed to contain gold or precious stones, not being a seam, lode, quartz vein, cement or banket.

"Banket" means a sedimentary deposit interbedded among the strata of the country and containing or supposed to contain gold.

"Coal" includes all descriptions of coal, lignite, and carbonaceous shale.

"Commissioner of Mines" shall include a person appointed to act for the Commissioner of Mines.

"Common minerals" includes sand, clay, marble, stone, lime, diatomite, murrum, gypsum, mineral waters, salt, soda and such minerals as are declared from time to time to be common minerals by the Commissioner of Mines by notice under this Ordinance.

"Contiguous claims" means claims adjoining or touching each other at a common point on their boundaries or having the land between any two points on their boundaries wholly occupied by roads, railways, rivers, dedicated ground, water, or land set aside for public purposes.

"Gold" means as well as gold any substance containing gold or having gold mixed therewith, or set apart for the purpose of extracting gold therefrom.

“ Inspector ” means an Inspector of Mines appointed for the purposes of this Ordinance.

“ Land-owner ” includes also a grantee, a lessee, and a person occupying land under a licence from the Crown.

“ Mine ” as a noun, includes all lands and works on, in or by which mining is carried on.

“ Minerals ” and “ all minerals ” includes gold and other metals and precious stones, but does not include coal, oil, or common minerals.

“ Mining ” or “ to mine ” includes all modes of prospecting and mining for obtaining, treating and making merchantable minerals, common minerals, and coal.

“ Mining lease ” means a lease issued under this Ordinance for minerals other than common minerals or coal.

“ Native Reserve ” includes any land which is considered by the Government to be required by and necessary to be reserved for natives whether gazetted or not.

“ Oil ” includes all descriptions of mineral oil, natural gas, bitumen, asphalt and other bituminous substances with the exception of coal.

“ Prescribed ” means prescribed by this Ordinance, or by Regulations issued under this Ordinance.

“ Private land ” shall include lands privately owned and land the subject of a grant, lease or licence from the Crown.

“ Prospecting ” includes all modes of prospecting for minerals, common minerals, and coal.

“ Salt licks ” means those deposits of salt or other mineral or common mineral which have been or are being used as salt licks for cattle whether privately owned or not.

Repeal.

3. The several enactments mentioned in Schedule I hereto, are hereby repealed, but such repeal shall not affect any right, interest, or liability already created, existing or incurred, nor anything lawfully done or suffered under any enactment hereby repealed, and any proceedings in respect of such right, interest or liability may be carried on as if such repeal had not taken place.

Application and prohibited areas.

4. The provisions of this Ordinance shall extend to all lands situate in the Colony. Provided, however, nothing herein contained shall be deemed to authorise any person to prospect or mine on or under :—

(a) Lands dedicated or set apart for any public purpose.

(b) Lands held under grants or leases giving the holder rights of working the gold, precious stones, minerals, common minerals and coal which are recognised by the Governor.

(c) Land situate within any township or municipal area except with the consent of the owner of the land, and of the Governor or municipal authority.

(d) Land over which exclusive prospecting rights have been or may be granted by the Governor or by or on behalf of His Majesty and during such time as such rights shall be subsisting except by, or on behalf of, the person to whom such rights shall have been granted.

(e) Land reserved for the purposes of any railway or situate within 100 yards of any railway, except with the consent of the Railway Administration.

(f) Land, the property of the Crown or of the Government, being the site of or within 300 yards of any Government building, or the site of or within 500 yards of any Government artificial dam or reservoir, except with the permission of the Governor in writing first obtained.

(g) Land lawfully and *bona fide* used as a yard, garden, cultivated field or as the site of any building or artificial dam or reservoir, or land within 300 yards of any building or within 500 yards of any artificial dam or reservoir and the property of or leased by the owner of such building, artificial dam or reservoir, except with the consent of the owner and occupier of the land; provided however, such exemption shall cease upon payment of compensation to the land-owner for the loss resulting from the cesser of such exemption, such compensation, if not otherwise agreed upon, to be determined by arbitration. The person desiring the cesser of such exemption and the land owner shall be deemed parties to such arbitration.

(h) Lands declared by the Governor by notice in the Gazette to be exempt from the operation of this Ordinance.

(i) A street, road or highway without the consent in writing of the Governor or of the Municipal Authority or other public body having the control thereof.

(j) Land within a Native Reserve except with the consent in writing of the Commissioner of the Province within which the Reserve is situate and on such conditions as may be prescribed.

(k) Salt licks, except as prescribed.

(l) Closed districts, except with a licence from the proper authority.

Unauthorised
mining

5. Any person who prospects or mines without being authorised to do so by virtue of this Ordinance or of some enactment theretofore in force or without the licence or authority of the Governor, shall be guilty of an offence, and shall, on conviction, be liable to pay for each offence a penalty not exceeding twenty shillings for every day on which he shall so prospect or mine.

PART II.

Departmental and Official.

Commissioner
of Mines.

6. There shall be a Commissioner of Mines to be appointed from time to time by the Governor and such Commissioner of Mines or the officer for the time being acting for him shall have charge of the administration of this Ordinance and of the Department of Mines.

Appointment of
wardens, etc.

7. The Governor may appoint such wardens, inspectors, registrars, and other officers as may be necessary for the purposes of this Ordinance.

Jurisdiction of
commissioner in
suit.

8. (1) The Commissioner of Mines may hear and determine in a summary way all suits concerning any right, claimed in, under, or in relation to a prospecting claim or prospecting licence, or any advantage thereof or liability thereunder, or any contract in respect thereof.

(2) The jurisdiction of the Commissioner of Mines shall extend not only to cases where the litigants are the parties originally interested in the cause of suit, but to cases where the title of litigants is derived from or through any of such parties.

Power of
hearing.

9. The Commissioner of Mines may decide any suit and any matter arising therein, in such a manner as may be just, and may make and give all orders and directions necessary for enforcing his decision, and may award reasonable costs.

Mode of
proceeding
before
commissioner.

10. The mode of proceeding in a suit before the Commissioner of Mines shall be as follows :—

(1) The person suing shall lodge a plaint note in duplicate at the office of the Commissioner of Mines.

(2) The plaint note shall be substantially in Form A. in Schedule II, and shall specify shortly the subject matter of the complaint and the relief claimed.

(3) Upon receipt of the plaint note the Commissioner of Mines shall give notice substantially in Form B. in Schedule II, by post or otherwise, to the party sued of the nature of the suit, and the time and place at which the same will be heard and determined.

(4) At the time and place appointed the parties shall attend and state their cases before the Commissioner of Mines, and may call evidence on oath (which oath the Commissioner of Mines is hereby authorised to administer) in support thereof, and the Commissioner of Mines, having heard such statement and evidence shall give his decision.

(5) The Commissioner of Mines may adjourn the hearing of a suit to any other time or place, and may, either at the original hearing or at any adjournment, proceed in the absence of either party provided that such parties have been duly served with notice of hearing.

(6) Either party may be represented by an Advocate of the Supreme Court.

(7) Save as in the Ordinance otherwise expressly provided no person who is not the holder of a prospecting licence in his own name shall have any right to institute proceedings before the Commissioner of Mines.

(8) Each party may procure the attendance of witnesses substantially in Form C. in Schedule II. Every witness so summoned shall be entitled to require payment of his expenses, as if summoned as witnesses in civil proceedings before a subordinate court of the first class. A witness who has been duly summoned and who fails to appear or to produce any book, paper, document, plan or thing in his custody, possession or power, unless privileged by law, or unless a head of a Government Department states that it is not desirable in the public interest that such should be disclosed, shall be liable to a fine not exceeding three hundred shillings, and in default of payment, to imprisonment not exceeding one month.

(9) Save as otherwise prescribed in Schedule IV hereto, the fees to be charged for matters in the Court of the Commissioner of Mines shall be in accordance with the scale of fees for the time being prescribed for a subordinate court of the first class.

Commissioner's order need not be formally drawn up.

11. The order or decision of the Commissioner of Mines need not be formally drawn up, but shall be entered in a book which he is hereby required to keep for the purpose and which shall be conclusive evidence of the order or decision, and any person may obtain a copy of the record on payment to the Commissioner of Mines of the prescribed fee.

Commissioner may order minerals, etc., to be seized.

12. The Commissioner of Mines, upon the hearing of a suit, may cause any minerals, common minerals, or coal to be summarily seized and delivered to the person entitled thereto.

Inspection by Commissioner.

13. The Commissioner of Mines or any Inspector or any person authorised by the Commissioner of Mines, may at all reasonable times, enter and inspect any mine held under a claim or mining lease, and examine and take extracts from all books, accounts, vouchers, and documents relating thereto, or to any minerals, common minerals, or coal, obtained therefrom.

Law regulating proceedings before and enforcement of orders of the Commissioner.

14. The law for the time being regulating proceedings before and the powers of a magistrate of a subordinate court of the first or second class in the exercise of its civil jurisdiction shall, so far as practicable, and subject to any modifications, alterations, or additions which may be prescribed, apply to proceedings before the Commissioner of Mines and to the enforcement of his decisions in like manner as if such decisions were the decisions of a magistrate of a subordinate court of the first or second class.

Appeal.

15. There shall be an appeal from any determination in any suit of the Commissioner of Mines or from any order of dismissal which appeal shall be to the Supreme Court and shall be conducted in manner provided for an appeal from a magistrate of a subordinate court of the first or second class.

16. (1) Nothing in the preceding sections contained shall be deemed to prevent the holder of a prospecting licence from bringing in any of the ordinary courts of the Colony any suit which might be heard and determined by the Commissioner of Mines. Provided, however, that whereas it is the intention of this Ordinance that all suits brought by the holder of a prospecting licence concerning any right, claimed in, under, or in relating to a prospecting licence, area or claim, or any advantage thereof or liability thereunder, or any contract in respect thereof shall, so far as may be proper and convenient, be heard and determined by the Commissioner of Mines, the Supreme Court or any court subordinate thereto before which any such suit as aforesaid may be brought, may, on the application of the defendant, or if there be more defendants than one, on the application of any one or more of the defendants, and if satisfied that the suit could be properly and conveniently heard and determined by the Commissioner of Mines, direct that the suit be brought before the Commissioner of Mines.

Jurisdiction of ordinary courts not excluded.

(2) The Governor may, by notice in the Gazette confer upon any warden or inspector the powers and jurisdiction vested in the Commissioner of Mines by sections eight to fifteen (both inclusive) of this Ordinance, and may in like manner define the area within which such warden shall exercise such powers and jurisdiction.

Governor may confer upon a warden jurisdiction in suits.

PART III.

Acquisition of Rights of Prospecting and Mining.

I.—GENERAL.

17. Nothing contained in this Ordinance shall confer any right of searching for, prospecting for, obtaining, treating, refining, buying or selling oil.

18. Prospecting and mining shall be permitted pursuant to this Ordinance by virtue of :—

- (a) A prospecting licence, or
- (b) A sole exploration licence, or
- (c) A protection area, or
- (d) A registered claim, or
- (e) A mining lease, or coal lease

Rights.

II.—PROSPECTING LICENCES.

Prospecting
licence.

19. A prospecting licence, to be in force for one year from the date thereof, may be issued by :—

- (a) The Commissioner of Mines, or
- (b) A warden.

Provided, however, that any applicant who is dissatisfied with the decision of such officer may appeal to the Governor in Council.

Form of licence.

20. (1) A prospecting licence shall be substantially in Form D. in Schedule II hereto, and shall be issued on payment of a fee of twenty shillings.

(2) A certified copy of a prospecting licence may be issued to the holder on payment of a fee of twenty shillings.

(3) Application for a prospecting licence shall be made substantially in Form E. in Schedule II hereto.

Not
transferable.

21. A prospecting licence shall be not transferable.

Companies.

22. When a prospecting licence is issued to an individual representing a company, syndicate, partnership or other body of persons, it shall be so stated on the licence, and the licence shall be deemed to be held by the body represented.

Privileges.

23. A prospecting licence shall authorise the holder thereof :—

- (a) To prospect for any minerals, common minerals, or coal, the property of the Crown, in the area shown on the licence.
- (b) To peg claims and to acquire protection areas.
- (c) To take action in the Court of the Commissioner of Mines.

Black list

24. The Governor may forbid the issue of a prospecting licence to any person, or may cancel a prospecting licence held by any person, on conviction of an offence under this Ordinance.

III.—SOLE EXPLORATION LICENCES.

25. The Governor may, at his sole discretion, grant sole exploration licences to search for minerals, common minerals, or coal, over any area and subject to such fee, terms and conditions as he may think fit, provided that the purpose for which such licence is granted is of great public importance, and that the mineral, common mineral, or coal for which the licence is granted would be, if found, of great public or imperial utility. Sole licences

26. Every application for a sole exploration licence must be accompanied by proof of means to the extent of one hundred shillings for each square mile of the area under application. Proof of means.

27. A sole exploration licence shall confer upon the holder the sole right of prospecting within the area concerned for the mineral, common mineral, or coal mentioned in the licence, and the sole right during the currency of the licence to peg claims as prescribed. Privileges

28. The Governor may, by notice in the Gazette, extend the term of any sole exploration licence. Extension of term.

29. Notice of every sole exploration licence granted shall be published in the Gazette. Notice in Gazette.

IV.—PROTECTION AREAS.

30. (1) The holder of a prospecting licence may erect a prospecting notice which shall be substantially in Form F. in Schedule II hereto. The erection of such a notice shall, subject to registration as hereinafter mentioned, confer upon the licensee the exclusive right of prospecting and of pegging claims within an area of one thousand feet from the notice in all directions for a period of thirty-one days from the date of erection. The area so affected shall be known as a protection area. Protection areas.

No. III.*The Mining Ordinance***1925.**Posting of
prospecting
notice.

(2) A prospecting notice shall be posted in a conspicuous place :—

(a) On a substantial post not less than four feet above the ground, or

(b) On a tree around which a circular trench shall be dug of a section not less than six inches wide and six inches deep, or

(c) On a stone monument, and

(d) In any case not less than four feet above the ground.

Registration.

31. (1) Within fourteen days from the date of posting a prospecting notice a licensee shall cause the same to be registered.

(2) Application for registration shall be made to the district commissioner in which the protection area is situated, substantially in Form G. in Schedule II hereto. A receipt for the fee paid for registration shall be sufficient evidence of registration.

(3) Protection areas shall be registered in the Mining Register.

Limitation.

32. No holder of a protection area shall establish another protection area until the protection area already held by him shall have been abandoned as such.

V.—CLAIMS.

Mode of taking
possession
of claim.**33.** (1) A prospector pegging out a claim shall erect at the point of discovery a post not less than three inches through and four feet above the ground or a stone monument three feet high on which a notice substantially as in Form H., Schedule II, shall be posted.

(2) The date of the erection of the post or monument at the point of discovery and the posting of the notice aforesaid shall be deemed to be the date of the pegging out of the claim. Provided that the prospector shall, before registering the claim, place at each corner of the claim a substantial post four feet above the ground, or a stone monument three feet above the ground, on which shall be marked or advertised the initial of

the prospector and the date of pegging out, and shall further cut two trenches not less than six feet long and six inches deep in the direction of the boundary lines of which the post is intended to form the corner. Such corner posts or monuments shall be maintained in position while the claim is held.

(3) The pegging of any claim shall be invalid in the following circumstances:— Validity.

(a) If the person pegging does not hold a prospecting licence at the time of pegging, or

(b) If the person in whose name the claim is pegged does not hold a prospecting licence at the time of pegging.

(c) If the claim is pegged between the hours of 6 p.m. and 6 a.m.

(d) If the claim pegged is not a rectangular parallelogram, as far as the contour of the land allows, the length of the longer side being not more than twice the length of the shorter side.

(e) If the claim is not pegged in the prescribed manner.

34. Claims shall not exceed the following dimensions:— Size of claims

(a) A gold claim, reef or banket, three hundred feet in length along the supposed line of the reef or banket, and six hundred feet in width across the line.

(b) A gold or precious stones claim, alluvial or placer, one hundred feet by one hundred feet.

(c) A precious stones claim, other than alluvial, twenty acres.

(d) A mineral claim, other than gold or precious stones, forty acres.

(e) A coal claim, six hundred and forty acres.

(f) A common mineral claim, forty acres.

35. (1) The holder of a claim of whatever nature, within thirty days after the claim is first pegged out, or within such additional time (if any) as the Commissioner of Mines may, on the ground of sickness, absence or other like disability of any such holder, or for other reasonable cause, allow, shall register the claim in the office of the district commissioner of the district wherein the claim is situated. Registration of claim.

A monthly return of all claims registered shall be furnished by the district commissioner to the Senior Commissioner concerned, who shall furnish a monthly return of all claims registered in his province to the Commissioner of Mines.

(2) Any person desiring to register a claim shall sign an application for registration substantially in Form I., in Schedule II hereto. Such application, together with the prospecting licence under which the claim was pegged out, shall be forwarded to or produced at the office of the officer authorised to register such claim. The officer shall thereupon, on payment of the prescribed fee, enter in a book to be called "the Mining Register" full particulars of each application clearly specifying the class of claim and shall fill in and sign a certificate of registration substantially in Form J., in Schedule II hereto, and shall hand or send such certificate and the prospecting licence to the person producing or forwarding such application.

(3) A mining register shall be substantially in Form O. of Schedule II hereto.

Neglect to register.

36. If any person neglects to register his claim in the manner and time aforesaid he shall forfeit all rights in respect thereof.

False representations

37. Any person who shall, by false representations or fraudulent concealment of facts, obtain registration of any claim under this Ordinance, shall forfeit his rights in the claim in respect of which such registration has been obtained, and be liable to a penalty not exceeding one thousand five hundred shillings.

Rights.

38. The ownership of a claim shall confer the following rights in respect thereof :—

(a) As to a gold, precious stones or other mineral claim, the preferential right to a mining lease.

(b) As to a coal claim, the preferential right to a coal lease.

(c) As to a common mineral claim, the preferential right to an export permit.

39. The holder of a claim of whatever nature shall pay an annual rent at the rate of twenty shillings to the Commissioner of Mines for each claim. Such rent shall be payable in advance on the first day of January in each year. Rent.

40. No area which is pegged out under one class of claim shall be pegged out, except by the owner of such claim or with his sanction, under the same or any other class of claim unless forfeiture of the first mentioned claim has been declared or such claim has been abandoned. Over-pegging.

41. No claim shall be pegged out on any area held under a mining lease except by the lessee or with his permission. Restrictions on pegging.

42. No claim shall be pegged out upon any area which is being lawfully mined, so as wholly or partially to come within fifty yards of a shaft or sinking in actual use for the purpose of such mining without the consent in writing of the person mining. No claim to be pegged out within fifty yards of a shaft.

43. Whenever the same area shall be included in different classes of claims, the different classes shall have priority in the following order :— Priority of claims.

- (a) Alluvial or placer gold or precious stones claim.
- (b) A precious stones claim, other than alluvial, a gold claim, reef or banket.
- (c) Mineral and coal claims,

but the owners of all claims shall comply with prescribed requisites for securing to each the benefit of his claim, and for preventing unnecessary interference with any right previously existing.

44. (1) A claim holder shall, within a period of four months from the date of registration of his claim, execute at least ten feet of development work upon his claim of the nature set forth in Schedule III hereto. Development work.

(2) For each succeeding year a claim holder shall execute at least sixteen feet of development work of the nature set forth in Schedule III hereto.

No. III.

The Mining Ordinance

1925.

Suspension of
work.

(3) At any time the Commissioner of Mines may permit the execution of a smaller amount of development work upon any claim, provided that the claim holder has produced good and sufficient reason why he has been unable, or expects to be unable, to execute the prescribed amount of development work; and provided also that in the event of the prescribed amount of development work not having been executed during any year, the Commissioner of Mines may at his discretion stipulate a corresponding amount of the development work additional to that prescribed for the following year.

Return of
work.

(4) Within fourteen days after the expiration of the period of one year from the date of registration of a claim, a claim holder shall forward to the Commissioner of Mines a statement showing what development work has been executed on his claim.

(5) For each succeeding year from the close of the period mentioned in section forty-four (1) hereof, a claim holder shall forward to the Commissioner of Mines a statement showing what development work has been executed on his claim.

Excess work.

45. Excess work on one claim shall be allowed to count towards the working conditions on contiguous claims under the same ownership.

Assay.

46. No mineral, common mineral or coal may be exported from a claim except for assay purposes.

Number of
claims.

47. Any number of claims may be held by one person.

VI.—COMMON MINERALS.

Common
minerals.

48. The holder of a common minerals claim shall not export any common minerals from his claim either in the crude state, refined, or manufactured state, except he first obtain an Export Permit in Form P. of Schedule II hereto. Applications for an Export Permit shall be in Form Q. of Schedule II hereto.

VII.—LEASES.

Size.

49. The Commissioner of Mines may, with the approval of the Governor, grant to the holder of a claim a mining lease over the following maximum areas :—

(a) Gold or precious stones, twenty acres.

(b) Minerals other than gold or precious stones, forty acres.

No. III.

The Mining Ordinance

1925.

50. The Commissioner of Mines may with the approval of the Governor grant to the holder of a coal claim a coal lease over a maximum of six hundred and forty acres. Size of coal lease.

51. The Governor may prescribe the terms and conditions under which a coal lease may be granted. Coal.

52. A mining lease shall be for a term not exceeding ten years and shall contain a proviso for renewal for further periods of ten years each upon proof by the lessee of compliance with the terms and conditions of the lease; provided that any renewal so granted will be subject entirely to the law existing at the date of renewal. Term.

53. The annual rent to be reserved by and payable in respect of any lease shall be at the rate of two shillings per acre, and shall be payable in advance on the first of January in each year. Rent.

54. The holder of a lease shall during each year of the lease, and in the case of a lease for gold or precious stones, for every five acres or part thereof demised by the lease, execute at least sixteen feet of development work of the nature set forth in Schedule III hereto and shall forward to the Commissioner of Mines at the expiration of each year a statement showing what development work has been executed on the areas leased. Working conditions.

55. (1) A royalty of two and a half per cent. on the gold won shall be due and payable quarterly to the Commissioner of Mines when the profits earned by the lessee exceed the sum of one hundred pounds per month. In ascertaining the profits earned the following shall not be taken into account or reckoned :— Royalty on gold.

(a) Remuneration for the service of the lessee.

(b) Option money, rent, or tribute paid by any holder working under option, sublease or tribute agreement in an amount greater than ten per cent. of the value of the gold won.

(2) Proper books and accounts shall be kept by the lessee showing the expenses incurred and the profits earned and the Commissioner of Mines or other official authorised by him shall at all times have access to such books and accounts.

Application for
lease.

56. Application for mining leases should be substantially in Form K. of Schedule II hereto, and shall be accompanied by the proportion of rent due to the thirty-first of December next following the date of application, and by an affidavit showing the work done on the area; provided that no lease shall be granted unless a minimum of development work shall be in existence on the property at the rate of thirty feet for each claim over which a lease is desired.

Survey.

57. So soon as an applicant for a lease is informed that a lease will be granted to him he shall, if so desired by the Commissioner of Mines, cause the land to be surveyed at his own cost under the direction of the Director of Surveys and shall supply the Commissioner of Mines also at his own cost with suitable plans for attachment to the lease.

