

133



COLONY AND PROTECTORATE OF KENYA

ORDINANCES

ENACTED DURING THE YEAR

1944

VOL. XXIII (NEW SERIES)

1945

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ORDINANCES, 1944
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TABLE SHOWING THE EFFECT OF THE YEAR'S LEGISLATION
FORMER ORDINANCES (IN CHRONOLOGICAL ORDER) REPEALED OR AMENDED BY ORDINANCES OF 1944

Year and No. of Ordinance	Short Title	How Affected	Ordinance of 1944
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14 of 1940	Land and Agricultural Bank	Sections 2, 5, 6, amended	XIX
27 of 1940	Courts (Emergency Powers)	Repealed	XI
28 of 1940	Soldiers (Exemption from Civil Process)	Sections 3, 5, 6, amended	XVIII
29 of 1940	Mining	Section 6, amended	X
33 of 1941	Arms and Ammunition (Amendment)	Section 2 (1), amended	VIII
15 of 1943	Land and Agricultural Bank	Section 4, amended	XIX
Consoli- dated Edition	Criminal Procedure Code	Section 12 (4), new; section 30, amended; 92 (1), repealed and replaced; 337, 344, amended; 384 (3), new	XII
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COLONY AND PROTECTORATE OF KENYA

ORDINANCE No. 1 of 1944

Assented to in His Majesty's name this tenth day of February, 1944.

HENRY MOORE,
Governor.

An Ordinance to Amend the Companies Ordinance, 1933

10th February, 1944

Date of commencement.

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

1. This Ordinance may be cited as the Companies (Amendment) Ordinance, 1944, and shall be read as one with the Companies Ordinance, 1933, hereinafter referred to as the Principal Ordinance.

Short title.

No. 28 of 1933.

2. Section 333 of the Principal Ordinance is hereby amended by inserting therein between the word "some" and the word "Act" which appear in the seventh line thereof, the words "other Ordinance or of an".

Amendment of section 333 of the Principal Ordinance.

ORDINANCE No. II of 1944

Assented to in His Majesty's name this fourth day of May, 1944.

HENRY MOORE,
Governor.

An Ordinance to Establish a Provident Fund for certain Employees of the Staff of the Government and to Provide for Contributions to such Fund by such Employees and by Government

Date of commencement.

1st January, 1943

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

Short title and date of commencement.

1. This Ordinance may be cited as the Government Staff Provident Fund Ordinance, 1944, and shall be deemed to have come into operation on the 1st day of January, 1943.

Interpretation.

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

“the Accountant General” means the Accountant General of the Colony;

“approved employment” means any employment approved in writing by the Governor for the purpose of section 10 of this Ordinance;

“approved fund” means any fund approved in writing by the Governor for the purpose of section 11 of this Ordinance;

“the Board” means the Board of Management appointed under this Ordinance;

“common service” means a service common to the Colony and to any other East African territory;

“depositor” means a person who is making deposits in the Fund;

“East African territories” means the Colony and Protectorate of Kenya, the Tanganyika Territory, the Uganda Protectorate, the Territory of Northern Rhodesia, the Nyasaland Protectorate and the Protectorate of Zanzibar;

“the Fund” means the Government Staff Provident Fund established under this Ordinance;

“a member of the Government staff” means a person in the service of the Government of Kenya or in a common service who holds a letter of permanent or probationary appointment in the African Civil Service and such other person or class of persons as the Governor may by notice in the Gazette direct;

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

“salary” means the substantive salary payable to a depositor, but does not include any allowance, receipts or emoluments whatsoever;

“service” includes service under the Government of the Colony and service in a common service and such other service as the Governor may by notice in the Gazette direct to be service for the purposes of this Ordinance.

3. (1) There shall be established a Fund known as "the Government Staff Provident Fund".

Establishment and management of the Fund.

(2) The Governor shall appoint a Board of Management who shall be responsible for the control and management of the Fund in accordance with the provisions of this Ordinance and of any Regulations made thereunder. The Accountant General shall be chairman of the Board.

(3) The moneys paid into the Fund shall, so far as practicable, be invested by the Accountant General on behalf of the Fund in such security or securities yielding interest as the Board may approve or, with the approval of the Board, deposited by him in the Post Office Savings Bank.