Rights.

58. A mining lease for gold or precious stones shall confer the right to mine, win and dispose of all minerals, subject to the payment of the prescribed royalties, provided that the mining lease for gold or precious stones is not granted over an area already held under a mining lease for minerals other than gold or precious stones.

PART IV.

Private Land, Native Reserves and Surface Rights.

Native
Reserves.

59. For the purpose of this Ordinance :—

(a) Every Native Reserve shall be deemed to be private land, and the Chief Native Commissioner or such officer as he may nominate for the purpose shall be deemed to be the owner; provided that any monies received by that authority by way of compensation, fees or penalties, shall be devoted to the use of the tribe concerned, and

(b) Every proclaimed forest area shall be deemed to be private land and the Conservator of Forests shall be deemed to be the owner; provided that any monies received by him by way of compensation, fees or penalties shall be paid into the general revenues of the Colony.

60. Before the holder of a prospecting licence may enter private land to prospect, he shall, if called upon by the owner, deposit with the Commissioner of Mines a sum of two hundred shillings as security against the payment of grazing fees or against repair of damage to the land. Deposit for prospecting

61. So soon as the holder of a prospecting licence shall peg a claim or claims on private land, he shall, if called upon by the owner, deposit with the Commissioner of Mines the sum of two shillings for each acre pegged subject to a minimum deposit of two hundred shillings and a maximum deposit of one thousand shillings. Such deposit shall be held against the payment of grazing fees or compensation for loss of land or against repair of damage to the land on abandonment. Deposit for Claims.

62. In lieu of the deposits prescribed in sections sixty and sixty-one hereof, the holder of a prospecting licence may, with the approval of the land-owner, enter into a bond with two sureties to be approved by the Commissioner of Mines, in the sum of one thousand shillings for himself, and five hundred shillings for each of two sureties. Bond

63. (1) No mining lease shall be granted over private land until the Commissioner of Mines is satisfied that compensation has been paid by the applicant to the land-owner, such compensation, if not otherwise agreed upon, to be determined by arbitration. Lease

(2) No claims for common minerals may be pegged on private land except by the owner or with his consent in writing. The registration of a claim for common minerals on private land shall be *prima facie* evidence that the owner has given his consent and shall be sufficient authority for the Commissioner of Mines to issue an export permit as prescribed. Common minerals

64. A prospecting licence, claim, or lease under this Ordinance shall confer upon the holder surface rights only so far as may be absolutely required for or in connection with *bona fide* mining purposes. Whenever a disagreement shall arise between the owner, in the case of private land, and the holder of the mining privileges, in connection with surface rights, the same shall be determined by arbitration. Surface rights.

Owner of private land entitled to compensation for disturbance, etc.

65. An owner of private land who shall be disturbed in his possession, or damaged or injured in any way by reason or in consequence of any right or power conferred by any lease of such land for mining purposes shall be entitled to claim from the lessee compensation in respect of such disturbance, damage or injury, the amount of which compensation shall, in all cases of disagreement, be determined by arbitration.

Additional rights of a prospector.

66. A prospecting licence, claim, or a lease for mining purposes shall confer upon the holder the following rights when engaged actively in prospecting or mining, namely :—

(1) On unoccupied Crown land to take fuel and water for his domestic use, provided, however, that he shall not have the right to cut any standing timber in any proclaimed forest area, or any reserved tree unless he shall have obtained permission in writing from the Conservator of Forests, or other prescribed officer.

(2) On any land on which he is entitled to prospect to take for his domestic use water from any lake, river or stream, and, with the consent of the owner or occupier of private land or on tendering to the owner or occupier a reasonable sum in payment therefor, any fuel other than standing live timber.

Right of residence and grazing on claim.

67. The holder of a claim shall have the right to reside on his claim and of grazing on his claim for six horses or mules, or for sixteen oxen or donkeys, free of charge, on unoccupied Crown land, and if on any private lands on payment to the owner or occupier of the land where such licence is exercised of fifty cents per diem. Provided, however, that on private land the holder of the claim shall only exercise the rights conferred on him by this section on such portion of the claim as shall be indicated by the owner or occupier.

If any question shall arise between the owner or occupier of the land, and the holder of the claim, as to the suitability of land indicated by the owner or occupier it shall be determined by the Commissioner of Mines or other prescribed officer.

68. Mining rights granted in respect of private land shall not confer upon the lessee the right to cut timber on the lands the subject of the lease, except the removal of any tree which shall be necessary for or in connection with mining purposes. The holder shall, if required by the owner of the tree cut, pay to him the value of any tree, and shall not without the consent of such owner be entitled to use the timber cut, unless and until he has paid or tendered such value.

Mining lessees' rights in respect of standing timber.

A lease of land, other than private land or land situate within a proclaimed forest area, for mining, shall confer upon the holder the right to cut and utilise for or in connection with mining purposes any tree growing on the land the subject of the lease, provided, however, that the prescribed royalty shall be paid to the Forest Department in respect of any tree which may be protected by virtue of rules issued under section thirteen of the Forest Ordinance, 1911, or any law substituted therefor.

Whenever a lease for mining purposes shall be granted in respect of land situate within a proclaimed forest area, the holder may cut down any tree growing on the land the subject of the lease, provided the removal of the tree is necessary for or in connection with mining purposes, but the holder shall pay to the Forest Department the prescribed royalty on any such tree. Unless the sole right to cut such tree has been granted under the Forest Ordinance, 1911, or any law substituted therefor, to some other person the holder may, on paying such royalty, sell or use the timber cut for any purpose he may think fit. If the sole right to cut such tree has been granted to some other person as aforesaid the holder shall pay to such person the value of the timber cut and on paying or tendering such value shall be at liberty to sell or use the timber for any purpose he may think fit.

69. No prospector, claim holder or lessee shall divert water from any stream or lake or take water from any dam, race or reservoir without the sanction of the Director of Public Works, nor permit sludge or other noxious matter to flow to any stream, lake, dam, race, or reservoir.

No water to be diverted without sanction. Pollution of water prohibited.

PART V.

Abandonment of Mining Rights.

Claims, when
deemed
abandoned.

70. A claim shall be deemed to be abandoned in the following circumstances :—

(a) If the claim has not been registered in the manner prescribed ; or

(b) If the Commissioner of Mines has declared forfeiture ; or

(c) If the holder has not produced to the Commissioner of Mines, within such period as he may allow, satisfactory evidence of compliance with the working conditions prescribed ; or

(d) If the rent payable is not paid to the Commissioner of Mines within thirty-one days from the date when it became due, or within such additional time as the Commissioner of Mines may allow ; or

(e) If the holder fails to render any prescribed return when due, or within such additional time as the Commissioner of Mines may allow ; or

(f) If the holder shall notify the Commissioner of Mines in writing of his intention to abandon the claim.

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

Restoration of
surface.

71. Any person who shall abandon mining or prospecting operations on any land shall forthwith fill in or secure to the satisfaction of the Commissioner of Mines or other prescribed officer all shafts, pits, holes, and excavations in such a manner as to prevent persons or stock inadvertently entering the same. Any person who shall have failed to comply with the provisions of this section shall be liable to pay to the Commissioner of Mines, if on unoccupied Crown land, or to the land-owner if on private land, such sums as the Commissioner of Mines or other prescribed officer shall certify will be the cost of filling up or securing all shafts, pits, holes and excavations on the abandoned land.

72. The owner of any plant, machinery, engines, or tools of any forfeited or abandoned area shall have three months in which to remove such plant, machinery, engines, or tools, from the date of forfeiture or abandonment, but shall not, under a penalty of not more than three thousand shillings or less than one hundred and fifty shillings for each such offence, be permitted to remove or to interfere with any timber in any mines.

Owner may
remove plant.

PART VI.

Transfers.

73. Protection areas shall not be transferable.

Transfers
prohibited.

74. (1) The holder of a registered claim may transfer the same or any interest therein by forwarding a form duly completed in Form L. of Schedule II hereto to the office where the claim was registered. On receipt of this form, if in order and properly stamped, and on receipt of the necessary fee the registering officer shall enter the transfer in the Mining Register and shall issue to the transferee a certificate in Form M. of Schedule II hereto.

Claims.

(2) The owner of any claim or share or interest therein may give a lien upon the same as security for the due payment of any debt, and upon the execution by the lienor of a lien ticket duly attested substantially in Form N. of Schedule II hereto, and upon the production of such lien ticket to the officer in charge of the office at which the claim is registered, and on payment of a fee of four shillings, such officer shall register in the Mining Register a lien upon the claim share or interest, and shall then issue to the lienee a duplicate of the lien ticket, and every such lien registered as aforesaid shall be a specific charge upon such mining claim, share or interest until the debt has been paid in full, and if more than one lien has been effected on any claim share or interest, such liens shall take precedence according to the dates of their respective registrations. Provided that on production to the officer in charge of the office of the registration of such lien by the lienor of a receipt, duly signed by the lienee in the presence of a magistrate or justice of the peace, for the debt or liability for which such lien was held, such officer shall forthwith cancel such lien. In the event

Lien on claims
and shares
therein.

of the lienor failing to redeem such claim, share or interest at the time appointed the lienee may cause the same to be sold by public auction, having first advertised his intention of doing so in a paper circulating in the locality, and posted a copy of such advertisement on a conspicuous part of the claim, not less than seven days before the day of sale, and the lienee shall hold the proceeds of the sale upon trust to pay all costs consequent on such default, then to pay the debts secured by the lien, and to pay the balance (if any) to the lienor. The lienor shall be entitled to redeem at any time before the sale upon payment of the debt and expenses incurred; and in case of any sale under the powers herein containing the officer in charge of the registration office, upon production of the lien ticket accompanied by a statutory declaration of default having been made in payment of the money secured thereby, and in the case of a purchase of the claim, the prospecting licence of the purchaser, shall register such purchaser as the owner or holder of the claim, share or interest in lieu of the lienor. A lienee shall not, by virtue of the lien, be held to be a copartner in any claim, share or interest on which he holds a lien.

Private land.

75 In the event of a claim being transferred in respect of which a deposit shall have been made under sections sixty and sixty-one hereof, the deposit shall be deemed to have been made by the transferee and shall be held on his account. If a bond has been executed in lieu of a deposit, transfer of a claim shall render the bond null and void, and the transferee shall be required to execute a bond as prescribed, or to make a deposit in lieu thereof, if required by the land-owner.

Export permit.

76. An export permit attached to a claim shall be deemed to be transferred to the transferee of the claim.

PART VII.

Inspection of Mines.

Powers of
inspector.

77. An inspector at all reasonable times by day or night, but so as not unreasonably to impede or obstruct the working of the mine may:—

(1) Enter, inspect, and examine any mine.

(2) Examine into and make inquiry respecting the condition and ventilation thereof, and all matters relating to the safety and health of the persons employed.

(3) Inspect and examine the state of the machinery used upon or in the mine, and the state of all plant, works, and ways.

(4) The inspector shall, in case he finds any mine or any part thereof or any matter, thing, or practice in or connected therewith, to be defective, give notice in writing to the owner, agent, or manager, of the mine stating particulars in which he considers such mine or any part thereof, or any matter, thing or practice, to be defective, and requiring the same to be remedied.

(5) Inspect the storage of explosives upon any mine and direct in what manner the same shall be stored.

(6) Exercise all powers necessary for carrying this part of the Ordinance into effect.

78. If the owner, agent, or manager of the mine objects to remedy the matter complained of in any notice under the last preceding section, he may within twenty-one days after the receipt thereof, send his objection in writing stating the grounds thereof, to the Commissioner of Mines, and thereupon the matter shall be submitted to and determined by the Commissioner of Mines, or by such officer as he may appoint in that behalf.

Proceedings on objection to comply with notice.

79. If the owner, agent, or manager of the mine fail to comply with the requisition of the notice, where no objection is sent within the time aforesaid, or with the decision of the Commissioner of Mines or other officer as aforesaid within twenty-one days after the expiration of the time for objection or decision (as the case may be), he shall be liable on conviction by a court to a penalty not exceeding ten thousand shillings.

Proceedings on failure to comply with notice.

80. The court, if satisfied that the owner, agent or manager has taken active measures for complying with the notice or decision of the Commissioner of Mines or other officer, but has not been able with reasonable diligence to complete the work, may adjourn any proceedings for punishing such offence, and if the works are completed within a reasonable time no penalty shall be inflicted.

Adjournment.

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

Agreement not to preclude or exempt.

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Special inquiry
may be
directed.

82. The Commissioner of Mines may direct an inspector to make a special inquiry and report with respect to an accident in or about a mine causing loss of life or personal injury, and shall cause such report to be made public at such time and in such manner as he thinks expedient.

Notice of
accident to
be given.

83. (1) Where in or about a mine, whether above or below ground, loss of life or serious personal injury occurs by reason of any accident whatever, the owner, agent or manager of the mine shall, within twenty-four hours next after the accident, send notice in writing of the accident, and of the loss of life or personal injury occasioned thereby, to the Commissioner of Mines or other prescribed officer, and shall specify in such notice the nature of the accident, and the number of persons killed and injured respectively.

Notice when
death results.

(2) Where any personal injury of which notice is required to be sent under this section results in the death of the person injured, notice in writing of the death shall be sent to the Commissioner of Mines within twenty-four hours after such death comes to the knowledge of the owner, agent or manager.

Penalty.

(3) Every owner, agent or manager who neglects to comply with this section shall be liable to a penalty not exceeding one thousand five hundred shillings.

Penalty for
refusing means
of inspection.

84. Every owner, agent or manager of a mine who refuses or neglects to furnish an inspector with the means necessary for making an entry, inspection, examination or inquiry under this Ordinance, in relation to such mine, shall be liable to a penalty not exceeding one thousand five hundred shillings or to be imprisoned with or without hard labour for any period not exceeding six months.

PART VIII.

Government Protection Areas.

Government
servant.

85. No person in the service of Government may peg or register a claim in his own interest without the previous sanction of the Governor.

By whom
pegged.

86. Any person in the service of Government may peg a Government Protection Area for any minerals, common minerals, or coal, not exceeding six hundred and forty acres.

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87. Notice of every Government Protection Area shall be published in the Gazette as soon as possible after the date of pegging. Gazette.

88. A Government Protection Area shall be for a term of one year from the date of pegging, during which time the Government shall decide whether to work the area or whether to dispose of the rights of working the area. Term.

89. If during the currency of a Government Protection Area the Government decides to work the area, the term of that Government Protection Area shall be deemed to be indefinite and the Government shall have the right of working the area until notice is published in the Gazette of abandonment. Work by Government.

90. It shall be unlawful for any person to prospect or mine in a Government Protection Area without the consent of the Commissioner of Mines. Prospecting by public.

91. In the event of revenue accruing to Government from a Government Protection Area the Governor may pay from such revenue as a reward to the servant who pegged the area, or to any person who gave information which led to the pegging of the area, such sum as he may think fit; provided that no reward shall be paid to any Government servant who pegs a Government Protection Area in the ordinary course of his duties. Reward

PART IX.*Miscellaneous.*

92. Every holder of a claim or lease, other than alluvial claim, shall half-yearly, in the months of January and July, furnish to the Commissioner of Mines or other prescribed officer, a full and true return, showing the quantity of stone or ore treated, and the quantity of gold, precious stones, minerals, common minerals and coal taken from such claim or lease during the preceding half year, and full details of any information and samples obtained which the Commissioner of Mines shall require, and if default shall be made in compliance with this section, shall be liable on conviction, to forfeit and pay a sum not exceeding three hundred shillings for every such default. Claim holders and lease holders to furnish half-yearly returns.

Rent, how
recoverable.

93. The rent reserved by any mining lease or payable in respect of any claim may be levied or recovered by or under the authority of the Commissioner of Mines, in like manner as rent is or shall be leviable or recoverable by law in cases where private persons only are concerned, and, in case such rent is leviable by distress, an order under the hand of the Commissioner of Mines or other prescribed officer shall be sufficient warrant and authority to distrain. This section shall not affect any other remedy for recovery of the rent.

Forfeiture of
lease.

94. In every case where the rent of land held under a mining lease is unpaid for more than three months after the day on which the rent is payable under such lease, the Governor may cancel such lease, and the Governor shall thereupon insert a notice in the Gazette declaring the lease to be forfeited, and in every case where the Governor has reason to believe that there has been a breach of any of the covenants or conditions contained in such lease, except in the case of non-payment of the rent as aforesaid, and except in cases of non-compliance with the working conditions of any lease, the Governor shall give written notice to the lessee specifying the covenants or conditions which he has reason to believe are not being complied with, and notifying him that such lease will be liable to forfeiture at the expiration of one month from the date of such notice, unless in the meantime such covenants and conditions are duly complied with; and if at the expiration of such notice such covenants or conditions are still not being complied with by the lessee, the Governor may cancel such lease, and shall thereupon insert a notice in the Gazette declaring the lease to be forfeited. In case of non-payment of rent or the non-compliance with the working conditions, the Governor may exercise the powers of cancelling without giving the written notice hereinbefore mentioned. Every such notice shall be conclusive evidence that the lease therein mentioned was legally cancelled and forfeited, and the land included therein may be dealt with as if such lease had never been granted.

Extension after
breach

95. Whenever a lease for mining purposes is liable to forfeiture, and in the opinion of the Governor a less penalty than forfeiture would meet the justice of the case, the Governor may extend the period during which the lessee may perform the conditions of his lease, for such time and subject to such terms and conditions as he may think fit; and the terms and conditions so imposed by the Governor shall bind

the lessee and all transferees, mortgagees, assignees, and other persons claiming through or under him, and the lease shall thereafter be construed as if such terms and conditions were inserted therein.

96. No persons under the age of sixteen years shall hold, directly or indirectly, any interest prescribed under section eighteen hereof. Persons under sixteen not to hold mining leases, etc.

97. (1) The Commissioner of Mines or any warden may, if satisfied that a survey is necessary for the prevention of differences as to the boundaries of the land included in any claim or licence or for securing a proper definition of the area included therein, give to the holder of such claim or licence a notice that a survey is required to be made of the land included in such claim, and that a plan thereof must be furnished to the Department of Mines and may demand the cost of the survey and plan to be estimated as hereinafter provided. Such holder shall within the time specified in such notice pay to the Commissioner of Mines, or warden giving such notice, the cost of such survey and plan demanded. Survey may be required.

(2) As soon as conveniently may be after payment of the cost demanded the Director of Surveys shall cause to be made a proper survey of the land included in such claim and shall forward a plan thereof to the Department of Mines, together with a report in writing upon all matters which appear necessary to the surveyor, or upon which the Commissioner of Mines or a warden shall, by written instructions, require him to report. Survey to be made on payment of fee.

(3) In case the owner to whom the notice has been given in pursuance of section ninety-seven (1) fails to pay the amount demanded as the cost of such survey within the specified time, the claim in respect of which such survey is required shall become liable to forfeiture. Non-compliance with notice requiring survey.

(4) The Commissioner of Mines or warden authorised to hear suits under this Ordinance, may, during the hearing of a suit before him if it shall appear necessary, order any party to the suit to cause a survey and a plan to be made of any land forming the subject of a suit, and in the meantime may adjourn the hearing of the suit; and the Commissioner of Mines or the warden may make such order as to payment of the costs of such survey and plan as he may think fit. Commissioner of Mines or warden may order survey whilst suit pending.

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No survey to be for the purposes of the Ordinance or regulations except by or through the Survey Department.

(5) No person shall make a survey required to be made by this Ordinance or any regulations thereunder unless under the instructions of the Director of Surveys, nor shall any plan which has not been passed and signed by the Director of Surveys or an officer acting under his authority, be received or acted upon by the Commissioner of Mines or any warden, nor shall the making of a survey or preparation of a plan be deemed to be a compliance with a notice requiring survey given by an officer duly authorised in that behalf, unless the survey is made under the instructions of the Director of Surveys and the plan is passed as aforesaid.

Cost of survey.

(6) The cost of a surface survey shall be estimated and charged in accordance with the scale of charges for the time being levied by the Survey Department for a survey for the purposes of a lease of Crown land.

Statements to be supported by affidavit.

98. Every statement required by sections forty-four and fifty-four hereof shall be supported by an affidavit sworn before a magistrate or a justice of the peace, or a commissioner for oaths.

Arbitration.

99. Every arbitration in pursuance of this Ordinance shall be under the Arbitration Ordinance, 1913, or any Ordinance substituted therefor, and the parties to the submission shall, for the purposes of such arbitration and of such last mentioned Ordinance, be deemed to have entered into a written agreement to submit the differences in respect of the matter in question to the arbitration of two arbitrators, one to be appointed by each party.

Obstructing officer.

100. Any person who shall wilfully obstruct, hinder or assault, or resist a warden or inspector, or any person duly authorised by a warden or inspector or a person authorised by this Ordinance to exercise any right or power or execute any duty or shall wilfully disobey a warden's order other than an order for the payment of money, or shall be guilty of contempt of the Commissioner of Mines or warden acting in a judicial capacity, shall be liable to a penalty not exceeding one thousand five hundred shillings, or to imprisonment of either description for any period not exceeding six months.

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101. Any person who shall illegally alter, move, or remove any monument, post, boundary or survey mark erected in pursuance of this Ordinance or any regulations thereunder shall, on conviction, be liable to imprisonment of either description for a term not exceeding three years, or to a fine not exceeding three thousand shillings.

Penalty for removing beacons, etc.

102. Any person who infringes a provision of this Ordinance for the infringement whereof no penalty is prescribed shall be liable for every offence to a penalty not exceeding three hundred shillings.

Infringement of Ordinance

103. In every case of the adjudication of a fine or pecuniary penalty or amends under this Ordinance, and of non-payment thereof, the court may commit the offender or person making default in payment to gaol for a term not exceeding twelve months, the imprisonment to cease on payment of the sum due, and any costs which may have been awarded.

Imprisonment in default of payment of penalty.

104. The fees prescribed in Schedule IV hereto shall be levied in respect of the matters therein mentioned.

Fees.

PART X.*Regulations.*

105. The Governor in Council may make all such regulations, not inconsistent with the provisions of this Ordinance, as he may deem necessary or expedient to give force or effect thereto, or for the proper carrying out of any of the provisions thereof, or for its better administration, and specially for the proper and efficient working of all mining locations, mines or diggings within the limits of this Ordinance or any part thereof, for the inspection of all books and documents relating thereto, for the regulation of all works and machinery within such limits in so far as the protection of life and limb is concerned, for the regulation of all matters regarding sanitation and health, the establishment of graveyards, the reporting of all cases of accident and death occurring in any mining location, and generally for the proper and

Governor in Council may make, alter or repeal regulations.

efficient management of all mines and mining operations, and the fixing and providing for the payment of royalties payable on minerals, common minerals and coal, other than gold. Such regulations may prescribe, for any first breach, a penalty not exceeding the sum of four hundred shillings, or imprisonment of either description for a period not exceeding three months, or both such fine and imprisonment; and for a second or subsequent breach double such penalty and punishment.

SCHEDULE I.

LAW REPEALED.

The Mining Ordinance, 1912.

The Mining (Amendment) Ordinance, 1915.

SCHEDULE II.

FORM A. SECTION 10 (2).

The Mining Ordinance, 1925.

PLAINT NOTE.

To the Commissioner of Mines.

A. B., of, complains of
E. F., of, and says :—

1. That, etc.

2. That, etc.

(Set forth the subject matter of complaint in paragraphs).

The Complainant therefore prays (set forth relief sought) or such other or further relief as shall be just. The amount sought to be recovered so far as the demand is pecuniary is

Shs.

Dated the day of 192..

.....
A. B.

No. III.

The Mining Ordinance

1925.

FORM B. SECTION 10 (3).
The Mining Ordinance, 1925.

NOTICE OF SUIT.

Plaint No.

To (insert the name of the defendants) of

You are hereby summoned to appear before me at

on the day of 192..., at

o'clock in the noon precisely, to answer the complaint,
a copy of which is sent herewith, of (insert name of com-
plainants). You may have a summons to compel the attendance
of any witness, or for the production of any books or documents,
by applying at my office.

Given under my hand day of 192...

.....
Commissioner of Mines.

FORM C. SECTION 10 (8).
The Mining Ordinance, 1925.

WITNESS SUMMONS.

IN THE COURT OF THE COMMISSIONER OF MINES.

Plaint No between

..... Plaintiff.

..... Defendant.

To

You are hereby required to attend before me

on the day of 192...,

at o'clock in the noon, to give evidence

on behalf of the And you are hereby required to produce to the court (here state particular things required to be produced), and also all other books, papers, documents, plans or things in your custody, possession or power, relating to the subject matter of this case.

If you neglect to comply with this summons, you will be liable to a fine of Shs. 300, or, in default of payment, to imprisonment for one month.

Dated the day of 192...

.....
Commissioner of Mines.

FORM D. SECTION 20 (1).

The Mining Ordinance, 1925.

PROSPECTING LICENCE

Kenya.	COLONY OF KENYA.
No.	No. Date
Issued to	Prospecting Licence under the Mining Ordinance, 1925.
Address	Issued to
Date of issue	Address
Area	Nationality
Fee Shs. 20. Paid.	Term, one year from the date hereof.
.....	Area
.....	Fee, Shs. 20. Paid.
.....
	Commissioner of Mines

No. III.

The Mining Ordinance

1925.

FORM E. SECTION 20 (3).

The Mining Ordinance, 1925.

APPLICATION FOR PROSPECTING LICENCE.

Name in full

Address

Nationality Race

Fee, Shs. 20, enclosed.

I hereby declare the above particulars to be true.

Date

(Signature of Applicant).

FORM F. SECTION 30 (1).

The Mining Ordinance, 1925.

PROSPECTING NOTICE.

Notice is hereby given that the undersigned, being lawfully entitled to act under Prospecting Licence No. issued at the Mining Department, dated, hereby claims for a period of thirty-one days from the undermentioned date of posting this notice the exclusive right of prospecting (apart from oil) on all ground open to prospecting within the area described by the radius of 1,000 feet from this notice.

Date of posting notice Hour

(Signature of locator).

No. III.

The Mining Ordinance

1925.

FORM I. SECTION 35 (2).

The Mining Ordinance, 1925.

APPLICATION FOR REGISTRATION OF CLAIM.

District Commissioner,

.....

I enclose herewith a copy of a notice duly posted on a claim pegged by me, for registration.

Name

Nationality Race

Address

Nature of claim

(If a mineral or common mineral claim, specify name of mineral or common mineral.)

*Locality of claim

Fee, Shs. 10, enclosed.

.....

(Signature of Applicant).

*A sufficient description should be given to enable the claim to be easily located. A sketch is desirable.

FORM J. SECTION 35 (2).

The Mining Ordinance, 1925.

CLAIM REGISTRATION CERTIFICATE.

Name

Nationality Race

Address

Nature of claim

Locality

Date of pegging

Date of registration

No. in Mining Register of District.

Registration fee, Shs. 10. Paid.

.....

District Commissioner.

..... District.

FORM K. SECTION 56.

The Mining Ordinance, 1925.

APPLICATION FOR MINING LEASE.

Name

Nationality Race

Address

No. of claim

Area required under lease (attach sketch)

Rent Shs. enclosed.

.....
 (Signature of Applicant).

FORM L. SECTION 74 (1).

The Mining Ordinance, 1925.

TRANSFER OF CLAIM OR INTEREST THEREIN.

Name of Transferor

Name of Transferee

Registered No. of claim District

Consideration in shillings

The above transfer is subject to the provisions of the Mining Ordinance, 1925.

No. III.

The Mining Ordinance

1925.

I, the Transferor, declare that the above stated sum truly represents the consideration which I have received in respect of the transfer of this claim (if the whole claim is not transferred, state the interest transferred).

Date

.....
(Transferor).

I, the Transferee, declare that I have paid the above stated sum to the Transferor, and that I accept transfer of this claim.

Date

.....
(Transferee).

Nationality Race.....

Address

This form is subject to stamp duty on the consideration passing, according to stamp laws.

FORM M. SECTION 74 (1).

The Mining Ordinance, 1925.

CERTIFICATE OF TRANSFER OF CLAIM OR INTEREST THEREIN

Certified that

Address

Nationality Race

is the registered holder of

Claim No. District

Date of transfer No. in Mining Register

Fee, Shs. 40. Paid.

.....
District Commissioner.

.....District.

FORM N. SECTION 74 (2).

The Mining Ordinance, 1925.

FORM OF LIEN TICKET.

I, of, do hereby grant to of a lien upon my claim (or share in the claim) being
(description of claim or share)
 registered No. at and situate at as security for the payment on or before the day of, 192..., of the sum of being the amount due and owing by me to the said ; and until the sum aforesaid shall have been paid in full I hereby engage and bind myself not to transfer or assign the said
(description of claim, share or interest charged)
, or any portion thereof without the written consent of the said and I the said (lienee) accept this lien as security for the payment within the time specified of the aforesaid sum of and upon payment thereof to me I undertake to discharge this lien.

Dated this day of 192...
 Lienor.
 Lienee.

CERTIFICATE OF REGISTRATION.

The above lien is registered at No
 Book

Dated this day of 192...

Registering Officer.

FORM P. SECTION 48.

The Mining Ordinance, 1925.

EXPORT PERMIT.

Name

Nationality Race

Address

Common minerals Claim No District.....

Authority is hereby given to the registered holder of the above claim to export common minerals from the said claim subject to the royalties as prescribed by law.

Fee Shs. 10. Paid.

.....
Commissioner of Mines.

FORM Q. SECTION 48.

The Mining Ordinance, 1925.

APPLICATION FOR EXPORT PERMIT.

Name

Nationality Race

Address

Common minerals Claim No District.....

I hereby declare as follows :—

(a) That the above claim has been pegged and registered according to law.

(b) That with regard to any private land contained within the said claim I hold the written consent of the owner to peg and register the claim.

(c) That rent and all other fees payable on the said claim have been duly paid.

Fee, Shs. 10, enclosed.

.....
(Signature of Applicant).

Date

SCHEDULE III.

SECTIONS 44 (1), (2), 54.

Development work shall consist of shafts, drives, tunnels, winzes, rises upon the block, and boreholes of a minimum diameter of one inch from which a core is extracted. Development work need not be done upon a reef, but it is requisite that it shall be or have been done with a view to actual development of a reef and that it shall be new work and not the restoration or clearing out of development work previously done or of old workings. The minimum dimensions for development work and the ratio in which work of larger dimensions or at certain distances from the surface shall be allowed to be reckoned as development work shall be as follows :—

GRADING OF FOOTAGE.

No shafts, winzes, rise, drive, adit or tunnel of less superficial area than 15 square feet shall count as development work.

Each foot of any shaft, winze, or rise of 15 to 40 square feet superficial area shall count as one foot of development work.

Each foot of any shaft, winze or rise of over 40 and up to 65 square feet superficial area shall count as two feet of development work.

Each foot of any shaft, winze or rise of over 65 square feet superficial area shall count as three feet of development work.

Each foot of any drive, and adit or tunnel from surface, of 48 square feet superficial area and over shall count as two feet of development work.

DEPTH.

Each foot of any portion of a shaft, winze or rise or any drive, the floor of which is 45 feet below the natural surface at the working point shall count as one foot of development work, and thereafter as follows :—

Exceeding 45 feet and up to 75 feet as	1½ feet.
„ 75 „ „ „ „ 100 „ „	2 „
„ 100 „ „ „ „ 130 „ „	2½ „
„ 130 „ „ „ „ 160 „ „	3 „
„ 160 „ „ „ „ 200 „ „	3½ „
„ 200 „ „ „ „ 250 „ „	4 „
„ 250 „ „ „ „ 300 „ „	4½ „
„ 300 „ „ „ „ 350 „ „	5 „
„ 350 „ „ „ „ 400 „ „	5½ „
„ 400 „ „ „ „ „ „	6 „

DISTANCE FROM ENTRANCE.

Each foot of any portion of any adit or tunnel from surface which is 100 feet to 300 feet from a point in the centre of the roof at the entrance, shall count as one and a half feet of development work, and each foot of any portion 300 feet or more from such point, shall count as two feet of development work.

GENERAL.

All dimensions must be taken at right angles to the line of direction of work, and in the clear between outside timbers if in position or allowing for them if they are to be put in later.

Depth incline work is to be measured on the incline. The allowances for dimensions and depth or distance from entrance will be cumulative, viz., each foot of any portion of a shaft of over 65 square feet superficial area, which is over 100 feet from surface, shall count as six feet of development work.

ALLOWANCE FOR DIAMOND DRILLING.

Each foot drilled either vertically or horizontally for a distance of 300 feet below the natural surface to count as one foot of development work; exceeding 300 feet and up to 600 feet as two feet; exceeding 600 feet and up to 900 feet as three feet; exceeding 900 feet and up to 1,200 feet as four feet, exceeding 1,200 feet as five feet.

ALLOWANCE FOR TRENCHING.

Development work also includes trenching or excavating of a minimum depth of three feet which has been performed for the purpose of trenching a reef or of proving a deposit, provided that trenching and excavating shall only count as footage for development work in the ratio of three cubic yards of excavation being equal to one foot of development work.

SCHEDULE IV.

SECTIONS 10 (9) AND 104.

The Mining Ordinance, 1925.

COURT FEES.

	Shs. Cts.
For every plaint	2 00
For every notice to defendant	2 00
For every order of the Commissioner of Mines ...	4 00
For every witness summons	2 00
Hearing fee for every suit	6 00

GENERAL FEES.

	Shs. Cts.
Prospecting Licence	20 00
Certified true copy of Prospecting Licence	20 00
Registration of Prospecting Notice	10 00
Registration of each claim	10 00
Registration of any claim pegged before the promulgation of this Ordinance	1 00
Registration of transfer of claim	40 00
Registration of lien on claim	10 00
Preparation of lease	50 00
Registration of lease	20 00
Search in Mining Register	2 00
Export permit	10 00
Certified copy of :—	
(a) Lease	50 00
(b) Any other document or certificate as prescribed	20 00
Registration of any document not otherwise provided	10 00

No. IV. *The Master and Servants (Amendment) Ordinance* **1925.**

An Ordinance to Amend the Master and Servants Ordinance, 1910.

Date of
Commencement

[30TH APRIL, 1925.]

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

Short title.

1. This Ordinance may be cited as "The Master and Servants Amendment Ordinance, 1925," and shall be read as one with "the Master and Servants Ordinance, 1910," hereinafter referred to as "the Principal Ordinance" and all Ordinances amending such Ordinance.

Amendment of
Section 47 of the
Principal
Ordinance

2. The Principal Ordinance shall be and is hereby amended as follows :—

(1) By the insertion in section two of the Principal Ordinance, after the words "Uganda Protectorate" of the words "or in Tanganyika Territory."

(2) By the deletion in section forty-seven of the Principal Ordinance of the words "fined a sum not exceeding the amount of one month's wages and in default of payment of the same may be imprisoned with or without hard labour for any period not exceeding one month," and by the substitution therefor of the following :—

" Punished with rigorous imprisonment for a term which may extend to one month, or with a fine not exceeding one hundred shillings, or with both such imprisonment and fine, at the discretion of the magistrate."

(3) After the word "language" in section forty-seven, subsection (6) shall be added the words "or be guilty of insulting behaviour."

Employer and
servant may
enter into a
contract for
performance of
30 days' work
within a period
of 42 days.

3. Notwithstanding anything contained in section three subsection two of the Principal Ordinance it shall be competent for an employer and a servant to enter into a contract of service either orally or in writing, for the servant to work for the employer for thirty days (in succession or otherwise at the election of the employer) and in such cases :—

No. IV. *The Master and Servants (Amendment) Ordinance* **1925.**

(a) The employer shall provide work for the servant for such number of days;

(b) The employer shall provide food for the servant or payment in lieu thereof during the continuance of the contract, except for days on which the servant is absent from his place of employment without lawful cause or mutual consent of parties;

(c) It shall not be necessary, if the contract be in writing, to comply with any of the formalities prescribed by the Principal Ordinance for a written contract;

(d) The contract shall be known as a "thirty days contract" and shall not extend beyond a period of forty-two days from the making thereof.

4. Notwithstanding anything contained in clause (a) of section six of the Principal Ordinance it shall be competent for an employer and a servant to enter into a contract of service in writing, for the servant to work for the employer within a specified calendar period not exceeding one year (or where the Governor has, by notice in the Gazette so approved for any class of skilled work, two years), for a definite number of days (in succession or otherwise at the election of the employer), and in such case:—

Employer and servant may enter into a special contract for a definite number of days' work in a period not exceeding two years.

(a) The employer shall provide work for the servant for such definite number of days;

(b) The employer shall provide food for the servant or payment in lieu thereof during the continuance of the contract, except for days on which the servant is absent from his place of employment without lawful cause or by mutual consent of parties;

(c) The contract shall be known as a "special contract";

(d) In all such contracts the number of days for which the servant engaged to work and for which the employer engaged to provide work shall be not less than five-sevenths of the total number of days of the duration of the contract.

No. IV. *The Master and Servants (Amendment) Ordinance* **1925.**

Amendment of
Section 3 of the
Master and
Servants
Amendment
Ordinance, 1919.

5. Subsection (6) (a) of section three of the Master and Servants Amendment Ordinance, 1919, is hereby repealed and the following subsection is substituted therefor :—

“ (6) (a) To institute proceedings in respect of any offence committed by an employer against any of the provisions of the Master and Servants Ordinance, 1910, or of any Ordinance amending the same and to prosecute and appear in his own name in respect of the same or.”

Repeals.

6. (1) The Master and Servants Amendment Ordinance, 1918, is hereby repealed. Provided however that all agreements entered into thereunder and now existing, and the rights, duties and obligations of the parties thereunder shall be governed and enforced by, under, and in accordance with the provisions of that Ordinance for a period not exceeding six months from the date of this Ordinance.

(2) The Master and Servants (Amendment) (No. 3) Ordinance, 1924, is hereby repealed.

(3) The Master and Servants Amendment Ordinance, 1916, section two, is hereby repealed.

**An Ordinance to Regulate the Residence of Native
Labourers and their Families on Farms.**

[30TH APRIL, 1925.] Date of
Commencement.

WHEREAS it is desirable to encourage resident native labour on farms and to take measures for the regulation of the squatting or living of natives in places other than those appointed for them by the Government and for the preservation of law and order amongst such natives;

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

1. This Ordinance may be cited as “ The Resident Short title.
Native Labourers’ Ordinance, 1925.”

2. For the purposes of this Ordinance the expression :— Definitions.

“ Farm ” shall mean any area of land (other than an area of land situated in a township or gazetted trading centre) not included in a native reserve, whether such land is leased or sold by the Crown or not, but shall not include unalienated Crown land other than Forest Reserves, or the land at Freretown granted to the Church Missionary Society by His Highness the Sultan of Zanzibar for the purpose of settling released slaves thereon, provided, however, that settlement on the land shall be in accordance with the purpose of the original grant.

“ Magistrate ” shall mean the magistrate having jurisdiction in the area in which a farm is situate.

“ Occupier ” shall mean and include the owner or lessee or any other person having a legal right to occupy a farm and shall include any manager or agent of such occupier, and, in respect of Forest Reserves, the Conservator of Forests.

“ Family ” shall mean a male native together with his wife or wives and unmarried children, if any.

“ Stock ” shall include cattle, sheep, goats, horses, swine, camels, mules and donkeys.

“ Mission ” shall mean any mission recognised as such by the Governor.

“ Native ” means a native of Africa not of European or Asiatic origin, and includes a Somali or Swahili.

No. V.*The Resident Native Labourers Ordinance***1925.**

Where natives
may reside
on farms.

3. No native shall reside on a farm unless he is either :—

(a) The occupier thereof ;

(b) A member of a family the head of which has duly entered into a contract, still unexpired, under section 4 of this Ordinance or is in actual lawful employment on such farm as domestic servant or artizan ;

(c) A native in actual employment on such farm under a contract made under the provisions of any Ordinance governing the relations of master and servants ;

(d) A native who from age or infirmity is incapable of continuous employment and is closely related to a family lawfully residing on such farm ; or

(e) The holder of a permit in writing in that behalf given by the occupier with the written consent of a magistrate.

Provided that it shall be a sufficient defence for a native charged with an offence against the provisions of this section to produce a permit signed by the occupier authorising him to reside on the farm.

Contract of
service to work
on a farm.

4. (1) When the head of a family has entered into a contract for a period of not less than twelve months as hereinafter provided, such family may also be permitted to reside on such farm.

(2) Every such contract shall be in writing and shall be executed by the occupier and by the head of the family and by all members of the family employable thereunder, and shall be attested by a magistrate or by any person appointed by the Governor to attest contracts under this Ordinance, and shall be in the form of agreement provided in the schedule annexed to this Ordinance, and shall provide :—

(a) For a term which shall not be less than one year and may extend to three years, notwithstanding anything to the contrary contained in any law relating to master and servants ;

(b) For the head of any family and any male member thereof resident on the farm who is of the apparent age of sixteen years or over, and who is not working under the law relating to master and servants to work for the occupier for not less than 180 days at the election of the occupier in any one year during the term of such contract, and for the occupier to provide employment and pay wages for that number of days for each such person;

(c) For the occupier to give notice in writing to every male member of such family who during the continuance of the contract may attain the age of sixteen years, that on the expiration of six months from the date of receiving such notice he will be required either to enter into a contract under this Ordinance with the occupier or under the law relating to master and servants with the occupier or some other employer in the vicinity, or to cease to reside on the occupier's farm;

(d) For the supply by the occupier of building material for the family's huts;

(e) For the use by the family of land for cultivation and, when agreed upon, for grazing;

(f) For the rates of pay or other consideration to be paid or given to the head of the family and any member thereof for the period of actual employment;

(g) For the termination of the contract by not less than six months' notice on either side; provided that the term of residence on a farm shall in no case be less than one year except with the approval of a magistrate;

(h) For the removal by the family of crops cultivated by such family or for payment by the occupier of compensation in lieu thereof;

(i) In the case of missions, for the regular attendance of the children of the family at school for the purpose of education as defined in section 12 of this Ordinance.

(3) Any contract under this section may with the consent of the parties and of the attesting officer relate to a group of farms in the same district or in contiguous districts, provided that all the farms in the group are in the same ownership or occupation.

(4) The original of every contract made under this section shall be filed in the office of the magistrate.

(5) A magistrate or other attesting officer may refuse to attest any contract which does not provide for a fair remuneration in money having regard to the local rates of wages, or which in his opinion is likely to lead to a breach of the provisions of this Ordinance.

(6) When notice of termination of a contract has been given by either party thereto the occupier shall forthwith notify the magistrate accordingly.

(7) On change of occupancy of a farm the contract shall be deemed to have been assigned to the new occupier and to be a contract between the new occupier and the native.

When natives
may not reside
on farms.

5. (1) No occupier shall allow any native to reside on a farm in contravention of the provisions of this Ordinance.

(2) No native shall move his family from the jurisdiction of an official headman to a farm unless he has previously produced to the district commissioner of the area in which such family is residing a permit signed by the magistrate of the area in which the farm is situated authorising such family to reside on such farm.

The head of the family shall provide the district commissioner with full particulars as regards his name and location and his wives and children, if any, proceeding with him. Such information shall be endorsed on the permit by the district commissioner who shall also record the particulars in a register to be kept by him.

No. V. *The Resident Native Labourers Ordinance*

1925.

6. Any magistrate, or any person duly authorised in writing in that behalf by a magistrate or any police officer or justice of the peace, may demand from any occupier the production of any contract entered into under the provisions of section 4 hereof, and such occupier shall forthwith produce such contract.

Contract to be produced.

7. Every occupier shall keep a register of all natives resident on his farm, showing the dates of their contracts and the dates upon which they actually worked on such farm and the wages paid to them, and such register shall be in such form and shall set out such particulars as the Governor may prescribe.

Register of resident natives.

8. Every occupier shall keep a register of all cattle kept on his farm by natives lawfully resident thereon and such register shall be in such form and shall set out such particulars as the Governor may prescribe.

Register of resident natives' cattle.

9. Where there is reason to believe that natives are residing on a farm in contravention of the provisions of this Ordinance, any magistrate or any person duly authorised in writing by a magistrate may enter upon such farm and may demand from any occupier the production of any register which is required to be kept under the provisions of this Ordinance, and may take all reasonable and proper steps to satisfy himself as to the correctness of any particulars entered therein, and may demand from such occupier an explanation of any apparent discrepancies therein. Any such occupier who shall knowingly make a false entry in any register or who shall refuse to furnish any explanation when lawfully called upon to do so or who shall knowingly furnish a false explanation shall be guilty of an offence.

Registers to be produced.

10. (1) Any native lawfully residing on a farm by virtue of a permit or contract under sections 3 and 4 of this Ordinance may, with the consent of the occupier thereof, take on such farm any stock which is his property on such conditions as to numbers or otherwise as may be agreed by the occupier thereof, and such native, with the approval of a magistrate. Every head of cattle over the age of six months so taken on such farm and all increase thereof over the age of six months shall be branded by such occupier with his brand together with the letter "S." Nothing in this section shall be construed as entitling any stock to be moved in contravention of any restrictions imposed under the law for the time being in force relating to the diseases of animals. Provided that should there be any such restrictions in force at the time of the termination of such

Movement and branding of resident natives' cattle.

permit or contract by whatever cause prohibiting the moving of stock from such farm such cattle shall remain on the farm without charge, and the owner thereof may also remain on such farm until such restrictions are removed, unless other arrangements are made for the care or disposal of such stock to the satisfaction of the parties and a magistrate. Provided also that in the event of any such cattle being removed from such farm the owner of such cattle shall first produce them to the occupier of such farm who shall cause such cattle to be re-branded with his brand reversed.

(2) For the purpose of this section every occupier who enters into a contract under this Ordinance whereby any cattle may be brought on to his farm shall provide himself with a registered cattle brand.

Prohibition
against payment
by natives.

11. No payment in money or in kind shall be made by any native resident on a farm for the right to cultivate any land or to graze any stock, or for the use of salt licks, fuel, or water on such farm, and no occupier shall enter into any contract with the head of a family or any other native whereby the occupier shares any profit derived by such head of a family or other native from his cultivation or from the increase or produce of his stock on the farm of such occupier

Natives
employed on
mission lands.