(4) The Accountant General shall keep a separate account for the moneys of the Fund.

(5) The Board shall submit to the Governor as soon as practicable after the thirty-first day of December in each year a full statement showing the working of the Fund and all claims thereon, and containing full particulars of all transactions connected with the working of the Fund. The accounts of the Fund shall be audited by the Auditor.

4. (1) Every member of the Government staff who is a member of the African Civil Service, who shall have been appointed to the service on or after the date of the commencement of this Ordinance, shall become a depositor on completion of twelve months from the date of his appointment.

Who shall become a depositor.

(2) Every member of the Government staff who is not a member of the African Civil Service but whose post has been gazetted under the provisions of section 2 of this Ordinance, and who is appointed to that post after the date of the Gazette notice, shall become a depositor on completion of twelve months from the date of his appointment.

(3) Every member of the Government staff to whom the preceding sub-sections do not apply, who does not elect under section 5 of this Ordinance to become a depositor and is subsequently appointed to the service upon terms which constitute a re-appointment or re-engagement in the service, shall become a depositor as from the completion of twelve months from the date of such re-appointment or re-engagement.

5. (1) Every member of the Government staff who is a member of the African Civil Service who is not required by the immediately preceding section to become a depositor shall become a depositor with effect from the date at which he became a member of the African Civil Service or with effect from such later date as the Governor may prescribe.

Who may elect to become a depositor.

(2) Every member of the Government staff who is not a member of the African Civil Service and who is not required by the immediately preceding section to become a depositor may, by a written notice addressed to the head of his department within such time after the commencement of this Ordinance as the Governor may by notice

in the Gazette direct, or within such extended time as the Governor may in any particular case allow, elect to become a depositor and, if he shall so elect, shall become a depositor as from such date as the Governor may prescribe:

Provided that the Governor may permit any member of the Government staff who is not a member of the African Civil Service to become a depositor as from such later date after the commencement of this Ordinance as he may in any particular case determine.

Amount of deposit.

6. (1) Every depositor shall deposit in the Fund monthly an amount equal to three-fortieths of his monthly salary until the termination of his service. The Accountant General shall deduct the deposit from the salaries of depositors.

(2) Such deposit shall be calculated on full salary whether the depositor is on full, half or no salary:

Provided that when a depositor is on half salary or no salary for a period exceeding two months continuously he may elect to contribute in respect of the excess over two months at the rate of three-fortieths of any salary which he receives.

Bonuses.

7. (1) On the thirtieth day of June and the thirty-first day of December in each year there shall be paid into the Fund for the credit of the depositor out of the revenues of the Colony a sum equal to the aggregate of deposits made by the depositor to the Fund during the period of six months immediately preceding the date of payment.

(2) Every sum so credited shall be called a "bonus".

Interest.

8. Interest shall be credited separately on deposits and bonus at a rate of not less than three per centum per annum to be fixed annually by the Governor, and shall begin to accrue in respect of each sum deposited and each bonus on the first day of the month next following the day on which the deposit was made or the bonus credited. Subject to the provisions of this Ordinance, it shall be calculated to the thirty-first day of December in each year and shall then be added to and become part of the principal and be deemed for the purposes of this Ordinance to be deposit or bonus, as the case may be.

Deposits, etc., not to be assigned or attached.

9. Subject to the provisions of this Ordinance no deposit, bonus, or interest on any such deposit or bonus, shall be assignable or transferable or liable to be attached, sequestered or levied upon for or in respect of any debt or claim whatsoever.

Rights of depositors against Fund.

10. (1) A depositor who retires or resigns from the service or is removed on grounds other than misconduct, shall, on such retirement, resignation, or removal, as the case may be, be paid from the Fund a sum equal to the aggregate of the deposits which he had made to the Fund together with the interest thereon, and shall in addition be entitled to any bonus paid under section 7 of this Ordinance for the credit of the depositor, together with interest thereon:

Provided that a depositor who leaves the service before he has completed ten years continuous service as a depositor shall have no

claim to receive from the Fund a greater sum than the aggregate of the deposits made by him, with interest thereon, unless he so leaves the service—

- (a) on the abolition of his office;
- (b) on compulsory retirement for the purpose of facilitating improvement in the organization of the department to which he belongs, by which greater efficiency or economy can be effected;
- (c) on medical evidence to the satisfaction of the Board that he is incapable by reason of some infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent;
- (d) on attaining to the satisfaction of the Board the apparent age of fifty years:

Provided further that the Governor may in his discretion grant to a depositor any bonus paid for his credit under section 7 of this Ordinance, notwithstanding that such depositor leaves the service before he has completed ten years continuous service as a depositor.