12. Natives employed on farms in the occupation of missions in receiving or imparting industrial or technical instruction with or without literary or theological instruction or training for not less than one hundred and eighty days in each year shall be exempt from the provisions of section 3 of this Ordinance provided that such instruction or training is under proper and responsible control to the satisfaction of a magistrate.

Cognizable
offences.

13. (1) Proceedings in respect of any offence against the provisions of sections 3, 5, 6, 7, 8, 9, 10 and 11 of this Ordinance may be instituted by the police or by any person authorised in writing by a magistrate.

(2) A magistrate may in his discretion rescind any contract made under this Ordinance where it has been proved to his satisfaction that there has been a breach of the terms thereof or on the application of either party to the contract when the other party has been convicted of a criminal offence against him or of a criminal offence involving serious moral turpitude, and may cancel any permit given by an occupier in contravention of the provisions of this Ordinance.

No. V. *The Resident Native Labourers Ordinance***1925.**

Provided that the native shall retain his rights over growing crops unless the occupier elects to give him reasonable compensation therefor. In the event of any dispute as to the amount of compensation payable the magistrate shall determine the amount thereof.

(3) Compensation payable under this section may be paid to the magistrate by an occupier and when proceedings have been instituted by the occupier for damages against the native the magistrate shall not pay out the compensation to the native until the liability of the native to pay damages has been determined and if the native is found to be liable to damages such damages may be set off against the amount in the magistrate's hands.

14. Any native who has entered into a contract under this Ordinance may be punished with imprisonment of either description for a term which may extend to one month, or with a fine not exceeding one hundred shillings, or with both such imprisonment and fine in the discretion of the magistrate in case he shall be convicted of any of the following acts :— Penalties.

(1) If he shall, after having entered into an agreement under this Ordinance, fail or refuse without lawful cause to enter upon his duties on the farm at the stipulated time.

(2) If he shall without lawful cause absent himself from the place proper and appointed for the performance of his work on any day when the occupier may lawfully require him to work.

(3) If he shall during any time when he is lawfully required to work be unfit for the performance of his work by being intoxicated.

(4) If he shall neglect or refuse to perform any work which it was his duty to have performed, or if he shall carelessly or improperly perform any work which from its nature it was his duty under his agreement to have performed carefully and properly.

(5) If he shall without leave, and for his own purposes, make use of any horse, vehicle or other property belonging to the occupier.

(6) If he shall use any abusive or insulting language or be guilty of insulting behaviour to the occupier or to any person lawfully placed by the occupier in authority over him, calculated to provoke a breach of the peace.

(7) If he shall refuse to obey any command of the occupier, or of any person lawfully placed by the occupier in authority over him, which command it was his duty to obey.

15. Any native who has entered into a contract under this Ordinance may be fined any sum not exceeding one hundred and fifty shillings, and in default of payment may be punished with imprisonment of either description for any period not exceeding two months, or may be punished with imprisonment of either description without the infliction of a fine, at the discretion of the magistrate, for any period not exceeding two months in case he shall be convicted of the following acts or instances of misconduct, that is to say :—

(1) If he shall wilfully or by wilful breach of duty or through drunkenness do any act tending to the immediate loss, damage or serious risk of any property placed by the occupier in his charge or placed by any other person in his charge for delivery to or on account of his occupier.

(2) If he shall, by wilful breach of duty or by neglect of duty or through drunkenness, refuse or omit to do any lawful act proper and requisite to be done by him for preserving in safety any property placed by the occupier in his charge, or placed by any other person in his charge for delivery to or on account of his occupier.

(3) If being employed as a herdsman he shall fail to report to the occupier the death or loss of any animal placed in his charge which he shall allege to have died or been lost, on the earliest opportunity of so doing after he shall have discovered or in the course of duty was bound to have discovered such death or loss or if he shall fail to preserve for his occupier's use or inspection any part or parts of such animals as he shall allege to have died, which part or parts he shall by his occupier have been directed to preserve, unless such herdsman shall prove to the satisfaction of the court the death of such animal, or if it shall be made by the occupier to appear that any such animal or animals alleged by him to have strayed away or otherwise become irrevocably lost, could not, under the circumstances of the case, have become irrevocably lost without his act or default.

No. V. *The Resident Native Labourers Ordinance***1925.**

(4) If being employed in any capacity other than that of a herdsman he shall allege the loss of any property placed in his charge by or for the occupier and it shall be made to appear by the occupier that the property in question could not have been lost without his act or default.

16. Any occupier shall be liable to a fine not exceeding two hundred shillings and in default of payment to imprisonment of either description for a term not exceeding one month, or to both such fine and imprisonment, in case he shall be guilty of any of the following acts or omissions, that is to say :—

(1) If he shall withhold the wages of a resident native without reasonable and probable cause for believing that the wages so withheld are not really due.

(2) If before or after the expiration of the contract upon demand made and without lawful cause, he refuses to deliver or permit to be taken away any property belonging to a resident native lawfully remaining or being upon such occupier's land without reasonable or probable cause for believing that the property in question was lawfully detained.

17. Any person committing a breach of the provisions of this Ordinance for which no specific penalty is provided shall be liable on conviction to a fine not exceeding fifty pounds, or to a term of imprisonment of either description not exceeding two months, or to both. **Penalty.**

18. The Governor in Council may make rules for the better carrying out of the provisions of this Ordinance. **Rules.**

19. The Resident Natives Ordinances, 1918 and 1924, are hereby repealed. Provided, however, that all agreements entered into thereunder and now existing and the rights, duties and obligations of the parties thereunder shall be governed and enforced by, under, and in accordance with the provisions of these Ordinances for a period not exceeding six months from the date of this Ordinance. **Repeals**

No. V. *The Resident Native Labourers Ordinance* 1925.

SCHEDULE.

SECTION 4, ORDINANCE NO. 5 OF 1925.

1. Full name of occupier. Memorandum of Agreement made this.....day of, 19..., by and between (1)
2. Address. of (2) (hereinafter referred to as "the Occupier") and (3) registered number
3. Full name of native as given on registration certificate. of (4) (hereinafter referred to as "the Native"), whereby it is agreed :—
4. Insert name of native's district location and chief.

1. That this agreement shall have effect from the..... day of....., 19..., and shall be for a term of..... years ending on the day of, 19..., unless lawfully determined earlier.

2. That the native, together with his wife or wives and children shall reside and may graze his stock on such part only of the occupier's farm at.....as the occupier may direct during the period of this agreement.

3. That during the period of this agreement the native and every male member of his family who is of the apparent age of sixteen years or over and is resident on the occupier's farm, and who is not working under the law relating to master and servants, shall each work for the occupier at such times as the occupier may direct, for not less than (5)..... days at the election of the occupier in each period of twelve months, and that the occupier shall provide employment for the native and for such male members of his family for such number of days. The occupier shall give notice in writing to every male member of such family who during the continuance of the contract may attain the age of sixteen years that on the expiration of six months from the date of receiving such notice
5. Not to be less than 180 days but may be more if agreed.

No. V. *The Resident Native Labourers Ordinance*

1925.

he will be required either to enter into a contract under this Ordinance with the occupier, or under the law relating to master and servants with the occupier or some other employer in the vicinity, or to cease to reside on the occupier's farm.

4. That the times during which the native is required to work for the occupier shall be so arranged as to allow the native reasonable time to sow, cultivate and reap his own food crops.

5. That the occupier agrees to pay to the native and to the male members of his family wages at the rate of.....

for every (6) and (7)

6. Day, month or thirty-day card worked.

7. Insert conditions as to rations or other considerations if agreed upon or strike out if inapplicable.

6. That the occupier shall provide good and sufficient building material for the erection of huts for the accommodation of the native and his family.

7. That the occupier shall provide the native with sufficient and suitable land for the cultivation of food crops for himself and his family, and for grazing the following numbers of stock, namely (8)

8. Number of each kind of stock to be specified.

8. That with the consent of a magistrate this agreement may be terminated by either the occupier or the native giving to the other six calendar months' notice, provided that the native shall suffer no prejudice in regard to the care and reaping of his crops or in regard to the removal of his family or stock and provided that the occupier may demand the fulfilment by the native of any conditions of this agreement to which the native may be liable in respect of his obligation to work.

9. On the expiration or termination of this agreement, from whatever cause, the native shall be entitled to remove all his movable property on the farm, but shall not remove any buildings, but in respect of buildings or other immovable property shall be entitled to any reasonable compensation for labour and materials contributed by him.

No. V.

The Resident Native Labourers Ordinance

1925.

(This clause to be inserted only in the case of missions or farms on which schools to the satisfaction of the magistrate are provided; otherwise to be struck out.)

10. That the native shall cause his children to attend regularly at the school provided by the occupier on the said land.

(Any other conditions agreed to by the parties which do not contravene the provisions of this or any other Ordinance. Such conditions, if any, shall be numbered consecutively.)

AS WITNESS the hands of the parties hereto :

Witness to the signature of the occupier. }
 Witness to the signature or mark of the native. }

I/We being member(s) of the family of.....(the native) do hereby agree to abide by the terms of the agreement dated..... between him and..... (the occupier).

Signature(s) or Mark(s).	Registered Number.	Nature of Service.	Remuneration.

I hereby certify that the contents of this agreement have been read and explained by me to the native signatories, and that they appear to have executed this agreement with a full knowledge of its contents.

The.....day of.....19...

.....
Resident Magistrate.

No. VI. *The Fish Protection (Amendment) Ordinance* 1925.

**An Ordinance to Amend the Fish Protection
(Amendment) Ordinance, 1923.**

[4TH MAY, 1925.] Date of commencement.

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

1. This Ordinance may be cited as "The Fish Protection (Amendment) Ordinance, 1925," and shall be read as one with the Fish Protection (Amendment) Ordinance, 1923 (hereinafter referred to as "the Principal Ordinance"). Short title.

2. (1) Section 2 of the Principal Ordinance is hereby re-numbered 2 (1). Amendment of Section 2 of the Principal Ordinance.

(2) Section 2 of the Principal Ordinance is hereby amended by the deletion therefrom of the words "any species of fish" and the substitution therefor of the word "trout."

(3) Section 2 of the Principal Ordinance is hereby further amended by the addition thereto of the following sub-section :—

"(2) If the Governor shall consider at any time that any amount previously paid under the provisions of Sub-section (1) hereof has not been properly applied by the Kenya Angling Association for the purposes therein specified it shall be lawful for him to direct the Treasurer to deduct such amount from any future payments or to withhold any future payments till such time as the aforesaid association shall satisfy the Governor that such payments will be properly applied."

No. 7 OF 1925.

An Ordinance to make Provision for the Appointment of a Public Trustee and to Define the Powers and Duties of such Officer.

Date of commencement.

[29TH MAY, 1925.]

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

Short title.

1. This Ordinance may be cited as "The Public Trustee's Ordinance, 1925."

Interpretation.

2. In the interpretation of this Ordinance the following terms shall unless the context otherwise indicates have the meanings set against them respectively that is to say :—

"Agent" shall mean an agent of the Public Trustee duly appointed as provided in Section 24 (2) of this Ordinance ;

"Court" shall mean the Supreme Court of the Colony of Kenya, and shall include a District Delegate ;

"Estate" shall mean all freehold and leasehold land, and chattels real, and all goods, chattels, moneys, choses in action and other property whatsoever ;

"Immovable Property" shall include land, benefits to arise out of land, and things attached to the earth, but shall not include native huts or houses not exceeding Shgs. 200 in value, where the owner or owners lessee or lessees of such hut or house is or are not the owner or owners, lessee or lessees of the land on which such hut or house is built or erected, or permanently fastened to anything attached to the earth.

"Taxing Officer" shall mean the Registrar of the Supreme Court or an Officer duly appointed to act for such Officer ;

Appointment of Public Trustee.

3. It shall be lawful for the Governor to appoint some fit and proper person to be the Public Trustee.

PART I.

ADMINISTRATION OF ESTATES OF DECEASED PERSONS.

4. Subject as hereinafter provided the Resident or District Commissioner of every District shall furnish the Public Trustee with a notice of the death of every person (other than of a native dying within a Native Reserve or other area set apart for Natives) in his District and on receipt of such notice or on otherwise being notified of or becoming acquainted with such death the Public Trustee shall cause enquiry to be made as to the estates of all such deceased persons possessed of or entitled to any property immovable or movable within the Colony and after ascertaining :—

Notice of death to be furnished to the Public Trustee. Power to apply to court for appointment as Administrator in certain cases. Cases in which Public Trustee can administer without such appointment.

(a) that any such person died intestate ; or

(b) that the deceased having made a will devising or bequeathing his estate or any part thereof, has omitted to appoint an executor ; or

(c) that the person or persons named as executor or executors in the will are dead or have renounced probate thereof or otherwise are unable or unwilling to act ; or

(d) that probate or letters of administration with the will annexed has or have not been obtained within 3 months from the death of the testator ; or

(e) that the testator has appointed the Public Trustee an executor of his will ; or

(f) that the executor or administrator of a deceased person who is resident outside the Colony has appointed the Public Trustee by power of attorney to act for him in the Colony,

the Public Trustee may apply to the Court for an order authorising him to administer the estate of such deceased person.

Provided always, and notwithstanding anything in this Ordinance contained it shall and may be lawful for the Public Trustee, in the case of an estate consisting only of property of an estimated gross value not exceeding Shgs. 1,000 of a deceased person dying intestate or leaving a will under such circumstances that the Public Trustee may apply for leave to administer as hereinbefore provided, in either of such cases,

to take possession of and administer in accordance with the provisions of this Ordinance and of any Ordinance amending the same, so far as the same are applicable, the estate of such deceased person without making any such application to the Court as is hereinbefore mentioned and no Court fees shall be chargeable or payable in respect of any such estate as aforesaid.

Fourteen days
notice to be
given on
application.

5. The Public Trustee shall serve a notice of his intention to apply for such order upon all executors and next of kin of the deceased known to him to be resident in the Colony except in the circumstances set out in section four subsection (e) and (f) and shall cause such notice to be published in the Gazette or in one weekly newspaper or both at the discretion of the Public Trustee and to be posted in a conspicuous place at the Supreme Court and after the expiration of fourteen days from the date of such publication and posting he shall apply to the Court for an order to administer the estate of such deceased person; and the said Court shall, if satisfied by affidavit that the case is within the provisions of this Ordinance, make such order upon the petition of the Public Trustee accordingly; which order, when made, shall give to the Public Trustee the same power over all the estate wheresoever situate or left of the deceased person, except as hereby enacted, as he would have had, if letters of administration of such estate had been granted to him, subject nevertheless to any orders which may from time to time be made by the Court on petition as herein-after mentioned touching the same or the administration thereof:

Provided always that the Court may order such further notice as it may think fit to be given before making such order, and provided further that it shall not be necessary for the Public Trustee to serve such notice as is in this section mentioned in any case where the Public Trustee shall have obtained the consent in writing of the executors (if any) or of all parties interested in the estate (other than creditors), as the case may be, to make such application to the Court as in this section is provided for subject however and without prejudice to the right of the Public Trustee to take possession of and administer any estate consisting solely of property not exceeding Shgs. 1,000 as hereinbefore provided.

Where estate
will probably be
lost or damaged
by delay.

6. The Public Trustee may at any time after the death of any deceased person, without any previous notice, obtain an order to administer the estate of such person, where the

Court shall be satisfied by affidavit that the estate, or any portion thereof will otherwise be probably purloined, lost, destroyed or damaged or that great expenses will be incurred by delay in the matter.

7. Notwithstanding any order which shall have been made authorising the Public Trustee to administer under this Ordinance, the Court may grant probate of the will or letters of administration of the estate of any deceased person to any person in such manner and subject to such limitations and conditions as the Court shall think proper; but no application for such grant shall be made until seven days after notice in writing of intention to make such application shall have been left at the office of the Public Trustee. Whenever any such grant has been obtained, then immediately all the interests, powers, rights and duties of the Public Trustee in regard to the estate affected by such grant, and all liabilities of the Public Trustee under any contract or agreement entered into by him in relation to such estate or any part thereof, shall cease; and such portion of the estate as shall be left unadministered by the Public Trustee shall vest in the executor or administrator obtaining such grant, subject nevertheless to all lawful contracts theretofore made relating to such estate and to the allowance and payment of all outlays, disbursements, costs, fees, charges and expenses, reasonably incurred in the administration thereof.

Probate and administration may be granted to other person.

Duties and liabilities of Public Trustee to cease.

8. Should at any time the agent or agents in charge of any estate belonging to any person not residing in the Colony die leaving the property without any responsible person in charge thereof, the Public Trustee shall on such fact coming to his notice, apply to the court for an order to take charge of such property and the Court shall make such order in the case as it shall think fit.

Public Trustee to take charge of property on death of agent.

9. In all cases where an order to administer shall have been made under this Ordinance, it shall be lawful, except as hereinafter provided, for the Court on the petition of the Public Trustee or any person interested in the estate to decide all disputes, matters, claims and demands in respect thereof and to make such orders as it shall think fit touching the collection, sale, investment, disposal or administration of such estate.

Disputes to be decided on petition by the court.

Provided nevertheless that in any case in which it shall appear to be not desirable that the matter in question should be so decided, the Court may direct such proceedings to be instituted as shall appear proper for the due decision thereof and provided further that in the case of all estates consisting solely of property not exceeding in gross value Shgs. 1,000, no such petition as in this section is mentioned shall be presented to the Court, but it may and shall be lawful for the Public Trustee to decide all disputes, matters, claims and demands arising out of or in respect of or in connection with all such estates as aforesaid and to make such orders as he shall think fit touching the collection, sale, investment, disposal of, or administration of such estates and the decision and order of the Public Trustee in respect of any of the matters aforesaid shall be final and without appeal.

Property in the
Colony

10. In the case of deceased persons leaving estate in the Colony the District Commissioner of the District may when he shall deem it advisable for the protection of the estate take possession thereof; and in such case he shall forthwith report his action to the Public Trustee who shall give such directions and take such proceedings in the matter as he shall think fit.

Movable
property to be
realised.

11. (1) The Public Trustee shall convert into money all movable property of the estate which he is ordered to administer, unless an order to the contrary be made by the Court, and may with the consent of the Court convert into money all or any part of the immovable property of such estate.

Provided always that if all parties interested in the said immovable property consent in writing to its conversion into money by the Public Trustee, the consent of the Court as hereinbefore provided shall not be necessary.

(2) The Public Trustee shall cause advertisements to be published in the Gazette and in such other manner as he shall deem expedient calling upon the creditors of the person whose estates he shall have been ordered to administer to come in and prove their debts before him within the space of two months from the date of publication. He shall, after the expiration of the said period pay the debts proved and if the whole thereof cannot be paid he shall pay a dividend thereon; if he shall collect any further assets after making such payments, he shall, in case any part of the debts proved remain unpaid, pay the same and any debts subsequently proved

before him, or a dividend thereon; but such debts as shall be subsequently proved, shall first be paid a dividend in proportion to their amount equal to the dividend paid to creditors having previously proved their debts. After payment of all debts, fees and expenses incident to the collection, management, and administration of such estate he shall pay over the residue to the persons beneficially entitled thereto. Where such persons are resident outside the Colony payment may be made to any agent or representative duly authorised to receive the same; or remittances made by registered letter shall be deemed equivalent to payment.

Provided always that in the event of the Public Trustee being unable to trace the parties beneficially entitled to the residue of such estate as aforesaid or any of them, he shall transfer such residue or proportionate part thereof as the case may be to the unclaimed property account.

(3) Estates shall be distributable by the Public Trustee according to the ordinary Rules of law within any period not exceeding 12 years computed from the date of the final completion of the account; on the expiry of that period all estates or portions thereof in respect of which no claim shall have been lodged with the Public Trustee shall lapse or be escheat to the Crown; provided that it shall be lawful for the Governor to dispose of and distribute the same or any part thereof to or among any kindred of the deceased or other person having or seeming likely to have a claim thereto, in such shares or manner as he may think fit.

12. Any person beneficially interested in any immovable property vested in the Public Trustee may apply by petition to the Court for a partition thereof and the Court, if satisfied that such partition would be beneficial to all persons interested may appoint one or more arbitrators to effect the same. The report and final award of such arbitrators, setting forth the particulars of the immovable property allotted to each of the parties interested, shall when signed by them and confirmed by order of the Court, be effectual without any further conveyance, to vest in each allottee the immovable property so allotted; and if such allotment be made subject to the charge of any money payable to any other interested party for equalizing the partition such charge shall take effect according to the terms and conditions in regard to time and mode of payment and otherwise which shall be expressed in such award.

Court may
order partition
of immovable
property.

Estates of
deceased
European
officers.

13. The Public Trustee shall apply for an order to administer the estate of any European officer dying intestate and leaving estate within the jurisdiction of the Court without a widow or next of kin within such jurisdiction or to whose estate any of the provisions of Section 4, sub-sections (b), (c) and (d) may apply.

District
commissioner
to secure
property and
assist
administration
in Colony.

14. The Resident or District Commissioner of any district in the Colony in which any deceased European officer has left any goods shall of his own motion forthwith on the death of such deceased take steps to secure such goods. The Public Trustee may request such Resident or District Commissioner to get in and realise the assets and pay the debts of such deceased in such district, and in other respects to assist in the administration, and may if necessary apply for and obtain a direction of the Court to such Resident or District Commissioner to such effect.

Power to
collect, realise,
and hand over
assets to
Administrator-
General,
Uganda.

15. (1) Where a person dies leaving estate in the Colony consisting of movables only and also estate in the Uganda Protectorate, administration whereof is committed to the Administrator-General of the Uganda Protectorate, the Public Trustee of the Colony may, if required by the Administrator-General of the Uganda Protectorate and if satisfied that the interests of creditors in the Colony will not thereby be prejudiced, apply to the Court for an order, which order the Court is hereby empowered to make, authorising him to collect the assets of the estate in the Colony, and upon the making of such order the Public Trustee shall have the same rights as regards the collection and realisation 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 liability upon handing the assets or the proceeds of the realisation thereof over to the Administrator-General of the Uganda Protectorate.

(2) No fees or duties other than fees of Court, shall be payable in respect of proceedings under this Section.

Treatment of
assets received
from without
the Colony.

16. (a) Where the administration of an estate has been committed to the Public Trustee and he receives assets which at the time of the death of the deceased were situate outside the Colony such assets shall for all purposes be treated in the same manner as assets within the Colony at the time of death.

(b) Where any person entitled to a share under the will, or otherwise in the distribution of the estate of a deceased person whose estate is being administered by the Public Trustee, is a minor, the Court may, upon the application of the Public Trustee, appoint the father or mother of such minor or some other suitable person to receive the share of such minor on his behalf, and upon such appointment being made the Public Trustee may pay the share of such minor to such person on behalf of such minor and the receipt of such person shall be a full and complete discharge to the Public Trustee so far as regards such share.

Treatment of
shares of
minors.

PART II.

TRUSTS.

17. (1) Subject to and in accordance with the provisions of this Ordinance, and the Rules made thereunder, the Public Trustee may, if he thinks fit:—

Duties of
Public Trustee.