(2) On the death of a depositor or of a person who has transferred from the service to any approved employment there shall be paid from the Fund to the District Commissioner or other appropriate local authority to distribute among the relatives of the deceased a sum equal to the aggregate deposits made to the Fund by the depositor with interest thereon, together with any bonus made from general revenue under sections 7 and 15 of this Ordinance on his behalf together with interest thereon, and any gratuity which would have been granted to him under section 16 of this Ordinance, if, instead of dying, he had left the service upon ground (c) of the proviso to sub-section (1) of section 10 of this Ordinance:

Provided that where any law is in force regulating succession in the case of the race or community to which the deceased belonged, then the moneys referred to in this sub-section shall be distributed in accordance with the provisions of that law:

Provided further that the Accountant General may make an advance not exceeding ten pounds in any one case to give immediate relief to the widow or children or other dependants of the deceased, if in the opinion of the Accountant General such relief is required: and any such payment made by the Accountant General shall be valid and effectual against any demand made upon the Accountant General or the Government by any other person in connexion with such payment.

(3) On death or on the termination of service or approved employment whether by retirement, transfer to employment other than approved employment or otherwise, the account of a depositor shall be credited with interest up to the end of the month previous to the date of such death, termination, retirement or transfer.

11. (1) Notwithstanding the provisions of the immediately preceding section, where a depositor transfers from the service to any approved employment, by virtue of which he is required to contribute

Persons transferred to approved employment.

to an approved fund, no moneys, whether by way of deposit, bonus or interest, shall be payable to him as long as he remains without break of service in approved employment.

(2) A person who has transferred from the service to approved employment under the provisions of the immediately preceding subsection and who retires or resigns from such approved employment or is removed on grounds other than misconduct, shall, on such retirement, resignation or removal, be paid from the Fund a sum equal to the aggregate of the deposits which he has made to the Fund together with interest thereon, and shall in addition be entitled to any bonus paid under sections 7 and 15 of this Ordinance for the credit of the depositor, together with interest thereon:

Provided that the rate of interest credited during the period of service in approved employment shall be the approximate rate of interest earned by the Fund (as determined by the Board) and shall not be subject to any minimum:

Provided further that if such person leaves approved employment before the completion of a period of ten years since he first became a depositor he shall have no claim to receive from the Fund a greater sum than the aggregate of the deposits made by him with interest thereon, unless he so leaves approved employment in the circumstances set forth in paragraphs (a), (b), (c) or (d) of the first proviso to subsection (1) of section 10 of this Ordinance:

Provided further that the Governor may in his discretion grant to such person any bonus paid for his credit under section 7 of this Ordinance, notwithstanding that such person leaves approved employment before the completion of a period of ten years since he first became a depositor.

Persons
appointed to
the service.

12. Where a person who has transferred from the service to approved employment under the provisions of the immediately preceding section re-transfers to the service he shall again become a depositor and the provisions of section 10 of this Ordinance shall apply:

Provided that the aggregate of his service both as a depositor and in approved employment shall be deemed to be service as a depositor for the purpose of section 10 of this Ordinance.

Cash and annual
payment.

13. Notwithstanding the provisions of sections 10, 11, 15 and 16 of this Ordinance, no depositor shall be entitled as a right to the payment of a lump sum in cash, but the Governor may direct that the depositor shall receive a lump sum of such amount as may be prescribed and such further sum annually as may be prescribed, which annual payment shall cease upon his death; and all liability attaching to the Governor under sections 10, 11, 15 and 16 of this Ordinance shall be deemed to be discharged on the death of the depositor.

Resignation
or dismissal.

14. (1) Subject to the provisions of this Ordinance, if a depositor shall be dismissed, or resign, or leave the service otherwise than in

accordance with the Regulations for the time being in force governing his appointment in the service—

- (a) the amount of his deposits and interest credited thereon under section 8 of this Ordinance shall be paid out of the Fund to the depositor; and
 - (b) such part, if any, of the bonus credited to the depositor and interest credited as aforesaid, as the Board with the approval of the Governor shall determine, may be so paid.
- (2) Any part of such bonus and interest not paid as aforesaid shall be paid out of the Fund to the Government and credited to revenue.

15. (1) On the commencement of this Ordinance there shall be paid to the Fund from the general revenue of the Colony to the credit of each depositor who is a member of the African Civil Service and who, prior to the date of commencement of this Ordinance, was in the service and who became a depositor without break of service such sum as would have been paid to the Fund from the general revenue by way of bonus in respect of each such depositor under section 7 of this Ordinance if this Ordinance had been in force on the first day of July, 1941:

Retrospective contributions by Government.

Provided that no payment shall be made from the general revenue of the Colony in respect of any period during which the salary of the depositor was less than forty shillings per month.

(2) When the Governor has directed, by notice in the Gazette, under section 2 of this Ordinance, that any person or class of persons shall be a member or members of the Government staff, there shall, if the Governor so directs, be paid to the Fund from the general revenue of the Colony to the credit of every person to whom such notice applies, and who becomes a depositor, such sum as would have been paid to the Fund from the general revenue by way of bonus in respect of each such depositor under section 7 of this Ordinance, if this Ordinance had been in force and such direction had been given on the 1st day of July, 1941:

Provided that the Governor may, in the case of any such person or class of persons, by notice in the Gazette, direct that the sum that shall be paid to the Fund under the provisions of this sub-section shall be such sum as would have been paid if the direction making such person or class of persons a member or members of the Government staff had been given on such date, being subsequent to the 1st day of July, 1941, as the Governor may determine.

16. It shall be lawful for the Governor to grant from the public revenues of the Colony to the Fund for the credit of a depositor who has completed not less than one year's service and who has either completed an aggregate of fifteen years' service or has left the service upon one of the grounds set out in the proviso to sub-section (1) of section 10 of this Ordinance, a gratuity not exceeding £1 or one week's salary at the highest rate drawn by him during his period of service (whichever is the greater) in respect of each completed year of service prior to the date from which the sum payable to his credit, by virtue of the provisions of section 15 of this Ordinance, was paid

Gratuities to certain depositors.

to the Fund, or if no such sum was paid to his credit, prior to the date upon which by virtue of the provisions of this Ordinance he is deemed to have become a depositor:

Provided that such gratuity shall not exceed the amount of salary normally payable to the depositor during the twelve months immediately preceding his retirement, with house allowance (if the depositor is eligible therefor).

Sums due to
Government.

17. Any sum due to the Government by a depositor on payment out of the Fund of any amount then standing to his credit therein, may be deducted from the amount otherwise payable.

Exemptions.

18. The Governor may—

- (a) by notice in the Gazette exclude any person or class of persons from the operation of this Ordinance;
- (b) exempt any person or class of persons from all or any of the provisions of this Ordinance; and
- (c) by notice in the Gazette exclude such service as he may deem fit from the provisions of this Ordinance.

Power to make
Regulations.

19. The Governor in Council may make Regulations for carrying out the provisions of this Ordinance.

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ORDINANCE No. III of 1944

Assented to in His Majesty's name this fourth day of May, 1944.

HENRY MOORE,
Governor.

An Ordinance to Repeal and Replace the Native Foodstuffs Ordinance

4th May, 1944

Date of commencement

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

1. This Ordinance may be cited as the Native Foodstuffs Ordinance, 1944.

Short title.

2. In this Ordinance, unless the context otherwise requires—
"native foodstuffs" means only such articles of food or drink used by natives as, in the opinion of the ~~Governor in Council~~, are necessary for the support of life.

Interpretation.

3. Where it has been made to appear to the ~~Governor in Council~~ that any district or area (other than in the Coast Province) is suffering from, or threatened with, a shortage of native foodstuffs, he may issue a proclamation for any of the following purposes:—

Prohibiting purchase for resale or export.