(a) act as an ordinary trustee;

(b) be appointed trustee by a court of competent jurisdiction.

(2) Subject to the provisions of this Ordinance, and to any rules made thereunder, the Public Trustee may act either alone or jointly with any person or body of persons in any capacity to which he may be appointed in pursuance of this Ordinance, and shall have all the same powers, duties and liabilities, and be entitled to the same rights and immunities, and be subject to the control and orders of the court, as a private trustee acting in the same capacity.

(3) The Public Trustee may decline either absolutely, or except on such conditions as he may impose, to accept any trust.

(4) The Public Trustee shall not accept any trust under any composition or scheme of arrangement for the benefit of creditors nor of any estate known or believed by him to be insolvent.

(5) The Public Trustee shall not, save as provided by any rules made under this Ordinance, accept any trust which involves the management or carrying on of any business.

Appointment of
Public Trustee
as trustee by
person creating
trust.

18. (1) Any person intending to create a trust other than a trust which the Public Trustee is prohibited from accepting under the provisions of this Ordinance, may by the instrument creating the trust, and with the consent of the Public Trustee, appoint him by that or any other sufficient description to be either sole or joint trustee of the property subject to such trust.

Provided that the consent of the Public Trustee shall be recited in the said instrument, and that such instrument shall be duly executed by the Public Trustee.

(2) Upon any such appointment the property subject to the trust shall vest in such Trustee, or Trustees either solely or jointly, and shall be held by him or them upon the trusts declared in such instrument.

Appointment of
Public Trustee
as trustee by
court.

19. If the property is subject to a trust other than a trust which the Public Trustee is prohibited from accepting under the provisions of this Ordinance, and there is no trustee within the limits of the Colony willing or capable to act in the trust, the Court may on application make an order for the appointment of the Public Trustee by that name with his consent to be the trustee of such property.

Transfer of
legacy, etc., of
infant or lunatic
to Public
Trustee.

20. If any infant or lunatic is entitled to any gift, legacy or share of the assets of a deceased person, it shall be lawful for the person, by whom such gift is made, or the executor or administrator by whom such legacy or share is payable or transferable, or any trustee of any gift, legacy or share, to transfer the same by an instrument in writing to the Public Trustee by that name or any other sufficient description with his consent.

Provided that the consent of the Public Trustee shall be recited in the said instrument and that such instrument shall be duly executed by the Public Trustee.

Security not
required.

21. The Public Trustee shall not be required by any Court to enter into any bond or security on his appointment in any capacity under this Ordinance.

Court orders

22. The Court may make such orders as it thinks fit respecting any trust property vested in the Public Trustee or the interest or produce thereof.

No. VII.*The Public Trustee's Ordinance***1925.**

23. The Public Trustee may in addition to any other powers of expenditure lawfully exercisable by him incur expenditure on such acts as may be necessary for the proper care and management of any property belonging to any trust administered by him.

Power to incur expenditure.

GENERAL.

24. (1) The Public Trustee shall be a corporation sole by the name of the Public Trustee and as such Public Trustee shall have perpetual succession and an official seal.

Public Trustee to be corporation sole.

(2) The Public Trustee shall appoint such person or persons as he shall think fit to act as his agents in the managing, collecting and getting-in of property belonging to deceased persons whose estates are in course of administration by him or of any estate of which he is the trustee. Such agents shall in all respects act in the management, collection and getting in of such property under the direction of the Public Trustee, who shall not be answerable for any act or omission of any agent not in conformity with such direction or which shall not have happened by the Public Trustee's own fault or neglect. Every agent shall find security to the satisfaction of the Public Trustee for the performance of his duty; agents shall be remunerated either by salary or by such fees or portion thereof chargeable under this Ordinance as the Governor-in-Council shall fix.

Appointment of agents.

(3) In all proceedings under this Ordinance and in all proceedings at law the Public Trustee shall sue and be sued by the name of "The Public Trustee," and it shall be necessary to state and prove his authority and title in the specific estate to which the proceedings may relate, but not his general authority or appointment.

Suits by or against Public Trustee.

(4) The Public Trustee shall be at liberty without the previous leave of the court to instruct and employ an advocate in any case as he shall think fit and such advocate shall be remunerated out of the funds of the particular estate involved.

(5) Whenever the office of Public Trustee shall become vacant by the death or removal or absence from the Colony of the Public Trustee for the time being, and another officer shall be appointed to that office during the pendency of any petition, action, suit or other proceeding, such petition, action, suit or other proceeding, shall not abate or become defective, but shall be continued by or against the officer newly appointed.

Office of Public Trustee falling vacant.

Public Trustee
or his agents
not liable for
acts done in
performance of
their duties.

(6) Neither the Public Trustee nor any agent shall be personally liable to any person in respect of goods or chattels in the possession at the time of his death of any person whose estate shall be administered by the Public Trustee, which shall be sold by the Public Trustee or such agents, unless the Public Trustee or agent shall know or have actual notice before the sale that such goods or chattels were not in fact the property of the person whose estate is being administered by him, and generally neither the Public Trustee nor any agent shall be liable for any act done by him *bonâ fide* in the supposed and the intended performance of their duties, unless it shall be shown that such act was done not only illegally, but wilfully or with gross negligence. Provided always that in case of any sale by the Public Trustee or any agents, of goods or chattels belonging in fact to any third person the amount realised by such sale thereof shall be paid over to the owner upon proof by him of such ownership unless the same shall have already been applied in payment of the debts of the deceased or shall have been distributed according to any will of the deceased in the ordinary course of administration whilst the Public Trustee or agent was in ignorance and without actual notice of the claim of such person to the goods or chattels sold.

Government
liability for
acts of Public
Trustee.

25. The Government shall be liable to make good all sums required to discharge any liability which the Public Trustee, if he were a private executor, administrator or trustee, would be personally liable to discharge, except when the liability is one to which neither the Public Trustee nor any of his officers has in any way contributed, and which neither he nor any of his officers could by the exercise of reasonable diligence have averted, and in that case, the Public Trustee shall not, nor shall the said Government, be subject to any liability.

Rules.

26. It shall be lawful for the Governor in Council from time to time to make rules for:—

(a) defining the duties of the Public Trustee;

(b) defining the power and liabilities of agents, appointing such persons as may be thought advisable to be ex-officio agents, fixing the amount of security to be given by agents and generally regulating their duties;

(c) prescribing forms and scales of fees, and

(d) the safe custody, deposit and investment of funds which come into the hands of the Public Trustee, and

(e) generally making provision for the better carrying out of the purposes of this Ordinance.

27. The Native Estates Administration Rules and Orders, 1899, the Administrator-General's Ordinance, 1909, the Administrator-General's (Amendment) Ordinance, 1919, and the Administrator-General's (Amendment) Ordinance, 1921, and all rules issued thereunder are hereby repealed without prejudice to anything lawfully done thereunder. Repeals

28. (1) Provided that under the Ordinances now repealed : Saving clause.

(a) all appointments made, powers conferred, and notifications served or published shall be deemed to have been respectively made, conferred, served and published under this Ordinance ;

(b) all rights, liabilities and engagements existing and all actions and suits and proceedings pending shall be enforced, carried on and prosecuted under this Ordinance, and no such action, suit or proceeding shall abate or be discontinued or prejudicially affected by such constitution ;

(c) all fees, charges and debts of whatever description due or payable or recoverable shall be due, payable and recoverable under this Ordinance ;

(d) all property, movable or immovable, vested or held in trust, and all rights and duties of whatever description used, enjoyed or possessed or imposed, shall vest, be held in trust, be used, enjoyed, possessed or imposed under this Ordinance.

(2) Nothing in this Ordinance contained shall be deemed to affect the provisions of " The Probate and Administration (Public Trustee) Ordinance, 1912."

No. 8 OF 1925.

**An Ordinance to Consolidate and Amend the Law
Relating to Arms and Ammunition.**

Date of
commencement.

[30TH MAY, 1925.]

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

PRELIMINARY.

Short title and
commencement.

1. This Ordinance may be cited as "The Arms and Ammunition Ordinance, 1925," and shall come into force on such date as the Governor in Council shall declare by Proclamation in the Gazette.

Definitions.

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

"Ammunition" includes explosives, cartridges, balls, caps, and any other material for loading fire-arms;

"Arms" include the arms of war hereinafter mentioned and fire-arms of any description, whether whole or in detached pieces;

"Authorised Officer" means any Administrative officer or any other officer authorised for a particular purpose by the Governor;

"The Convention" means the Convention for the control of the trade in arms and ammunition, and the Protocol, signed at St. Germain-en-Laye on the tenth day of September, 1919;

"Native" means any person who by birth or adoption belongs to any of the races or tribes of Africa or of the countries bordering on the Indian Ocean, the Red Sea, the Persian Gulf, or the Gulf of Oman, and includes a Somali and a Swahili.

"Native vessel" means a vessel either owned by a native, or fitted out or commanded by a native, or with a crew of whom more than half are natives;

“ Private warehouse ” means a warehouse for arms or ammunition, not being a public warehouse, proclaimed as such by the Governor ;

“ Public warehouse ” means a warehouse under the exclusive custody and permanent control of the Government and of its servants (of whom one at least is a civil or military officer) and proclaimed as such by the Governor ;

“ Prohibited area ” means :—

(a) The whole of the Continent of Africa with the exception of Algeria, Libya, and the Union of South Africa ;

(b) All islands situated within a hundred nautical miles of the coast of the Continent of Africa, together with Prince's Island, St. Thomas' Island, and the Islands of Annobon and Socotra ;

(c) Transcaucasia, Persia, Gwadar, the Arabian Peninsular and such continental parts of Asia as were included in the Turkish Empire on the fourth day of August, 1914 ;

“ Prohibited zone ” means a maritime zone, including the Red Sea, the Gulf of Aden, the Persian Gulf and the Sea of Oman, bounded by a line drawn from Cape Guardafui, following the latitude of that Cape to its intersection with Longitude 57° East of Greenwich, and proceeding thence direct to the Eastern frontier of Persia in the Gulf of Oman.

RESTRICTIONS ON THE EXPORT AND IMPORT OF ARMS AND AMMUNITION.

3. (1) After the commencement of this Ordinance it shall be unlawful for any person to export from the Colony :—

Restrictions on the export of arms or ammunition.

(a) The following arms of war, whether complete or in parts, or ammunition for the same ; namely, artillery of all kinds, apparatus for the discharge of all kinds of explosive or gas-diffusing projectiles, flame-throwers, bombs, grenades, machine guns, and rifled small-fire breech-loading weapons of all kinds ; and

(b) Fire-arms of any description, whether complete or in parts or ammunition for the same, to any part of the prohibited area and prohibited zone :

Provided that :—

(i) The Governor may grant licences for the export of arms of war or ammunition for the same, the use of which is not prohibited by international law, to meet the needs of the Government of any part of His Majesty's Dominions or any country under His Majesty's protection or any territory in respect of which a mandate is being exercised by the Government of any part of His Majesty's Dominions or the Government of any of the High Contracting Parties to the Convention ;

(ii) An authorised officer may, subject to any rules in that behalf, grant licences for the export of fire-arms or ammunition for the same, the use of which is not intended for warlike purposes, to any place whether in a prohibited area or zone or not :

Provided that before granting such licence, such officer shall satisfy himself that such firearms or ammunition are not intended for disposal in any way contrary to the provisions of the Convention.

In granting such licence, such officer may attach thereto any term and condition consistent with this Ordinance and of the Convention which he may think advisable, and in particular may limit such licence to exportation to a named consignee.

(2) In the case of arms or ammunition adapted both to warlike and also to other purposes, the authorised officer may determine from the size, destination, and other circumstances of each consignment or from the circumstances of the holder for what use they are intended, and decide in each case whether or not they are to be regarded as arms or ammunition of war.

Restrictions on
the import of
arms or
ammunition.

4. (1) Except as may be allowed by a licence of the Governor or by any rules in that behalf, it shall be unlawful for any person to import into the Colony any arms or ammunition of any description.

No. VIII. *The Arms and Ammunition Ordinance***1925.**

(2) Any arms or ammunition allowed to be imported shall be imported only at prescribed places.

(3) This section and the preceding section shall have effect as if they formed part of the Customs Ordinance, 1910.

(4) Nothing in this section shall be deemed to affect the importation of arms or ammunition for the use of the Government of the Colony or the re-importation by the registered owner of any arm which has already been registered in the Colony and exported therefrom by the registered owner.

(5) An authorised officer may on due application being made to him in that behalf grant licences for the importation by land or by inland navigation of specified fire-arms, arms of war and ammunition subject to such restrictions, limitations and conditions as may be prescribed.

PUBLIC WAREHOUSES.

5. Any person who imports arms or ammunition shall immediately deposit them in a public warehouse at his own risk and expense, and shall conform to any directions which may be given by an authorised officer with regard to the transport of such arms or ammunition to such warehouse :

Deposit in
public
warehouses.

Provided that this section shall not apply to arms or ammunition imported for the use of the Government of the Colony or to re-importation as laid down in Section 4 (4).

6. (1) As soon as possible after the deposit thereof in a public warehouse and before the withdrawal thereof therefrom, every complete arm and, where an arm is not complete, every part of an arm, and every package of ammunition, shall be registered in the prescribed manner according to any existing marks and numbers, and, if so required by the authorised officer, shall be stamped or marked in the prescribed manner.

Registration of
imported arms
or ammunition.

(2) The person depositing such arm or ammunition shall supply such information for the purposes of enabling such registration to be effected as may be required by the officer in charge of such warehouse or as may be prescribed.

7. All arms or ammunition imported solely for the purpose of sale in the Colony shall be registered as such when first deposited in a public warehouse, and also whenever transferred therefrom to any other public or to a private warehouse.

Arms imported
for sale to be
registered as
such.

Withdrawal
from public
warehouses.

8. (1) No arms or ammunition deposited in a public warehouse shall be withdrawn except in accordance with a permit for such purpose signed by an authorised officer.

(2) No such permit shall be granted except in accordance with prescribed conditions and until an authorised officer is satisfied that such arms or ammunition are :—

(a) For despatch to places proclaimed by the Governor where persons are allowed to possess arms or ammunition, under the control and responsibility of the local authorities thereof, for the purpose of defence against robbers or rebels; or

(b) For despatch to any other public or to a private warehouse; or

(c) For persons who can show that they require them for their legitimate personal use.

(3) Such officer may specify in such permit the place to and the time within which such arms or ammunition shall be despatched after the withdrawal thereof, and the place in which they shall be secured in the interval.

(4) Such officer may, in his discretion, limit the quantity of arms or ammunition to be withdrawn at any one time.

(5) Before permitting the withdrawal of arms or ammunition, such officer may require such security to be given, as he may think fit, for compliance with this Ordinance and of the conditions of a permit for withdrawal.

Arms to be
described in
permit for
withdrawal.

9. Every permit for the withdrawal of arms or ammunition shall specify the marks, number and description of such arms or ammunition.

Withdrawal for
killing game.

10. An authorised officer may require any person applying for a permit for the withdrawal of arms or ammunition to be used for the purpose of killing game or other animals to take out a licence under the Game Ordinance, 1921, and may refuse to issue such permit until such licence is taken out.

ARMS ALREADY IN THE COLONY.

Registration of
arms or
ammunition
other than those
of war already
in the Colony.

11. Every person having in his possession or control in the Colony any arms or ammunition shall cause them to be registered within the prescribed period and in the prescribed manner, and, if so required, to be stamped or marked by the authorised officer in the prescribed manner.

ARMS LICENCES.

12. (1) Except as may be allowed by rules in that behalf, Arms licences.
no person shall, after the end of three months from the commencement of this Ordinance, possess, except in a public or private warehouse, or use or carry any fire-arms or ammunition unless in possession of a licence (in this Ordinance referred to as an "arms licence") issued under this Ordinance for such purpose.

(2) An arms licence may be issued by an authorised officer. Such officer shall have power to refuse to issue any such licence without assigning any reason therefor, and shall thereupon report every such refusal to the Central Office.

(3) Every licence shall expire on the 31st day of December next following the day of issue.

(4) An arms licence shall describe the fire-arms and ammunition to which it relates by reference to the marks and numbers stamped and registered in pursuance of this Ordinance and shall be issued by and to such person in such form and subject to such conditions as may be prescribed.

(5) The fee for an arms licence shall be five shillings.

(6) No fee shall be payable for an arms licence for fire-arms which are in the nature of trophies or curiosities, and kept as such.

(7) On being satisfied that reciprocal provisions have been or will be made by any one of the Governments of the Protectorates of Uganda, Zanzibar or Nyasaland or the Territory of Tanganyika for the recognition by those Governments of arms licences which have been issued in this Colony the Governor in Council may by order declare that an arms licence issued under the law in force for the time being under that Government shall have the same effect and validity as if it had been issued in pursuance of the provisions of this Ordinance :

Provided, however, that such licence shall be first endorsed by an authorised officer.

Notice of loss,
etc., of an arm
to be given.

13. The holder of a licence to bear an arm shall forthwith notify the authorised officer should the arm be lost, stolen, or destroyed. Should the authorised officer be satisfied that the same has been lost, stolen or destroyed, he shall grant to the holder of the licence a certificate to such effect. If the holder of a licence fails to produce an arm which he is authorised to bear and has not complied with the provisions of this section or has failed to obtain a certificate as aforesaid, he shall be deemed to have dealt with the arm in breach of the provisions of this Ordinance unless he shall prove the contrary.

Arms lent for
a temporary
purpose.

14. The holder of a licence to bear an arm may lawfully possess and bear an arm and ammunition therefor lent to him for a temporary purpose by the person who holds a licence to bear such arm.

TRADING IN ARMS AND PRIVATE WAREHOUSES.

Restriction on
sale and transfer
of arms or
ammunition.

15. No person shall sell or transfer or buy or accept any arm or ammunition, either by way of gift or for any consideration, except in accordance with a permit signed by an authorised officer.

Private ware-
house not to be
kept without
licence.

16. No person shall keep a private warehouse for arms or ammunition without a licence from an authorised officer and the fee for such licence shall be twenty shillings.

Provisions as to
private
warehouses.

17. A person licensed to keep a private warehouse shall :—

(1) Reserve for the purpose enclosed premises having only one entry thereto provided with two locks, of which one can be opened only by officers of the Government.

(2) Be responsible for all arms or ammunition deposited therein or withdrawn therefrom and account for the same on the demand of any authorised officer, and shall for this purpose keep a register of deposits and withdrawals in the prescribed form.

Every entry in such register shall :—

(a) Be made at the time of or immediately after such deposit or withdrawal;

(b) Be dated;

(c) Be numbered consecutively;

No. VIII. *The Arms and Ammunition Ordinance*

1925.

(d) Contain particulars of the arms or ammunition in respect of which they are made by reference to the marks and numbers stamped and registered in pursuance of the provisions of this Ordinance ;

(e) Contain a reference to the permit authorising such deposit or withdrawal ;

(f) Be signed by the licensee and contain such other particulars as may be prescribed.

18. (1) No arms or ammunition shall be deposited in or withdrawn from a private warehouse except on written application in the prescribed form and in accordance with permits for such purpose signed by an authorised officer.

Deposit and withdrawal from private warehouse.

(2) If at any time there is found in a private warehouse more arms or ammunition than the quantity for which permits for such purpose have been granted, the licensee shall be guilty of an offence against this Ordinance.

(3) If at any time there is found in a private warehouse less arms or ammunition than the quantity which has been deposited therein, or than the quantity which according to the register of deposits appears to have been deposited therein, and the deficiency is not accounted for by withdrawals under permits for such purpose, the licensee shall be guilty of an offence against this Ordinance.

19. (1) Permits to withdraw arms or ammunition from a private warehouse shall only be granted by an authorised officer where such withdrawal is for the purpose of :—

Permits for withdrawals from private warehouse.

(a) A sale or transfer, in which case the permit for such sale or transfer and the arms licence of the purchaser or transferee must be produced by the applicant to such officer ;

(b) Export, in which case any licence or permit required for such purpose must be produced to such officer ;

(c) Removal from one private warehouse to any other private or to a public warehouse ;

(d) Exhibition in such premises as may be specified in the permit.

(2) Every such permit shall describe the arms or ammunition to which it relates by reference to the marks and numbers stamped and registered in pursuance of the provisions of this Ordinance.

(3) Where such permit is given for the purpose of exhibition, the person mentioned in the permit shall be responsible for the safe custody of such arms or ammunition, and if any such arms or ammunition are removed without the permit of an authorised officer from the premises in which they were permitted to be deposited such person shall be guilty of an offence against this Ordinance.

ARMS FOR CONTIGUOUS TERRITORIES.

Transit licence
for contiguous
territories.

20. Notwithstanding anything in this Ordinance contained, transit licences for the importation of arms or ammunition, whether complete or in parts, or of material or of articles intended for armament, to contiguous territories may be granted, suspended, or refused by the Governor in accordance with the provisions of Article 10 of the Convention.

MANUFACTURE AND REPAIR OF ARMS.

Manufacture of
arms or
ammunition.

21. No arms or ammunition shall be manufactured or assembled except at such places as may be proclaimed by the Governor for such purpose in accordance with the provisions of the Convention.

Repair of arms.

22. Except at Government arsenals no person shall open or carry on an establishment for the repair of fire-arms without a licence issued by the authorised officer :

Provided that nothing in this section shall be deemed to prohibit a person repairing his own arm with or without assistance.

MARITIME SUPERVISION.

Restriction on
carriage by
native vessels.

23. (1) No person shall ship or discharge any arms or ammunition in or from a native vessel of less than five hundred tons burden :

Provided that this provision shall not apply to :—

(a) Lighters or barges lawfully engaged in loading or unloading ships ;

(b) Vessels which, without going more than five miles from the shore, are engaged exclusively in the coasting trade between different ports of the Colony where public or private warehouses are situated.

(2) No cargoes of arms or ammunition shall be shipped in such last-mentioned vessels without a licence from an authorised officer issued in accordance with prescribed conditions, and all arms or ammunition so shipped shall be subject to the provisions of the convention.

(3) Every licence granted under subsection (2) hereof shall contain all details necessary to establish the nature and quantity of the items of such shipment, the vessel on which such shipment is to be loaded, the name of the ultimate consignee, and the ports of loading and discharge. It shall also be specified therein that the licence has been issued in conformity with the regulations of the convention.

(4) The restrictions in this section shall not apply to:—

(a) Arms or ammunition conveyed on behalf of the Government of the Colony, provided that such arms or ammunition are accompanied by a duly qualified official;

(b) Fire-arms or ammunition in the possession of the holder of an arms licence, provided that such fire-arms or ammunition are for the personal use of the holder of such licence and are accurately described therein.

SEARCH WARRANTS.

24. It shall be lawful for any magistrate, if satisfied by information on oath that any arms or ammunition are or are reasonably suspected of being unlawfully kept, conveyed, landed or sold at any place, whether on land or otherwise, in contravention of this Ordinance, to grant a warrant to enter at any time, and if need be by force, on Sundays as well as other days, the place named in such warrant and every part thereof, and to examine the same and to search for any such arms or ammunition, and to demand from the owner or occupier of such place the production of his licence or authority for keeping, conveying, landing or selling the same. Search warrants.

25. When the person executing such warrant as aforesaid has reasonable cause to believe that any arms or ammunition found by him at any place are being kept, conveyed, landed, or sold in contravention of this Ordinance he may seize and detain the same until a magistrate has decided whether they shall be forfeited or not. Seizure of arms.

No. VIII.

The Arms and Ammunition Ordinance

1925.

Person seizing
arms
indemnified.

26. A person acting under such warrant shall not be liable to any suit for seizing or detaining any arms or ammunition subject or appearing to be subject to this Ordinance.

SUPPLEMENTAL.

Central office to
be established
at Nairobi

27. (1) A Central Office shall be established at Nairobi under the control of such officer as the Governor may appoint in that behalf for recording all permits and licences issued under this Ordinance.

(2) It shall be the duty of every authorised officer, before the tenth day of every month, to transmit to the Central Office a record of all permits and licences issued by him during the preceding month.

Power to
make rules.

28. The Governor in Council may make rules :—

(a) Prescribing the officers by whom, the form in which, and the terms and conditions on and subject to which any licence or permit under this Ordinance shall be issued, including the payment of fees in respect thereof, and permitting the revocation of any licence or permit ;

(b) Regulating the stamping, numbering, and registering of arms or ammunition ;

(c) Prescribing for the establishment and regulation of public and private warehouses ;

(d) Restricting and regulating the transport of arms or ammunition ;

(e) Prescribing the form and manner in which any registers or records required by this Ordinance or any rules thereunder shall be kept and the inspection thereof ;

(f) Prescribing the fees, rent and charges for the use of public warehouses or for anything to be done under this Ordinance, or any rules thereunder, and the manner in which they may be recovered ;

(g) Generally for the carrying out of the provisions of this Ordinance.

Penalties

29. (1) Any person who contravenes any provision of this Ordinance, or any rule, notice or order thereunder, or the conditions of any licence or permit, shall be guilty of an offence against this Ordinance.

(2) Any person guilty of an offence against this Ordinance shall on conviction be liable to imprisonment of either description for a term not exceeding twelve months or to a fine not exceeding two hundred pounds or to both.

(3) Any person so convicted who holds a licence or permit under this Ordinance shall be further liable to forfeiture of his licence or permit or to suspension thereof for such period as the court thinks fit.

(4) All arms, ammunition or any vessel in respect of which an offence is committed may be forfeited.

30. Any person who abets or attempts to commit any offence against this Ordinance shall himself be guilty of an offence against this Ordinance. Attempts and abetments.

31. Offences against the provisions of this Ordinance shall be cognizable to the police. Cognizable offences.

32. Where in any proceedings under this Ordinance any fine is imposed, the court may award any sum or sums not exceeding half the total fine to any informer or informers, provided that no such sum may be awarded to any person appointed to assist in the administration of this Ordinance. Rewards to informers.

33. The East Africa Arms Ordinance, 1906, and the East Africa Arms (Amendment) Ordinance, 1906, are hereby repealed : Repeals.

Provided always that such repeal is without prejudice to anything lawfully done, any penalty incurred or any liability imposed thereunder, and any such penalty or liability may be recovered or decided, as the case may be, in proceedings taken in the same manner in all respects as if this Ordinance had not been made.

**An Ordinance to Amend the Prisons
Ordinance, 1914.**

Date of
commencement.

[15TH SEPTEMBER, 1925.]

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

Short title.

1. This Ordinance may be cited as “ the Prisons
Amendment Ordinance, 1925,” and shall be read as one with
the Prisons Ordinance, 1914, hereinafter referred to as “ the
Principal Ordinance,” and all amendments thereto.

Assistant
Superintendent
substituted
for Gaoler.

2. Sections 2, 10, 22, 44, 63, 75 and 106 of the Principal
Ordinance are amended by the deletion of the words “ Gaoler,”
“ Gaolers ” wherever they occur in the said sections and the
substitution therefor of the words “ Assistant Superintendent,”
“ Assistant Superintendents.”

Prison officers.
Alteration of
titles.

3. Section 7 of the Principal Ordinance is repealed and
replaced as follows :—

“ 7. Prison Officers shall consist of the following :—

Commissioner.
Superintendents.
Assistant Superintendents.
Matrons.
Technical Instructors.

Asiatic and African Subordinate Officers :—

Chief Warders, 1st Grade.
Chief Warders, 2nd Grade.
Sergeant Warders.
Corporal Warders.
Lance-Corporal Warders.
Warders.
Female Warders.
Technical Instructors.”

No. IX.*The Prisons (Amendment) Ordinance***1925.**

4. Section 55 of the Principal Ordinance is hereby amended by the deletion of the words "and all others committed for safe custody only" in lines 1 and 2. Amendment of
Section 55.

5. Section 73 of the Principal Ordinance is hereby repealed and replaced as follows :— Amendment of
Section 73.

" Prisoners awaiting trial shall be given all reasonable opportunities of communicating with their friends or legal adviser, and subject to any regulations which may be made under this Ordinance they may write or receive letters. They shall be allowed to see their advocates in the sight, but, as far as possible, out of the hearing of a prison officer, unless for special reasons the superintendent shall order otherwise."

No. X. *The Customs Tariff (Amendment) Ordinance* **1925.**

No. 10 OF 1925.

An Ordinance to Amend the Customs Tariff Ordinance, 1923.

Date of commencement.

[15TH SEPTEMBER, 1925.]

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

Short title.

1. This Ordinance may be cited as “ the Customs Tariff (Amendment) Ordinance, 1925,” and shall be read as one with the Customs Tariff Ordinance, 1923 (hereinafter referred to as “ the Principal Ordinance ”).

Amendment of Table V of the Schedule of the Principal Ordinance.

2. Table V of the schedule of the Principal Ordinance is hereby amended as follows :—

(1) By the addition of the word “ furniture ” immediately after the word “ flags ” in item 15.

(2) By the addition of the following items :—

“ 62. All goods imported with the sanction of the Governor by Boundary or other Special Commissioners and their assistants for their private use while executing their duties.

“ 63. Works of art, painting, sculpture and the like imported for permanent public exhibition; also works of art which in the opinion of the Commissioner of Customs are of immediate utility for study or models and are capable of contributing to the progress and development of art within the territory.

“ 64. Samples which the Commissioner of Customs shall decide to be of no commercial value.”

No. XI.

The Customs (Amendment) Ordinance

1925.

No. 11 OF 1925.

[15TH SEPTEMBER, 1925.]

Date of
commencement**An Ordinance to Amend the Customs Ordinance,
1910.**

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

1. This Ordinance may be cited as “ the Customs (Amendment) Ordinance, 1925,” and shall be read as one with the Customs Ordinance, 1910, (hereinafter referred to as “ the Principal Ordinance ”) and all amendments thereof. Short title.

2. Notwithstanding anything contained in sections 156 and 157 of the Principal Ordinance samples and specimens, provided they are not of such quantity and value that, taken as a whole, they no longer constitute samples in the usual sense, and articles imported for repair, which are liable to import duty, and the importation of which is not prohibited, may, when imported by merchants, traders or commercial travellers, be temporarily admitted free of duty, subject to such conditions and subject to the amount of import duties being deposited or secured in such manner as the Commissioner of Customs may prescribe. Samples and specimens etc., to be admitted free of duty subject to the payment of a deposit etc.

3. Section 100 of the Principal Ordinance shall be and is hereby amended by the addition of the words “ imported in bulk or ” after the word “ liquids ” in the said section. Amendment of Section 100 of the Principal Ordinance.

No. 12 OF 1925.

An Ordinance to Amend the Electric Power Ordinance, 1919.

Date of commencement.

[15TH SEPTEMBER, 1925.]

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

Short title.

1. This Ordinance may be cited as “ The Electric Power (Amendment) Ordinance, 1925,” and shall be read as one with “ The Electric Power Ordinance, 1919,” (hereinafter referred to as “ the Principal Ordinance ”) and all amendments thereof.

Amendment of Section 2 of the Principal Ordinance.

2. The words “ which shall have been approved by the Governor ” appearing in the definition of “ Special Agreement ” in section 2 of the Principal Ordinance, are hereby repealed.

Amendment of Section 17 of the Principal Ordinance.

3. The words “ and approved of in writing by the Governor ” appearing in section 17 of the Principal Ordinance, are hereby repealed.

Amendment of Section 32 of the Principal Ordinance.

4. The words “ and approval of in writing by the Governor ” appearing in section 32 of the Principal Ordinance, are hereby repealed.

Amendment of Section 42 of the Principal Ordinance.

5. Section 42 of the Principal Ordinance, as amended by the Electric Power (Amendment) Ordinance, 1923, shall be and is hereby amended by the deletion of the word “ such ” where it first occurs in the proviso to the said section.

Repeal of Section 137 of the Principal Ordinance.

6. Section 137 of the Principal Ordinance is hereby repealed.

No. 13 of 1925.

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

[15TH SEPTEMBER, 1925.]

Date of
commencement.

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

1. This Ordinance may be cited as "The Widows' and Orphans' Pension (Amendment) Ordinance, 1925," and shall be read as one with "the Widows' and Orphans' Pension Ordinance, 1921," hereinafter referred to as the Principal Ordinance, and all amendments thereto. Short title.

2. Notwithstanding the provisions of section 5 (2) of the Principal Ordinance, any European officer in the service of the Government, who was in or selected for appointment to the East African Service on the 1st April, 1921, and who elected to become a contributor on or before the 1st day of October, 1922, but who did not elect to pay to the Crown Agents a lump sum contribution in accordance with section 5 (2) of the Principal Ordinance or who elected to make a lump sum contribution less than the maximum permissible, may apply to the Government for special permission to make a lump sum contribution, or to increase his lump sum contribution as the case may be, and, if after examination of the officer by a Government Medical Board the Governor in his discretion decides that such special permission shall be granted, the officer shall pay to the Crown Agents within three months after the date on which the Governor's decision is notified to him, the lump sum contribution or additional lump sum contribution as the case may be. The lump sum contribution, or, in the case of an additional lump sum contribution, such additional contribution together with the lump sum already paid, shall not exceed the total without interest of the amounts which the officer might have contributed by way of annual and additional annual contributions up to the date of his becoming a contributor if the scheme had come into operation on the 1st of April, 1916. Lump sum contributions by original contributors.

3. Any application under this Ordinance must be made to the Government before the 1st of April, 1926. Applications.

No. 14 OF 1925.

**An Ordinance to Amend the Mining Ordinance,
1925.**

Date of commencement.

[15TH SEPTEMBER, 1925.]

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

Short title.

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

Repeal of Section 39 of the Principal Ordinance.

2. Section 39 of the Principal Ordinance is hereby repealed: Provided that any rent paid pursuant to the provisions of the section hereby repealed may be refunded.

Amendment of Section 46 of the Principal Ordinance.

3. Section 46 of the Principal Ordinance is hereby amended by the addition thereto of the words “ or except with the consent of the Commissioner of Mines.”

Repeal of Section 70 (d) of the Principal Ordinance

4. Section 70 (d) of the Principal Ordinance is hereby repealed.

Amendment of Section 93 of the Principal Ordinance.

5. Section 93 of the Principal Ordinance is hereby amended by the deletion of the words “ or payable in respect of any claim.”

Amendment of Forms L, M and N, Schedule II of the Principal Ordinance.

6. Forms L., M. and N. in Schedule II of the Principal Ordinance are hereby amended by the addition of the words “ or claims ” after the word “ claim ” wherever it appears.

Amendment of Form Q, Schedule II of the Principal Ordinance.

7. Form Q in Schedule II of the Principal Ordinance is hereby amended by the deletion of Clause (c) and the substitution therefor of the words

“ (c) That all fees payable on the said claim have been duly paid.”

No. XIV.*The Mining (Amendment) Ordinance***1925.**

8. Schedule IV of the Principal Ordinance is hereby amended by the deletion of the words "Registration of transfer of claim S. 40" and "Registration of lien on claim S. 10" and the substitution therefor of the words "For every entry in the Mining Register effecting registration of transfer of claim or claims or of a lien on claim or claims S. 40."

Amendment of
Schedule IV of
the Principal
Ordinance.

No. XV. *The Criminal Procedure (Amendment) Ordinance* **1925.**

No. 15 OF 1925.

An Ordinance to Amend the Criminal Procedure Ordinance, 1913.

Date of commencement.

[15TH SEPTEMBER, 1925.]

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

Short title.

1. This Ordinance may be cited as “ the Criminal Procedure (Amendment) Ordinance, 1925,” and shall be read as one with the Criminal Procedure Ordinance, 1913, hereinafter referred to as “ the Principal Ordinance,” and all amendments thereto.

Amendments to Section 266 of the Principal Ordinance.

2. Section 266 of the Principal Ordinance is hereby amended by the deletion in sub-section (1) of the words “ named in the said revised list ” and by the insertion at the beginning of sub-section (2) of the words

“ In the case of persons named in the said revised list.”

SCHEDULE.

HEAD	£	s.	cts.
Public Debt Funded	3	4	42
Pensions and Gratuities	14,234	15	54
His Excellency the Governor	1,563	19	26
Secretariat	296	14	48
Treasury	26	11	15
Land Department	1,859	1	09
Miscellaneous Services	18,101	11	17
Public Works Recurrent	5,654	9	44
“ Official Gazette ” and Printing, Extraordinary	2,001	3	37
Medical Department, Extraordinary ...	272	15	74
Military, Extraordinary	11,103	7	19
Post Office and Telegraphs, Extraordinary.	1,308	18	44
Education, Extraordinary	1,969	14	86
Land Department, Extraordinary	1,313	5	32
Protectorate Share of War Expenses ...	247	17	23
	<hr/>		
	£59,957	8	70
	<hr/>		

No. 17 OF 1925.

**An Ordinance to Amend the Vagrancy
Ordinance, 1920.**

[15TH SEPTEMBER, 1925.] Date of
commencement.

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

1. This Ordinance may be cited as “ the Vagrancy Amendment Ordinance, 1925,” and shall be read as one with the Vagrancy Ordinance, 1920, hereinafter referred to as “ the Principal Ordinance.” Short title.

2. Section 2 of the Principal Ordinance is amended by the addition of the following subsection :— Amendment of
Section 2 of
the Principal
Ordinance.

“ (d) Any person offering, pretending, or professing to tell fortunes or using any subtle craft, means, or device by palmistry or otherwise to deceive or impose upon any person.”

No. XVIII. *The Cotton (Tax) (Amendment) Ordinance* **1925.**

No. 18 OF 1925.

**An Ordinance to Amend the Cotton (Tax)
Ordinance, 1923.**

Date of
commencement

[15TH SEPTEMBER, 1925.]

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

Short title.

1. This Ordinance may be cited as “the Cotton (Tax) (Amendment) Ordinance, 1925,” and shall be read as one with the Cotton (Tax) Ordinance, 1923, hereinafter called “the Principal Ordinance.”

Exemption of
district from
application of
Ordinance.

2. The Principal Ordinance is amended by adding thereto the following section :—

“7. It shall be lawful for the Governor in Council from time to time by proclamation in the Gazette to exempt any district or districts in the Colony from the application of this Ordinance.”

No. 19 OF 1925.

**An Ordinance Further to Amend the Agricultural
Produce Export Ordinance, 1921.**

[15TH SEPTEMBER, 1925.] Date of
commencement.

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

1. This Ordinance may be cited as “ the Agricultural Produce Export (Amendment) Ordinance, 1925,” and shall be read as one with the Agricultural Produce Export Ordinance, 1921, as amended by the Agricultural Produce Export (Amendment) Ordinance, 1923, (hereinafter called “ the Principal Ordinance ”). Short title.

2. Section 10A of the Principal Ordinance is hereby amended by repealing subsection (2) thereof and by substituting the following therefor :— Amends
Section 10A
of the
Principal
Ordinance.

(2) Save as provided by subsections (3) and (4) of this section when produce is block-stacked the Administration of the Uganda Railway, shall, after reasonable notice, deliver to the person entitled thereto the same number of bags of produce of the same grade and quality as that person or his assignor shall have delivered to the said Administration to be block-stacked, but it shall not be necessary for the said Administration to deliver to any person the identical produce which it received from him or from his assignor.

(3) It shall be lawful for the Agricultural Department to regrade produce prior to shipment after it has been received in block-stack. Incidence of
loss on
deteriorated
produce.

When, on regrading, produce is found to have deteriorated, the inspector shall apportion any resultant loss among the persons who have left produce of that grade in block-stack in such proportion as he may consider to be fair and reasonable, having special regard to the period during which an

No. XIX. Agricultural Produce Export (Amend) Ordinance 1925.

owner has held produce in block-stack as shown by the books of the Uganda Railway Administration, and such loss shall be borne by the person or persons to whom it has been apportioned. The produce so found to have deteriorated may be removed to the place allotted to the storage of produce of the quality to which it has deteriorated :

Provided that if the regraded produce does not fall within any of the prescribed grades or within any of those classes of produce for which an inspection certificate may be issued, it shall be lawful for the inspector to sell, destroy, or otherwise dispose of the said produce and apply the nett amount realised (if any) firstly in defraying any charges which may be due to the Administration of the Uganda Railway for storing the said produce and secondly in crediting the balance to the person or persons entitled to credit under subsection (4) of this section.

Disposal of
deteriorated
produce.

(4) When produce has been removed from a block-stack of one grade to a block-stack of a lower grade, as provided by the last subsection, the Administration of the Uganda Railway shall enter in the stock-book a debit to the person or persons, upon whom the loss due to deterioration has fallen, of the number of bags of produce standing to his or their credit in the block-stack of the grade in which the deterioration is found to have occurred, and shall credit that person or those persons with an equivalent number of bags of produce in the block-stack to which the deteriorated produce has been removed.

Amendment of
receipts.

(5) When the procedure prescribed by the last subsection has been complied with, any receipt or certificate issued on the receipt of the produce for block-stacking shall be deemed to be amended accordingly.

Notification
after
regrading

(6) Notification as to alteration of grade (if any) on regrading carried out under subsection (3) of this section shall be posted by the inspector to the owner or owners of the produce so regraded as soon as possible on completion of regrading.

No. 20 OF 1925.

**An Ordinance to Amend the Liquor Ordinance,
1909.**

[15TH SEPTEMBER, 1925.]

Date of
commencement.

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

1. This Ordinance may be cited as “ the Liquor (Amendment) Ordinance, 1925,” and shall be read as one with the Liquor Ordinance, 1909 (hereinafter referred to as “ the Principal Ordinance ”) and with all amendments to the Principal Ordinance. Short title

2. Sub-section (3) of Section 2 of the Principal Ordinance is hereby amended by deleting the said sub-section and substituting the following subsection therefor :— Amendment of
subsection (3) of
Section 2 of the
Principal
Ordinance.

(3) To any person who is not licensed for the sale of intoxicating liquor for consumption on the premises selling medicated or methylated spirits to persons other than natives.

3. Section 3 of the Principal Ordinance is hereby amended by deleting the definition of “ Methylated spirits ” and by substituting the following definition therefor :— Definition of
“ Methylated
spirits.”

“ Methylated spirits ” means spirits with which any substance is mixed so as to render the mixture unfit for human consumption as a beverage.

4. Section 3 of the Principal Ordinance is hereby further amended by deleting the definition of “ Native ” and by substituting the following definition therefor :— Definition of
“ Native.”

The term “ native ” means a native of Africa not of European or Asiatic origin, and includes a Somali and a Swahili, and further includes such other classes of persons as the Governor in Council shall by proclamation in the Gazette declare to be natives for the purposes of this Ordinance: Provided that a native of Algeria, Tunis, Morocco, Libya or Egypt shall not be deemed to be a native within the meaning of this Ordinance :

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1925.

And provided further that where there is any reasonable doubt as to whether any person falls within this definition the burden of proof shall be upon such person.

Licence does not authorise sale of methylated spirits.

5. Section 4 of the Principal Ordinance is hereby amended by the addition thereto of the following subsection :—

“(2) No person licensed under this Ordinance for the sale of intoxicating liquor for consumption on the premises shall sell or keep or permit to be sold or kept on the licensed premises methylated or other de-natured spirits.”

Amendment of Section 44 of the Principal Ordinance.

6. Section 44 of the Principal Ordinance is hereby amended by the deletion of the words “ is an immigrant from a place where the sale of liquor to such person is allowed,” and substituting therefor the words “ is not a native within the meaning of this Ordinance.”

Commencement of Ordinance.

7. This Ordinance shall commence and take effect immediately after three months from the date of assent.

No. 21 OF 1925.

**An Ordinance to Regulate the Sale of Methylated
Spirits.**

[15TH SEPTEMBER, 1925.]

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

1. This Ordinance may be cited as "The Methylated Spirits Ordinance, 1925." Short title.

2. For the purposes of this Ordinance Definition.

"Methylated spirits" means spirits with which any substance is mixed so as to render the mixture unfit for human consumption as a beverage.

3. No person shall sell or keep for sale methylated spirits without a licence. Sale of methylated spirits without a licence prohibited.

4. It shall be lawful for a District Commissioner to issue a licence on payment of a fee of S. 2 to any person other than a native carrying on business in the District authorising him to keep for sale and to sell methylated spirits in the premises specified in the licence : Provided that no licence to sell or keep for sale methylated spirits shall be granted (or if granted shall be valid) to any person licensed to sell intoxicating liquor for consumption on the premises. Persons who may be licensed.

5. Every licence issued under this Ordinance shall expire on the 31st day of December of the year in which it was issued. Duration of licence.

6. Any person committing an offence against this Ordinance shall be liable to a fine not exceeding S. 500 and in default of payment to imprisonment of either description for a period which may extend to three months. Penalties.

Licence may
be cancelled.

7. It shall be lawful for any Magistrate convicting a person licensed under this Ordinance to cancel the licence, and the licence so cancelled shall be null and void.

Conviction to
be reported to
district
commissioner.

8. A Magistrate who convicts a person licensed under this Ordinance of an offence against the Ordinance shall inform the District Commissioner of the district in which the licence was issued of such conviction and the District Commissioner shall take the conviction into consideration in considering any application by the person so convicted for a licence under this Ordinance.

Power to
search.

9. Any Magistrate or European Police Officer or other person generally authorised in that behalf by the Governor may enter any premises licensed under this Ordinance or in which he has reasonable grounds for supposing that methylated spirits are sold or are kept for sale and search the said premises and inspect the manner and place in which methylated spirits are kept. Any person obstructing a person who enters upon premises under this section shall be guilty of an offence.

Onus of proof.

10. In any proceedings against any person for selling or keeping for sale methylated spirits without a licence such person shall be deemed to be unlicensed unless he shall produce his licence or give other satisfactory proof of his being licensed.

Power to
make rules.

11. The Governor-in-Council may make Rules regulating the manner and place of storage of methylated spirits kept for sale and prohibiting any class of persons from handling or serving methylated spirits and generally for the better carrying out of the purposes of this Ordinance.

Commencement
of Ordinance.

12. This Ordinance shall commence and take effect immediately after three months from the date of assent.

No. **XXII.** *The Reformatory Schools (Amendment) Ordinance* **1925.**

No. 22 OF 1925

An Ordinance to Amend the Reformatory Schools Ordinance, 1910.