(a) Prohibiting the purchase or barter of such foodstuffs generally, or of any class or classes of such foodstuffs, for the purpose of resale, except with the written permission of the Provincial Commissioner or District Commissioner, as the case may be, first had and obtained;

*x members for
Provincial Council
Husband, Rabbit
Reserve*

(b) Prohibiting the export of such foodstuffs generally, or of any class or classes of such foodstuffs, from any district or area, except with the written permission of the Provincial Commissioner or District Commissioner, as the case may be, first had and obtained;

(c) Prohibiting the use of such foodstuffs or of any class or classes of the same for the manufacture of liquor in any district or area;

(d) Prohibiting the concealment or destruction of such foodstuffs or any class or classes of the same in any district or area.

4. Where it appears to the Provincial Commissioner, Coast Province, that, although an area or district in that Province is not suffering from, or threatened with, a shortage of native foodstuffs, it is desirable in order to ensure adequate supplies of native foodstuffs in such district or area to control the purchase, barter, use or disposal in or export from such district or area of native foodstuffs, he may, by notice in the Gazette, exercise, in respect of any district or area of the Coast Province, the powers conferred upon the ~~Governor in Council~~ by section 3 of this Ordinance.

Power of Provincial Commissioner, Coast.

No. III*Native Foodstuffs***1944****Offences and penalties.**

5. Any person acting in contravention of any proclamation or notice issued under the provisions of this Ordinance shall be guilty of an offence, and shall upon conviction be liable to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

**Repeal.
Cap. 135.**

6. The Native Foodstuffs Ordinance is hereby repealed:

Provided that any proclamation issued under the provisions of such Ordinance shall continue in force until it is varied or revoked by a proclamation or notice issued under this Ordinance.

ORDINANCE No. IV of 1944

Assented to in His Majesty's name this fourth day of May, 1944.

HENRY MOORE,
Governor.

An Ordinance to Authorize the Making of Advances of Money to Coffee Planters

4th May, 1944

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

1. This Ordinance may be cited as the Coffee Industry (Financial Assistance) Ordinance, 1944.

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

“Bank” means the Land and Agricultural Bank of Kenya established under the Land and Agricultural Bank Ordinance, 1930;

“buni” means coffee dried in the fruit or cherry;

“coffee” means the fruits or parts thereof of *Coffea* species and includes clean coffee, parchment coffee, buni and roasted and/or ground berries;

“coffee plantation” means a coffee plantation in respect of which a current licence issued under the provisions of section 9 of the Coffee Industry Ordinance, 1934, is held;

“coffee planter” means the owner of a coffee plantation and any person for the time being legally charged with the cultivation or beneficially entitled to the rents and profits of the coffee plantation, and includes life tenants, guardians of infants, managers of lunatics' estates, trustees and executors, if such trustees are so charged by the instrument of their appointment, and receivers if appointed to take charge of, cultivate and receive the rents and profits of such coffee plantation;

3. The Governor shall, by notice in the Gazette, establish a Board (hereinafter referred to as “the Board”), consisting of such persons, not exceeding five in number, as he may think necessary for the purpose of carrying out the provisions of this Ordinance.

4. The Accountant General is hereby authorized to place at the disposal of the Bank as Agents for the Government of the Colony such sums of public moneys as the Governor may, with the sanction of the Legislative Council, consider necessary for the purpose of giving effect to the provisions of this Ordinance.

5. Any coffee planter in the Colony may apply to the Board for an advance of money in accordance with the provisions of this Ordinance.

6. All moneys advanced under the authority of this Ordinance, with interest thereon and all charges incidental thereto, shall—

(a) be a charge upon the coffee grown or to be grown on the land specified in the prescribed form of application, or gathered

Date of commencement.

Short title.

Interpretation.

No. 3 of 1931.

No. 54 of 1934.

The Board.

Funds.

Application for advances.

Advance to be charge on coffee grown, and on land in case of abandonment.

therefrom, and shall, notwithstanding the provisions of any law or equity or of any agreement to the contrary, have priority over any other charge affecting the said coffee in respect of which the advance is made, whether or not such other charge exists at the date of the advance or otherwise;

(b) be a charge upon the land specified in the prescribed form of application, but subject to any prior encumbrances:

Provided further that no order for sale in respect of the charge referred to in paragraph (b) of this section shall be made unless the coffee which is the subject of the charge created by paragraph (a) of this section, in the opinion of the Board, has not been grown or has been abandoned.