[15TH SEPTEMBER, 1925.] Date of commencement.

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

1. This Ordinance may be cited as “ the Reformatory Schools (Amendment) Ordinance, 1925,” and shall be read as one with the Reformatory Schools Ordinance, 1910, hereinafter referred to as “ the Principal Ordinance.” Short title.
2. Section 2 of the Principal Ordinance is amended by the deletion of the figures “ 15 ” and the substitution therefor of the word “ sixteen.” Amendment of Section 2 of the Principal Ordinance.
3. Section 5, subsection (1) of the Principal Ordinance is amended by the deletion of the word “ two ” and the substitution therefor of the word “ three.” Amendment of Section 5 of the Principal Ordinance.
4. Section 6 of the Principal Ordinance is amended by the deletion of the figures “ 15 ” and the substitution therefor of the word “ sixteen.” Amendment of Section 6 of the Principal Ordinance.
5. Section 9 of the Principal Ordinance is amended by the deletion of the word “ seventeen ” wherever occurring and the substitution therefor of the word “ nineteen.” Amendment of Section 9 of the Principal Ordinance.

No. 23 OF 1925.

**An Ordinance to Consolidate and Amend the Law
Relating to Witchcraft.**

Date of
commencement

[12TH NOVEMBER, 1925.]

ENACTED by the Governor of the Colony of Kenya
with the advice and consent of the Legislative Council thereof :

Short title.

1. This Ordinance may be cited as "the Witchcraft Ordinance, 1925."

Persons pretend
ing to exercise
witchcraft, etc.

2. Any person who holds himself out as a witch-doctor able to cause fear, annoyance, or injury to another in mind, person, or property, or who pretends to exercise any kind of supernatural power, witchcraft, sorcery or enchantment calculated to cause such fear, annoyance or injury shall be guilty of an offence and shall be liable to imprisonment of either description for a term not exceeding five years.

Witch-doctor
supplying advice
or article for
witchcraft with
intent to injure.

3. Any person, professing a knowledge of so-called witchcraft or the use of charms, who shall advise any person applying to him how to bewitch or injure persons, animals or other property, or who shall supply any person with any article purporting to be a means of witchcraft, shall be guilty of an offence and shall be liable to imprisonment of either description for a term not exceeding ten years.

Persons using
witch medicine
with intent to
injure.

4. Any person who of his pretended knowledge of so-called witchcraft, shall with intent to injure, use or assist to use or cause to be put into operation such means or processes as may be calculated to cause fear, annoyance, or injury in mind, person, or property to any person shall be guilty of an offence and shall be liable to the like punishment as in the preceding section provided.

Possession of
charms an
offence.

5. Any person who is in possession of a charm or other article usually used in the exercise of witchcraft, sorcery, or enchantment for the purpose of causing fear, annoyance or injury to another in mind, person or property and who fails to show reasonable cause why he should retain any such charm

or other article in his possession shall be guilty of an offence and shall be liable to imprisonment of either description for a term not exceeding one year or to a fine not exceeding one thousand shillings or to both and the charm or other article shall be forfeited and destroyed or otherwise dealt with in such a way as the magistrate may direct.

6. Any person who accuses or threatens to accuse any person with being a witch or with practising witchcraft shall be guilty of an offence and shall be liable to a fine not exceeding five hundred shillings or to imprisonment of either description for any term not exceeding five years :

Charging persons with witchcraft.

Provided that this section shall not apply to any person who makes an accusation to a district commissioner, a police officer, an official headman or any other person in authority.

7. Any person who employs or solicits any other person to name or indicate by the use of any non-natural means any person as the perpetrator of any alleged crime or other act complained of shall be guilty of an offence and shall be liable to a fine not exceeding five hundred shillings or to imprisonment of either description for any term not exceeding five years.

Attempt to discover crime by witchcraft.

8. Any official headman who directly or indirectly permits, promotes, encourages or facilitates the practice of witchcraft or the doing of any act contrary to the provisions of this Ordinance or who knowing of the practice or pretended practice of witchcraft by any person does not forthwith report the same to a district commissioner shall be guilty of an offence and shall be liable to a fine not exceeding five hundred shillings or to imprisonment of either description for a term not exceeding three years.

Official headman permitting etc., the practice of witchcraft.

9. (1) When it is reported to a district commissioner that a person is suspected of practising witchcraft, the district commissioner, after due inquiry and having satisfied himself that the person so suspected causes or is likely to cause fear, annoyance or injury in mind, person or property to any other person by means of pretended witchcraft, may for reasons to be recorded order the person so suspected to reside in any locality within his district to be named by the district commissioner and alternatively or in addition to report at the office of the district commissioner every seven days or at longer intervals until further orders.

District commissioners may order persons practising witchcraft to reside in certain places.

(2) Any order issued under this section shall with the reasons therefor be forthwith reported by the district commissioner issuing the same to the senior commissioner of his province. Every such report shall be accompanied by a record of the inquiry. The senior commissioner shall have power to suspend, reverse or alter any such order and shall report such order and the action taken thereon to the Chief Native Commissioner, who shall also have power to suspend, reverse or alter any such order, and any such order shall at any time be subject to disallowance or variation by the Governor.

Penalty for refusing to obey.

(3) Any person who shall without lawful excuse refuse or neglect to obey an order issued under this section shall be guilty of an offence and on conviction before a magistrate, not being the district commissioner who made the order, shall be liable to a fine not exceeding one hundred and fifty shillings or to imprisonment of either description for a term not exceeding two months.

Deportation after conviction under this Ordinance.

10. When a person has been convicted of any offence under this Ordinance in addition to awarding any other punishment the trial judge or magistrate may recommend to the Governor that such person be deported and the provisions of sections 5 to 10 of the Deportation Ordinance, 1923, shall then apply.

Ordinance not to affect liability for wilful murder.

11. Nothing in this Ordinance shall affect the liability to the death penalty of any person who by the use of witchcraft or under a pretence of trial by ordeal or of using any lot or charm commits wilful murder.

Repeals.

12. The Witchcraft Ordinance, 1909, and the Witchcraft (Amendment) Ordinance, 1918, are hereby repealed without prejudice to anything lawfully done thereunder.

No. 24 OF 1925.

**An Ordinance to Regulate Shop Hours and to
Regulate the Employment of Shop Assistants.**

[12TH NOVEMBER, 1925.]

Date of
commencement

ENACTED by the Governor of the Colony of Kenya with
the advice and consent of the Legislative Council thereof :--

1. This Ordinance may be cited as " the Shop Hours Ordinance, 1925." Short title.

2. This Ordinance shall come into operation on such date and in such townships or other areas as the Governor in Council may by proclamation appoint. Application of Ordinance

3. In this Ordinance the following expressions shall, unless the contrary intention appears, have the meanings hereby respectively assigned to them, namely :— Interpretation.

" Local authority " means the council of any municipality constituted under the Municipal Corporations Ordinance, 1922, and in any township or other area where no such council exists the district commissioner.

" Occupier " means the person, company, association, or partnership having charge of any shop or owning the business thereof or employing any person in or in connection with any shop and includes the manager, agent or other person acting or apparently acting in the general management or control of any shop.

" Public holiday " means any public holiday established under the provisions of the Public Holidays Ordinance, 1912, or any amendment thereof.

" Retail trade or business " includes the business of a barber or hair-dresser, the sale of refreshments or intoxicating liquors and retail sales by auction ; but does not include the sale of programmes, catalogues, refreshments, intoxicating liquors and other similar sales at theatres and places of amusement.

“ Shop ” includes any premises where any retail trade or business is carried on.

“ Shop assistant ” means any person employed in or about a shop; but does not include an occupier or any person employed solely as a caretaker or as cleaner or other domestic servant: Provided that in any shop where not more than three persons are employed, the occupier of that shop not being the owner or part owner of the business shall for the purposes of this Ordinance be deemed to be a shop assistant.

“ Week ” means the period between midnight on Saturday and midnight on the succeeding Saturday thereof.

Conditions of
employment
and meals.

4. (1) On at least one weekday in each week a shop assistant shall not be employed about the business of a shop after one o'clock in the afternoon.

This provision shall not apply to the week preceding a public holiday if the shop assistant is not employed on the public holiday and if on one weekday in the following week in addition to the public holiday the employment of the shop assistant ceases not later than one o'clock in the afternoon.

(2) The occupier of a shop shall fix and shall specify in a notice in the prescribed form, which must be affixed in the shop in such manner and at such time as may be prescribed, the day of the week on which his shop assistants are not employed after one o'clock, and may fix different days for different shop assistants.

(3) Intervals for meals shall be allowed to each shop assistant in accordance with the first schedule to this Ordinance.

This provision shall not apply to any shop if the only persons employed therein as shop assistants are members of the family of the occupier of the shop, maintained by him and dwelling in his house.

Hours of
employment.

5. (1) No shop assistant shall be employed in or about a shop for more than fifty hours including meal times in any one week or more than nine hours in any one day:

Provided that for the purpose of stocktaking or other special emergency work that cannot be done during the usual hours, the working hours of shop assistants may be extended on days other than public holidays for periods not exceeding a total of one hundred hours in any year.

(2) In each year of continuous service from the commencement of this Ordinance under the same employer a shop assistant shall be granted leave of absence on full pay for twelve clear working days to be taken in a consecutive period: Provided that the employer may fix the time of leave for the different shop assistants with reasonable regard to the exigencies of his business.

(3) For the purpose of this section the expression "the same employer" shall include in case of the death of an employer, the legal representative, heir or legatee of that employer or in the case of insolvency or liquidation of the employer the receiver or liquidator, so long as such representative, heir, legatee, receiver or liquidator continues to carry on the business of that shop and to employ that shop assistant therein.

6. In all rooms of a shop where female shop assistants are employed in the serving of customers the occupier of the shop shall provide seats behind the counter or in such other position as may be suitable for the purpose; and such seats shall be in the proportion of not less than one seat to every three shop assistants employed in such room.

Seats for
female staff.

7. (1) Every shop shall, save as otherwise provided by this Ordinance, be closed for the serving of customers not later than one o'clock in the afternoon on one weekday in every week.

Closing of shops
on weekly half-
holiday.

(2) The local authority may by order fix the day on which a shop is to be closed (in this Ordinance referred to as "the weekly half-holiday") and any such order may either fix the same day for all shops or may fix:—

(a) Different days for different classes of shops; or

(b) Different days for different parts of the township or area:

Provided that no such order shall be made unless the local authority after such inquiry as shall be prescribed are satisfied that the occupiers of a majority of shops affected by the order approve the order.

(3) Unless and until such an order is made affecting a shop the weekly half-holiday as respects the shop shall be such day as the occupier may specify in a notice affixed in the shop, but it shall not be lawful for the occupier of the shop to change the day oftener than once in any period of three months.

(4) Where a shop is closed for a whole day on the occasion of a public holiday, it shall be lawful for the occupier of the shop to keep the shop open for the serving of customers after the hour it is required under this section to be closed on the half-holiday immediately preceding the public holiday.

(5) This section shall not apply to any shop in which the only trade or business carried on is trade or business of any of the classes mentioned in the second schedule to this Ordinance; but the local authority may by order made and revocable in the manner hereinafter provided with respect to closing orders extend the provisions of this section to shops of any class exempted under the second schedule if satisfied that the occupiers of a majority of the shops of that class approve the order.

Sunday closing

8. All shops in townships and other areas to which this Ordinance applies shall be closed for the serving of customers on Sundays: Provided that where any local authority applies for exemption from Sunday closing the Governor in Council may grant such exemption either as to the whole or part of Sunday and either generally or in respect of any particular class of shops or trades.

Closing order.

9. (1) A local authority may make an order (in this Ordinance referred to as "a closing order") fixing the hours on the several days of the week at which either throughout the area of the local authority or in any specified part thereof all shops or shops of any specified class are to be closed for serving customers.

(2) The hour fixed by a closing order (in this Ordinance referred to as "the closing order") shall not be earlier than 4 o'clock or later than 4.30 o'clock in the afternoon, unless it be shown to the satisfaction of the Governor in Council that special reasons exist for specifying a later closing hour but the closing hour shall not in any case be later than 6 o'clock in the afternoon, and every closing order shall specify the hour of opening which shall not be earlier than 6 o'clock in the morning.

(3) Until a closing order is made no shop shall be opened earlier than 6 o'clock in the morning and all shops shall be closed not later than 6 o'clock in the afternoon: Provided that this subsection shall not apply to any shop in which the only trade or business carried on is a trade or business of any of the classes included in the third schedule to this Ordinance.

(4) A closing order may:—

(a) Define the shops and trades to which the order applies; and

(b) Authorise sales after the closing hour in cases of emergency and in such other circumstances as may be specified or indicated in the order; and

(c) Contain any incidental, supplemental or consequential provisions which may appear necessary or proper.

(5) Nothing in a closing order shall apply to any shop in which the only trade or business carried on is a trade or business of any of the classes mentioned in the third schedule to this Ordinance.

(6) Notwithstanding anything contained in this section any shop may remain open until 7 o'clock in the afternoon on one day in each week. The day on which shops of any particular class may so remain open may be specified in a closing order. In the absence of any such order affecting a particular shop the occupier of such shop shall specify the day by a notice affixed in the shop, but it shall not be lawful for him to change the day oftener than once in any period of three months.

10. A local authority shall give notice of the intention to make a closing order and shall specify the terms to be fixed by the order. A period shall be stated during which objections may be made to the proposed order. After considering any objections the local authority may make the order.

Procedure of
making orders

11. (1) After any order has been passed by a local authority it shall be submitted for the approval of the Governor in Council who shall consider any objections to the order and may either disallow the order or confirm the order with or without amendment. Every order so confirmed shall be published in the Gazette and thereupon shall have the force of law.

Approval of
Governor in
Council.

Revocation of orders.

(2) The Governor in Council may, at any time on the application of a local authority sanction the revocation, alteration or amendment of an order made by a local authority.

Special provisions as to trading elsewhere than in shops.

12. It shall not be lawful in any locality to which this Ordinance applies to carry on in any place, not being a shop, retail trade or business of any class at any time when it would be unlawful in that locality to keep a shop open for the purpose of retail trade or business of that class, and, if any person carries on any trade or business in contravention of this section, this Ordinance shall apply as if he were the occupier of a shop and the shop were being kept open in contravention of the Ordinance :

Provided that :—

(a) The prohibition imposed by this section shall as respects any day other than the weekly half-holiday be subject to such exemptions and conditions (if any) as may be contained in any closing order ; and

(b) Nothing in this section shall be construed as preventing a barber or hair-dresser from attending a customer in the customer's own residence, or the holding of an auction sale of private effects in a private dwelling-house ; and

(c) Nothing in this section shall apply to the sale of newspapers ;

(d) Nothing in this section shall apply to theatres or places of public entertainment.

Provisions as to shops in which more than one business is carried on.

13. Where several trades or businesses are carried on in the same shop and any of those trades or businesses is of such a nature that if it were the only trade or business carried on in the shop a closing order would not apply to the shop or the shop would be exempt from the obligation to be closed for the weekly half-holiday the shop may be kept open after the closing hour for the purposes of those trades or businesses alone ; but on such terms and on such conditions as may be prescribed and the exemption from the obligation to be closed for the weekly half-holiday or under the closing order shall apply to the shop so far as the purposes of those trades or businesses alone are concerned.

14. (1) Notwithstanding anything contained in the Criminal Procedure Ordinance it shall be the duty of the police to investigate and prosecute all offences under this Ordinance. Powers of police.

(2) Any police officer or constable thereto authorised by any officer in charge of a police station may enter any shop in any township or area to which this Ordinance applies and demand information to ascertain whether or not the provisions of this Ordinance are being observed.

15. In the case of any contravention of or failure to comply with the provisions of this Ordinance the occupier of the shop shall be guilty of an offence punishable with a fine not exceeding :— Penalties.

(a) In the case of a first conviction five pounds (or in default of payment to simple imprisonment for a period not exceeding fourteen days) ;

(b) In the case of a second conviction ten pounds (or in default of payment to simple imprisonment for a period not exceeding one month) ;

(c) In the case of a third or subsequent conviction thirty pounds (or in default of payment to simple imprisonment for a period not exceeding two months) :

Provided that in the case of a shop assistant employed after hours in contravention of the Ordinance the occupier shall not be guilty of an offence against the Ordinance if he proves that his shop assistant was engaged only in serving customers whom he was already serving or who were in the shop before the closing hour or that there was reasonable ground for believing that the article supplied to the customer was required in case of illness.

16. (1) Where an offence for which the occupier of a shop is liable under this Ordinance has in fact been committed by some manager, agent, servant, or other person, the manager, agent, servant or other person shall be liable to the like penalty as if he were the occupier. Provisions with respect to offences.

(2) Where the occupier of a shop is charged with an offence against this Ordinance he shall be entitled upon information duly laid by him to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, he proves to the satisfaction of the court that he has used due diligence to enforce the execution of the Ordinance and the said other person has committed the offence in question without his knowledge, consent or connivance, the said other person shall be convicted of such offence and the occupier shall be exempt from any fine.

Power to
make rules.

17. The Governor in Council may make rules :—

(a) For prescribing anything which under this Ordinance is to be prescribed;

(b) As to the mode of ascertaining the opinion of occupiers of shops;

(c) As to the conduct of local inquiries and matters incidental thereto;

(d) As to the procedure for obtaining the revocation of a closing order;

(e) To add any business or trade to or remove any business or trade from the second or third schedule to this Ordinance;

(f) For exempting from the provisions of this Ordinance, subject to such conditions as may be prescribed, the sale of foodstuffs and other necessaries to travellers; and

(g) Generally for carrying into effect the provisions of this Ordinance.

Exemptions.

18. Nothing in this Ordinance :—

(1) Shall apply to any bazaar or sale of work for charitable or other purposes from which no private profit is derived, nor to the hawking of newspapers nor to the business of an undertaker.

(2) Shall apply to the delivery of ice to hospitals and nursing institutions or in case of sickness to private persons.

(3) Shall apply to any bookstall or refreshment room at any railway station: Provided that the provisions affecting the hours of employment of shop assistants shall apply to the assistants at bookstalls and refreshment rooms at railway stations.

(4) Shall prevent customers from being served with victuals, stores or other necessaries for a ship on her arrival at or immediately before her departure from a port, at a time when the shop in which they are sold is required to be closed.

FIRST SCHEDULE.

INTERVALS FOR MEALS.

(See Section 4 (3)).

Intervals for meals shall be arranged so as to secure that no person shall be employed for more than six hours without an interval of at least twenty minutes being allowed during the course thereof.

Without prejudice to the foregoing provision where the hours of employment include the hours from 11.30 a.m. to 2.30 p.m. an interval of not less than three-quarters of an hour shall be allowed between those hours for a meal and the interval for a meal shall be increased to one hour in cases where that meal is not taken in the shop, or in a building of which the shop forms part or to which the shop is attached:

Provided that an assistant employed in the sale of refreshments or in the sale by retail of intoxicating liquors need not be allowed the interval for a meal between 11.30 a.m. and 2.30 p.m. if he is allowed the same interval so arranged as either to end not earlier than 11.30 a.m. or to commence not later than 2.30 p.m.

SECOND SCHEDULE.

TRADES AND BUSINESSES EXEMPTED FROM THE PROVISIONS AS
TO WEEKLY HALF-HOLIDAYS.

(See Section 7 (5)).

The sale by retail of intoxicating liquors.

The sale of refreshments.

The sale of motor, cycle, and air-craft supplies and accessories to travellers.

The sale of newspapers and periodicals.

The sale of meat, fish, milk, cream, bread, confectionery, fruit, vegetables, flowers and other articles of a perishable nature.

The sale of tobacco and smokers' requisites and of the preparation locally known as "pansopari."

The sale of medicines and medical and surgical appliances.

Retail trade carried on at an exhibition or show, if the local authority certify that such retail trade is subsidiary or ancillary only to the main purpose of the exhibition or show.

 THIRD SCHEDULE

TRADES AND BUSINESSES EXEMPTED FROM PROVISIONS OF
CLOSING ORDERS.

(See Section 9).

The sale by retail of intoxicating liquors.

The sale of refreshments for consumption on the premises.

The sale of newspapers.

The sale of tobacco and smokers' requisites and of the preparation locally known as "pansopari."

The sale of medicines and medical and surgical appliances.

Post Office business.

Power to sentence to detention.

5. When a native is convicted of an offence against an Ordinance or section set out in the Schedule hereto the Court may instead of awarding a sentence of a fine or imprisonment award a sentence of detention in a Detention Camp and the prisoner shall thereupon be detained in a Detention Camp.

Supreme Court on appeal may alter imprisonment to detention.

6. Where a sentence of fine or imprisonment or detention for an offence against an Ordinance or section set out in the Schedule hereto comes before the Supreme Court on appeal or in exercise of its powers of revision or confirmation the Supreme Court may alter any sentence of fine or imprisonment to a sentence of detention or a sentence of detention to a sentence of fine or imprisonment.

Revising Officer of Native Tribunals may alter imprisonment to detention.

7. Where a sentence of fine or imprisonment or detention is awarded by a Native Tribunal for an offence against an Ordinance or section set out in the Schedule hereto a Revising Officer may alter any sentence of fine or imprisonment to a sentence of detention or a sentence of detention to a sentence of fine or imprisonment.

Discipline.

8. A detainee while in a Detention Camp shall be kept to labour, but shall not receive pay for any work which he may perform.

Removal from one camp to another.

9. The prescribed authority may at any time by order remove a detainee from one Detention Camp to another.

Committal to prison.

10. A detainee convicted by the prescribed authority of any offence against discipline as provided for by this Ordinance or by any rules made thereunder may be committed to Prison to undergo the remainder of his sentence.

Registration certificate and identity disc.

11. A detainee on admission shall hand his registration certificate to the Officer-in-Charge of the Detention Camp and shall be issued with an identity disc to be worn during his term of detention. On his release from detention a detainee will surrender the identity disc to the Officer-in-Charge and receive back his registration certificate.

Application of Sections of the Prisons Ordinance.

12. The provisions of Sections 15, 16, 17, Part C, and Sections 42, 46, 49, 50, 76, 91, 92, 93, 94 and 107 of the Prisons Ordinance, 1914, shall apply to and be read as part of this Ordinance.

No. 25 OF 1925.

**An Ordinance to provide for the Establishment
of Detention Camps.**

[3RD DECEMBER, 1925.] Date of
commencement

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

1. This Ordinance may be cited as “ the Detention Camps Ordinance, 1925.” Short title.

2. In this Ordinance or with reference thereto the following expressions shall unless the contrary intention appears have the meanings hereby respectively assigned to them, namely :— Interpretation

“ Court ” includes a Judge of the Supreme Court, a Magistrate and a Native Tribunal.

“ Detainee ” means a prisoner undergoing detention in accordance with the provisions of this Ordinance.

“ Detention Camp ” means any place established in accordance with this Ordinance in which prisoners may serve a term of detention in lieu of serving a term of imprisonment.

“ Lawful custody,” a detainee while serving a sentence of detention shall be deemed to be in lawful custody.

“ Officer-in-Charge ” shall mean and include any officer appointed by name or office to have charge of a Detention Camp.