Method of
dealing with
applications.

7. (1) All applications for advances shall be in a form prescribed by the Board after consultation with the Bank and the particulars in every application shall be verified by statutory declaration: Provided that no application shall be considered unless it is received by the Board prior to the 31st day of March, 1945.

(2) The Board shall consider each application on its merits, and, in its absolute discretion, may refuse to grant any application without assigning any reason, and shall fix the amounts (if any) to be advanced, the conditions on, and the time at, which such advances shall be made, and the purpose to which such advances shall be applied:

Provided that the total advance or advances which may be made to any one coffee planter shall not exceed the sum of £7 per acre of planted coffee. For the purposes of this sub-section the acreage of planted coffee shall be assessed by the Board after consultation with such persons or body of persons as the Board may deem necessary.

(3) Where the Board proposes to make an advance on coffee which is subject to a statutory or contractual registered charge or mortgage, the Board shall in writing inform the chargee or mortgagee, as the case may be, who shall, if he objects to the making of the advance, be given an opportunity of being heard by the Board before the advance is made.

Interest.

8. Any advance made under the provisions of this Ordinance shall bear interest at the rate of four per centum per annum and shall be recoverable in the manner hereinafter appearing.

Manner of
making advances.

9. (1) The Board may require the coffee planter when applying for an advance to submit such particulars as the Board may think fit and in such form as the Board may determine.

(2) The Bank shall, upon the directions of the Board, make an advance in instalments or in any other manner directed by the Board.

Repayment and
disposal of
coffee.

10. (1) All coffee, the subject of a charge under section 6 of this Ordinance, shall be disposed of by direction of the Board by such person as the Board may appoint: Provided that the coffee planter whose coffee is the subject of such charge may nominate any person, being a person duly licensed as a coffee dealer under the provisions of the Coffee Industry Ordinance, 1934, for appointment for such purpose by the Board.

(2) Any person appointed under the provisions of sub-section (1) of this section is hereby empowered to, and shall, notwithstanding any charges, court orders or other claims which would, but for the provisions of this section, have conferred a prior right upon some other person to any moneys being the proceeds of the sale of the aforesaid coffee marketed under the provisions of sub-section (1) of this section, upon an order from the Bank deduct from any moncy derived from such sale the amount of the advance granted under the provisions of this Ordinance together with the interest accrued thereon, or any portion thereof, certified by the Secretary of the Bank in such order to be due and owing by the coffee planter from whom the aforesaid coffee has been received, and shall pay the money so deducted to the Bank and the balance, if any, that remains to such coffee planter :

Provided that in all cases in which the Board is satisfied that the provisions of this Ordinance and any special conditions attached to the advance are observed, the sum to be paid to the Bank in repayment of an advance shall not in the three years ending 30th June, 1945, 30th June, 1946, and 30th June, 1947, exceed the amount of 14 cents per pound of coffee produced, unless the average crop in any of the aforesaid years exceeds 4 cwt. per acre, in which case an additional payment shall be made at the rate of 14 cents per pound on every pound produced in excess of the said average of 4 cwt. per acre :

Provided further that nothing in this section shall preclude any person from repaying the balance due from him to the Bank at any time before the expiration of the period so agreed upon.

(3) Any coffee planter whose coffee is the subject of a charge under section 6 of this Ordinance who disposes of such coffee in any manner contrary to the directions of the Board, shall be guilty of an offence against this Ordinance.

11. As soon as possible after the approval of any advance by the Board, the Secretary of the Bank shall fill up a notification in the prescribed form and—

Notifications
of advances.

(a) where the advance approved is an advance to a person other than a company as defined in section 2 of the Companies Ordinance, 1933, shall sign and forward such notification to—

No. 28 of 1933.

(i) the Registrar of Titles, who shall forthwith, without charge, register such notification against the title affected;

(ii) the Registrar General, who shall forthwith, without charge, register such notification as if it were an instrument within the meaning of the Chattels Transfer Ordinance, 1930, and such notification shall, when registered, entitle the Bank to all such remedies as are conferred upon a grantee under the provisions of that Ordinance;

No. 24 of 1930.

(b) when an advance approved is an advance to a company as defined in section 2 of the Companies Ordinance, 1933, shall sign and forward the notification to the Registrar of Companies, who shall, notwithstanding the provisions of section 82 of the Companies Ordinance, 1933, without charging any fee,

No. 28 of 1933.

No. 28 of 1933.

register such charge as if it were a charge referred to in paragraph (c) and in paragraph (d) of sub-section (2) of section 79 of the Companies Ordinance, 1933.

No. 28 of 1933.

Notification of advances in the Gazette.

12. Where an advance has been made under the provisions of this Ordinance, the Bank shall cause notice thereof to be published in the Gazette. Such notice shall contain the following details:—

- (a) application number;
- (b) the name and address of the coffee planter to whom the advance has been made; and
- (c) the amount of the advance.

Registration of chattels transfer of coffee to be refused, without consent of Board.

13. The Registrar General is hereby empowered to, and shall, refuse to register any chattels transfer over any coffee which is the subject of a charge under the provisions of section 6 of this Ordinance unless he is satisfied that the Board has granted its consent to such chattels transfer.

Notification of payment.

14. When any advance made under this Ordinance together with all interest and charges thereon has been repaid in full the Secretary of the Bank shall forthwith notify the Registrar of Titles and the Registrar General of the fact of such repayment, who shall thereupon, without charge, register such notification and thereupon the charge created by section 6 of this Ordinance shall cease and determine.

Notification in the Gazette.

15. Upon the repayment of an advance by a coffee planter the Secretary of the Bank shall publish a notice to that effect in the Gazette.

Misapplication of advances.

16. Any person who shall apply any advance made to him under the provisions of this Ordinance to any purpose other than those approved by the Board shall be guilty of an offence against this Ordinance.

Advances not to be levied upon.

17. No part of any advance made under this Ordinance shall be liable to levy or attachment in execution of any judgment or decree of any court.

Board may call for accounts.

18. During the subsistence of charges created by section 6 of this Ordinance any coffee planter whose coffee and land are bound by such charges shall, if called upon to do so by the Board, submit to the Board or to any person duly appointed by the Board, such accounts or other information as may from time to time be required by the Board, or by such authorized person. Any person who fails to comply with the provisions of this section shall be guilty of an offence against this Ordinance.

Power to enter premises.

19. (1) Any person duly authorized in writing by the Board may, at all reasonable times, enter upon any land the subject of a charge under section 6 of this Ordinance, or into any premises situated on such land and may examine and inspect any coffee growing upon, or severed from such land and any books of accounts or other records relating to the said land or coffee.

Obstructing and inspection.

(2) Any person who knowingly obstructs any person authorized under the provisions of sub-section (1) of this section in any such inspection shall be guilty of an offence against this Ordinance.

20. During the subsistence of charges created by section 6 of this Ordinance any coffee planter whose coffee and land are bound by such charges shall observe the rules of good husbandry in connexion with his farming operations to the satisfaction of the Board, and shall comply with any order which the Board may, and which the Board is hereby empowered to, issue to him in connexion with such farming operations.

Method of farming operations.

21. During the subsistence of charges created by section 6 of this Ordinance any coffee planter whose coffee and land are bound by such charges shall take out an insurance policy against fire and against such other risks as the Board may require in respect of the coffee referred to in paragraph (a) of section 6 of this Ordinance.

Insurance.

22. Any person who is guilty of an offence against this Ordinance shall be liable on conviction by a subordinate court of the first class, and notwithstanding the provisions of the Courts Ordinance, 1931, or of the Criminal Procedure Code, to a fine not exceeding £200 to imprisonment for a period of two years or to both such fine and such imprisonment:

General penalty.

No. 16 of 1931.

Provided that where the person convicted is a body corporate such person shall be liable to a fine not exceeding £2,500.

23. The Governor in Council may make rules—

Rules.

- (a) prescribing the conditions subject to which advances may be made under the provisions of this Ordinance;
- (b) prescribing the form of notification referred to in section 11 of this Ordinance;
- (c) prescribing the fees to be paid in respect of any matter or thing done under this Ordinance; and
- (d) generally for the better carrying out of the provisions of this Ordinance.

ORDINANCE No. V of 1944

Assented to in His Majesty's name this fourth day of May, 1944.

HENRY MOORE,
Governor.