3. The Governor may by notice in the Gazette declare any place to be a Detention Camp for the purposes of this Ordinance and may in like manner declare that any such place shall cease to be a Detention Camp for the purposes of this Ordinance. Establishment
of Detention
Camps.

4. Subject to the orders and directions of the Governor Detention Camps shall be under the control and direction of the Commissioner of Prisons. Control of
Detention
Camps.

13. The Governor in Council may by Rule amend the Schedule hereto by adding thereto other Ordinances, Sections of Ordinances or other Laws, or by removing therefrom any of the Regulations, Ordinances or Sections of Ordinances therein contained.

Additions to
Schedule.

14. The Governor in Council may make Rules not being inconsistent with the terms of this Ordinance for the government and discipline of Detention Camps and detainees and the guidance of officers appointed thereto, and any other matters relating to Detention Camps.

Governor in
Council may
make rules.

SCHEDULE.

The Gambling Regulations, 1901. Section 2.

The Adulteration of Produce Regulations, 1901.

The East Africa Wild Birds Protection Ordinance, 1903.

The Wild Birds Protection Amendment Ordinance, 1914.

The Rules under the East Africa Townships Ordinance, 1903.

The Lamu Boat Registration Ordinance, 1906.

The Diseases of Animals Ordinance, 1906.

The Fish Protection Ordinance, 1908.

The Careless Use of Fire Prevention Ordinance, 1909.

The Master and Servants Ordinance, 1910.

The Roads in Native Reserves Ordinance, 1910.

The Native Hut and Poll Tax Ordinance 1910.

The Native Hut and Poll Tax Amendment Ordinance, 1912.

The Forest Ordinance, 1911.

The Forest Amendment Ordinance, 1915. Section 22.

The East Africa Police Ordinance, 1911. Section 79.

The Native Authority Ordinance, 1912.

The Native Authority (Famine Relief) Ordinance, 1918.

- The Native Arms Ordinance, 1918.
The Vagrancy Ordinance, 1920.
The Native Registration Ordinance, 1921. Section 8.
The Native Liquor Ordinance, 1921. Sections 14 and 27.
The Game Ordinance, 1921.
The Native Foodstuffs Ordinance, 1922.
The Bye-laws under the Municipal Corporations Ordinance, 1922.
The Food Preservation Ordinance, 1923.
The Sugar Ordinance, 1923.
The Liquor Amendment Ordinance, 1923. Section 10.
The Trespass Ordinance, 1924.
The Resident Native Labourers' Ordinance, 1925. Sections 14, 15 and 17.

No. XXVI. *The Patents and Designs (Amendment) Ordinance* 1925.

No. 26 OF 1925.

An Ordinance to Amend the Patents and Designs Ordinance, 1913.

[31ST DECEMBER, 1925.] Date of commencement.

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

1. This Ordinance may be cited as “ the Patents and Designs (Amendment) Ordinance, 1925,” and shall be read as one with “ the Patents and Designs Ordinance, 1913,” hereinafter referred to as “ the Principal Ordinance.” Short title.

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

“ 4. Any person being the grantee of a Patent in the United Kingdom or any person deriving his right from such grantee by assignment, transmission or other operation of law may apply within three years from the date of the issue of the patent to have such Patent registered in the Colony. Where any partial assignment or transmission has been made, all proper parties shall be joined in the application on registration.”

3. Section 6 of the Principal Ordinance is hereby repealed and the following section substituted therefor :— Amendment to Section 6 of the Principal Ordinance.

“ 6. Every application for the registration of a Patent or Design under this Ordinance shall be made to the Registrar and shall be accompanied

(a) In the case of a Patent, by :—

(1) Two certified copies of the specification or specifications (including drawings, if any) of the United Kingdom Patent, and

(2) A certificate of the Comptroller General of the United Kingdom Patent Office giving full particulars of the issue of the Patent on such specification or specifications.

No. XXVI. The Patents and Designs (Amendment) Ordinance 1925.

(b) In the case of a Design, by :—

(1) Two copies of any drawing in relation to the Design,

(2) Two exact representations or specimens of the Design, and

(3) Two certified copies of the United Kingdom certificates of registration.”

Amendment to
Section 8 of
the Principal
Ordinance.

4. Section 8 of the Principal Ordinance is hereby renumbered 8 (1), and the following subsection added thereto :—

“ (2) Privileges and rights so granted shall have effect from the date of the United Kingdom Patent or certificate of registration of Design, as the case may be.”

Disclaimers,
etc.

5. Whenever the specification or drawings of an United Kingdom Patent registered in the Colony has been amended by way of disclaimer, correction, or explanation, according to the law of the United Kingdom, a request, accompanied by a copy of the specification and drawings (if any) as amended, duly certified by the Comptroller General of the United Kingdom Patent Office, may be made to the Registrar to substitute a copy of the specification and drawings as amended, for the specification and drawings originally filed.

Assignments,
etc.

6. Where a person becomes entitled by assignment, transmission, or other operation of law to the privileges and rights conferred by a certificate of registration under this Ordinance or to any interest therein, he may make application to the Registrar for the entry on the register of such assignment, transmission or other instrument affecting the title or giving an interest therein.

The Registrar shall on sufficient evidence thereof and on payment of the prescribed fee enter the same in the proper register in the prescribed manner and shall endorse the same on the certificate of registration.

Extension and
revocations, etc.

7. All extensions, and revocations of any patent or design registered under the Ordinance shall be notified to the Registrar, who shall, on sufficient evidence thereof and on

No. XXVI. *The Patents and Designs (Amendment) Ordinance* 1925.

payment of the prescribed fee, enter the same in the proper register in the prescribed manner, and shall endorse the same on the certificate of entry referring to such patent or design. The Registrar shall, on payment of the prescribed fee, cause a copy of such entry to be inserted in the Gazette.

8. During the existence of copyright in a design, the design shall not be open to inspection except by the proprietor, or a person authorised in writing by the proprietor, or a person authorised by the Registrar or by the Court, and furnishing such information as may enable the Registrar to identify the design, nor except in the presence of the Registrar or of an officer acting under him, nor except on payment of the prescribed fee; and the person making the inspection shall not be entitled to take any copy of the design or of any part thereof.

Inspection of registered designs.

9. When the copyright in a design has ceased, the design shall be open to inspection, and copies thereof may be taken by any person on payment of the prescribed fee.

Design of which copyright ceased.

10. Every register kept under the Ordinance and the specification of every registered patent shall be open to the inspection of the public on payment of the prescribed fee, subject to the provisions of the Ordinance and to the rules made thereunder. Certified copies sealed with the seal of the Registrar of any entry in such register or of any such specification, shall be given to any person requiring the same on payment of the prescribed fee: Provided that whenever any specification or extract includes any tracing, drawing, or diagram, an additional fee for any copy thereof shall be paid equal to the cost of preparing such tracing, drawing, or diagram.

Inspection of and extracts from register.

11. The Registrar may, on request in writing accompanied by the prescribed fee:—

Power for Registrar to correct clerical errors.

(a) Correct any clerical error in or in connection with an application for a patent, or for registration of a design; or

(b) Correct any clerical error in the name, style, or address of the registered proprietor of a patent, or design.

No. XXVII. *The Wireless Telegraphy (Amendment) Ordinance* 1925.

No. 27 OF 1925.

An Ordinance to Amend the Wireless Telegraphy Ordinance, 1913.

Date of commencement.

[31ST DECEMBER, 1925.]

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

Short title.

1. This Ordinance may be cited as “the Wireless Telegraphy (Amendment) Ordinance, 1925,” and shall be read as one with “the Wireless Telegraphy Ordinance, 1913.” hereinafter referred to as “the Principal Ordinance.”

Amendment of Section 6 (1) of the Principal Ordinance

2. Section 6 subsection (1) of the Principal Ordinance is amended by the deletion therein of the word “merchant” whenever occurring and by the addition of the following clause :—

“(vi) Regulations similar to those made under paragraphs (iii), (iv) and (v) of this subsection may also be made in regard to aircraft.”

No. 28 OF 1925.

**An Ordinance to Amend the Arbitration
Ordinance, 1913.**

[31ST DECEMBER, 1925.] Date of
commencement.

ENACTED by the Governor of the Colony of Kenya with the advice and consent of the Legislative Council thereof :--

1. This Ordinance may be cited as "the Arbitration (Amendment) Ordinance, 1925," and shall be read as one with the Arbitration Ordinance, 1913, hereinafter referred to as "the Principal Ordinance." Short title

2. Notwithstanding anything in the Principal Ordinance, if any party to a submission made in pursuance of an agreement to which the Protocol on arbitration signed on behalf of His Majesty at a meeting of the Assembly of the League of Nations on the 24th day of September, 1923, which Protocol is set forth in the Schedule hereto, applies, or any person claiming through or under him, commences any legal proceedings in any court against any other party to the submission, or any person claiming through or under him, in respect of any matter agreed to be referred, any party to such legal proceedings may at any time after appearance, and before delivering any pleadings or taking other steps in the proceedings, apply to the court to stay the proceedings, and that court or a judge thereof, unless satisfied that the agreement or arbitration has become inoperative or cannot proceed, shall make an order staying the proceedings. Staying of court proceedings in respect of matters to be referred to arbitration under commercial agreements.

SCHEDULE.

Protocol on Arbitration Clauses, signed on behalf of His Majesty at a meeting of the Assembly of the League of Nations held on the 24th day of September, 1923 :

1. Each of the Contracting States recognises the validity of an agreement whether relating to existing or future differences between parties, subject respectively to the jurisdiction of different Contracting States by which the parties to a contract agree to submit to arbitration all or any

No. XXVIII. *The Arbitration (Amendment) Ordinance* **1925.**

differences that may arise in connection with such contract relating to commercial matters or to any other matter capable of settlement by arbitration, whether or not the arbitration is to take place in a country to whose jurisdiction none of the parties is subject.

Each Contracting State reserves the right to limit the obligation mentioned above to contracts which are considered as commercial under its national law. Any Contracting State which avails itself of this right will notify the Secretary-General of the League of Nations, in order that the other Contracting States may be so informed.

2. The arbitral procedure, including the constitution of the arbitral tribunal, shall be governed by the will of the parties and by the law of the country in whose territory the arbitration takes place.

The Contracting States agree to facilitate all steps in the procedure which require to be taken in their own territories, in accordance with the provisions of their law governing arbitral procedure applicable to existing differences.

3. Each Contracting State undertakes to ensure the execution by its authorities and in accordance with the provisions of its national laws of arbitral awards made in its own territory under the preceding articles.

4. The tribunals of the Contracting Parties, on being seized of a dispute regarding a contract made between persons to whom Article 1 applies and including an arbitration agreement whether referring to present or future differences which is valid in virtue of the said article and capable of being carried into effect, shall refer the parties on the application of either of them to the decision of the arbitrators.

Such reference shall not prejudice the competence of the judicial tribunals in case the agreement or the arbitration cannot proceed or become inoperative.

5. The present Protocol, which shall remain open for signature by all States, shall be ratified. The ratifications shall be deposited as soon as possible with the Secretary-General of the League of Nations, who shall notify such deposit to all the signatory States.

6. The present Protocol shall come into force as soon as two ratifications have been deposited. Thereafter it will take effect, in the case of each Contracting State, one month after the notification by the Secretary-General of the deposit of its ratification.

7. The present Protocol may be denounced by any Contracting State on giving one year's notice. Denunciation shall be effected by a notification addressed to the Secretary-General of the League, who will immediately transmit copies of such notification to all the other signatory States and inform them of the date on which it was received. The denunciation shall take effect one year after the date on which it was notified to the Secretary-General, and shall operate only in respect of the notifying State.

8. The Contracting States may declare that their acceptance of the present Protocol does not include any or all of the undermentioned territories : that is to say, their colonies, overseas possessions or territories, protectorates or the territories over which they exercise a mandate.

The said States may subsequently adhere separately on behalf of any territory thus excluded. The Secretary-General of the League of Nations shall be informed as soon as possible of such adhesions. He shall notify such adhesions to all signatory States. They will take effect one month after the notification by the Secretary-General to all signatory States.

The Contracting States may also denounce the Protocol separately on behalf of any of the territories referred to above. Article 7 applies to such denunciation.

No. 29 OF 1925.

An Ordinance to Amend the Civil Procedure Ordinance, 1924.

Date of commencement.

[31ST DECEMBER, 1925.]

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

Short title.

1. This Ordinance may be cited as “ the Civil Procedure (Amendment) Ordinance, 1925,” and shall be read as one with the Civil Procedure Ordinance, 1924, hereinafter referred to as “ the Principal Ordinance.”

Amendment of Section 2 of the Principal Ordinance.

2. Section 2 of the Principal Ordinance is amended by the deletion of subsection (20) and the substitution therefor of the following subsection :—

“ (20) (a) ‘ Registrar ’ includes a district and deputy registrar ;

“ (b) ‘ Rules ’ means rules and forms made by the Rules Committee to regulate the procedure of courts.”

Amendment of Section 11 of the Principal Ordinance.

3. Section 11 of the Principal Ordinance is amended by the deletion in line eight of the words “ of the first class.”

Amendment of Section 25 of the Principal Ordinance.

4. Section 25 of the Principal Ordinance is amended by the addition of the following proviso :—

“ Provided that if the defendant does not enter such appearance as may be prescribed the court may give judgment for the plaintiff in default :

“ And provided further that in cases for which rules have been made under Section 83 (2) (f) of the Principal Ordinance it shall not be necessary for the court to hear the case before giving judgment.”

Amendment of Section 58 of the Principal Ordinance.

5. Section 58 of the Principal Ordinance is amended by the addition after the words “ claimants ” in the sixth line of the following :—

“ or where a suit dealing with the same subject matter is pending may intervene by motion on notice in such suit.”

No. XXIX. *The Civil Procedure (Amendment) Ordinance* **1925.**

6. Section 80 of the Principal Ordinance is hereby Repeal.
repealed.

7. Section 81 of the Principal Ordinance is amended by the deletion in the first line of the words "subject as aforesaid." Amendment of Section 81 of the Principal Ordinance.

8. Section 82 of the Principal Ordinance is hereby Repeal.
repealed.

No. XXX.

*The Supplementary Appropriation
(Railway) Ordinance*

1925.

No. 30 OF 1925.

**An Ordinance to Supply a Further Sum of Money
for the Service of the Period from January 1st,
1926, to 31st December, 1926.**

Date of
commencement.

[31ST DECEMBER, 1925.]

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

Short title.

1. This Ordinance may be cited as "the Supplementary Appropriation (Railway) Ordinance, 1925."

Public Revenue
charged.

2. The Public Revenue for the above period and other funds of the Colony and Protectorate of Kenya are hereby charged towards the service of the period of twelve months ending the thirty-first day of December, one thousand nine hundred and twenty-six, with a further sum of Two Million, Seven Hundred and Forty-five Thousand, Eight Hundred Pounds, in addition to the sums provided by the Appropriation Ordinance, 1925.

Application of
money granted.

3. The money granted by this Ordinance shall be applied to the purposes and services expressed in the Schedule annexed hereto.

Treasurer's
authority for
payment.

4. The Treasurer of the Colony and Protectorate of Kenya is hereby authorised and required from time to time, upon Warrant or Order of the Governor, to pay out of the Revenue and other funds of the Colony and Protectorate, for the several services specified in the Schedule, the said sum of Two Million, Seven Hundred and Forty-five Thousand, Eight Hundred Pounds, which will come in course of payment during the period of twelve months ending on the thirty-first day of December, one thousand nine hundred and twenty-six.

SCHEDULE.

<i>Heads of Expenditure.</i>	<i>Amounts.</i>
	£
Railway and Marine Revenue Services ...	2,009,800
Railway and Marine Renewals, Betterment, and Insurance Fund Services	736,000
Total ...	<u>£2,745,800</u>

No. 31 OF 1925.

**An Ordinance to make provision for taking the
Census of Kenya as and when may be required.**

[31ST DECEMBER, 1925.]

Date of
commencement.

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

1. This Ordinance may be cited as “ the Census Ordinance, 1925.” Short title.

2. In this Ordinance the expression “ premises ” includes also any vessel or train, and any plantation, shamba, mining area or other place where persons are employed. Interpretation.

3. The Governor in Council may by Order direct a census to be taken of the inhabitants of the Colony or of any part thereof specified in such Order at such time or times as he may think fit. Power to order census.

4. All expenses incurred, with the approval of the Governor, for the purposes of the census, shall be paid out of the general revenue of the Colony. Expenses

5. The Governor may appoint a superintendent of any census directed to be taken. Power to the Governor to appoint a superintendent

6. The superintendent shall :— Powers of superintendent.

(1) Subject to the control of the Governor, have the general supervision and management of the census; and

(2) Subject to the approval of the Governor, appoint such enumerators and officers as may be necessary for the purpose of the census and the carrying into effect of this Ordinance.

7. The superintendent shall cause to be prepared and printed, for the use of the persons to be employed in taking the census, such forms and instructions as he may deem necessary, and in particular schedules to be filled up with such particulars as the Governor may consider necessary in order to insure as far as possible the completeness and accuracy of the census returns. Forms to be prepared and issued.

Occupiers or persons in charge of premises to fill up and sign schedule.

8. The occupier or person in charge of any premises shall fill up, or cause to be filled up, any schedule left at such premises to the best of his knowledge and belief in relation to all persons dwelling or being on the premises at the time when such census is taken, and shall sign his name thereto and shall deliver the schedule so filled up to the enumerator when required to do so: Provided always that when any person required to fill up such schedule is illiterate, such schedule may be filled up and signed by the enumerator.

Penalty for refusal to give information.

9. The enumerators and other persons employed in the execution of this Ordinance shall have authority to ask of all persons presumably able to afford the information desired all such questions as may be necessary for obtaining any of the particulars required by this Ordinance, and every person refusing to answer, or knowingly giving a false answer to, any such question shall for every such refusal or false answer be liable to a fine of five pounds.

Declaration by enumerator.

10. Every enumerator shall make a declaration to the effect that the returns furnished by him in pursuance of this Ordinance, or any instructions issued thereunder have been truly and faithfully taken and that to the best of his knowledge they are correct as far as may be known and such declaration shall be made before a magistrate.

Penalty for default.

11. If any person employed for the purposes of this Ordinance makes wilful default in the performance of any of his duties under this Ordinance or makes any wilfully false declaration he commits an offence and shall be liable for such offence to a fine not exceeding five pounds.

Penalty for refusal to fill up or sign schedule.

12. Every person who :—

(a) Wilfully refuses or without lawful excuse neglects to fill up and sign any schedule of particulars as and when he may be required by the superintendent of the census or any officer acting on his behalf so to do; or

(b) Wilfully fills up or signs any such schedule with particulars which he knows to be false, or does not believe to be true;

shall be liable to a fine not exceeding five pounds.

No. XXXI.*The Census Ordinance***1925.**

13. Upon the completion of any census the superintendent shall prepare a report on the census and cause an abstract of the returns to be made and furnished to the Governor.

Abstract of returns to be made and furnished to the Governor.

14. The Governor in Council may make rules for the carrying out of this Ordinance.

Power to make rules.

15. The Census Ordinance, 1921, is hereby repealed.

Repeal.

No. 32 OF 1925.

An Ordinance to Make Provision for the Payment of Annual Allowances to the Widow and Children of the late Sir Robert Thorne Coryndon and to Establish a Trust for the Administration of the Allowances to the Children.

Date of commencement.

[31ST DECEMBER, 1925.]

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

Preamble.

WHEREAS on the 17th of February, 1925, a resolution was adopted by the Legislative Council of the Colony of Kenya that “ in recognition of the late Sir Robert Coryndon’s great services to this Colony, a compassionate allowance of five hundred pounds (£500) per annum to Lady Coryndon, two hundred pounds (£200) per annum to each of the three sons and one hundred pounds (£100) per annum to the daughter of the late Sir Robert Coryndon shall be granted by this Colony such allowance to be free of income tax and in the case of Lady Coryndon to continue until her death or remarriage; in the case of the three sons until they attain the age of twenty-one, in the case of the daughter until she attains the age of twenty-one or marries and further that the allowance to the children shall be vested in Trustees duly appointed on their behalf.”

And whereas it is expedient to make provision for the issue and administration of the said allowances.

Short title.

1. This Ordinance may be cited as “ the Coryndon Trust Ordinance, 1925.”

Annual appropriation.

2. All sums due under this Ordinance shall be charged to the annual appropriation for pensions and gratuities.

Allowance to Lady Coryndon and provision for payment of income tax.

3. The Treasurer may authorise the Crown Agents for the Colonies to pay to Phillis Lady Coryndon, widow of the late Sir Robert Thorne Coryndon, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, during

her life or until she remarries an allowance at the rate of five hundred pounds (£500) per annum and to pay to the Commissioners of Income Tax of the United Kingdom or to Lady Coryndon, as the case may require, such sum or sums as may represent the difference between the United Kingdom Income Tax due to be paid by her and the United Kingdom Income Tax which but for the passing of this Ordinance would have been so due.

4. The allowance shall be paid at the end of each quarter or on such other dates as the Treasurer may direct. Allowance, when payable

5. In the event of the said Lady Coryndon becoming insolvent or making a composition with her creditors the payment of the allowance shall forthwith cease but it shall be lawful for the Treasurer to authorise the Crown Agents for the Colonies to apply for her personal benefit sums not exceeding the amount which but for her insolvency would be due to be paid under this Ordinance. Provision in case of insolvency.

6. The Treasurer may pay to the trustees for the benefit of the children of Sir Robert Coryndon whose names and the dates of birth of whom are set forth in the schedule to this Ordinance the allowances set forth in the said schedule. Payment to trustees for benefit of children.

7. The trustees may make from time to time such arrangements as to them seem fit for securing the application of the allowances to the benefit of the children and unless and until the trustees otherwise direct the Treasurer may authorise the Crown Agents for the Colonies to pay the allowances to Lady Coryndon as guardian for the children and the Crown Agents may accept her certificate as showing that the allowances have been applied for the benefit of the children. Trustees may make arrangements for application of allowances to children, etc.

8. The allowances shall be paid at the end of each quarter in respect of each son during his life or until he attains twenty-one years of age and in respect of the daughter during her life or until she attains twenty-one years of age or marries. Allowances to children, when to be paid.

9. The Treasurer may pay to the trustees or the Crown Agents for the Colonies as the trustees shall direct such sums as shall be due and payable for the United Kingdom Income Tax in respect of the said allowances, and such sums as may be due to be paid by any child in respect of United Kingdom Income Tax over and above such sums as would have been due to be paid if this Ordinance had not been passed. Income tax.

No. XXXII.*The Coryndon Trust Ordinance***1925.**

Trustees.

10. The trustees shall be the Governor for the time being of the Colony of Kenya and such person or persons as the Governor may from time to time appoint.

Operation.

11. This Ordinance shall be deemed to have come into operation on the 11th of February, 1925.

SCHEDULE.

<i>Name of Child.</i>	<i>Date of Birth.</i>	<i>Rate of Annual Allowance.</i>
John Coryndon	11th January, 1910	£200.
Roger Coryndon	15th April, 1911	£200.
Peter Coryndon	25th August, 1913	£200.
Honor Coryndon	15th July, 1917	£100.