An Ordinance to Amend the Employment of Servants Ordinance, 1937

Date of commencement.

4th May, 1944

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

Short title.

1. This Ordinance may be cited as the Employment of Servants (Amendment) Ordinance, 1944, and shall be read as one with the Employment of Servants Ordinance, 1937, hereinafter referred to as the Principal Ordinance.

No. 2 of 1938.

Amendment of Schedule to the Principal Ordinance.

2. The form of foreign contract of service contained in the Schedule to the Principal Ordinance is hereby repealed and the form of foreign contract of service set out in the following Schedule is substituted therefor.

SCHEDULE

FORM OF FOREIGN CONTRACT OF SERVICE

(Section 7)

No. 2 of 1938.

Agreement made in accordance with the Employment of Servants Ordinance, 1937, between of (employer) and (native servants) (according to the annexed list), at on 19.....

Nature and place of employment.

1. The servants shall be employed on (nature of work) at in (district and territory of employment).

Period of service.

2. The period of engagement shall be commencing from the date when the servants leave the Colony and Protectorate of Kenya for service with the employer.

Wages.

3. The rate of wages payable to each servant shall be that set opposite his name in the list of servants attested which is annexed to this contract.

Rations and half pay shall be given from the date of attestation until the date of departure from the Colony and Protectorate of Kenya and rations and full pay thereafter. On the return journey rations and full pay shall be given up to arrival in the Colony and Protectorate of Kenya and half pay shall be given for the journey from the point of arrival in the Colony and Protectorate of Kenya to the place of attestation. On attestation the employer shall, if the servant's tax for the current year under the Native Poll Tax Ordinance, 1942, has not already been paid, pay the tax to the district officer of the servant's district, which amount shall be recovered from the servant's wages.

4. One-half of the wages excluding the value of any rations issued shall be paid monthly to the servant direct in lawful currency and the other half shall be remitted to the district officer of his district for payment to him on his return home or to such person as he may, in writing, direct. Method of payment.

5. The employer shall provide free transport by road, rail or steamer for every servant from and to the place of attestation. Transport.

6. Rations will be supplied by the employer free in accordance with the provisions contained in section 32 of the Ordinance and shall be on the following scale:— Rations.

(To be filled in)

7. Each servant shall be provided by the employer free of charge with blankets (insert number as considered necessary on account of climate by the attestation officer or medical officer). Blankets.

8. Sufficient cooking pots and adequate housing accommodation shall be provided by the employer free of charge. Housing accommodation.

9. The employer shall provide free medical attention and hospital accommodation for the servant. Medical attention.

10. Servants if they so desire may be accompanied by their wives (one each), who shall be given free transport, medical attention, housing, and hospital accommodation, and half rations, but no pay. Wives.

Women shall not be required to work.

11. The employer shall report all deaths, desertions, or other casualties to the district officer of the district of attestation, and shall remit any moneys due to deceased servants to such district officer for payment to the person or persons entitled thereto. Deaths, etc.

Sums due to servants who desert shall be remitted to the district officer after one month from the date of desertion to be paid by him for disposal as may be decided.

12. The conditions under which this contract is subject to termination shall be determined by the law of the territory of employment. Termination of Contract.

13. No servant desiring to extend his period of engagement shall be allowed to do so except with the consent of the Labour Commissioner of Kenya. Any re-engagement shall, unless the Labour Commissioner otherwise directs, be deemed to be on the terms of this Contract so far as applicable. Re-engagement.

14. Each servant binds himself to allow the employer to repatriate him on the termination of his agreement. Repatriation.

The employer binds himself to repatriate all servants on the termination of their period of service or any extension thereof which may be approved by the Labour Commissioner of Kenya to the place in Kenya where they were attested.

Agreement of the servants.

15. Each of the servants hereby agrees with the employer to serve him according to the conditions of this Contract.

In witness whereof the employer has hereunto set his hand the day and year first above written.

Signed by the above-named (employer) in my presence

.....
(Signature of Witness)

.....
(Signature of Employer)

LIST OF SERVANTS ATTESTED

1	2	3	4	5	6	7	8	9	10	11
No. on list	Name of servant	Father's name	Tribe	Chief	Headman or village	District of domicile	Registration number	Rate of pay per month	Amount of Tax advanced	Signature or thumb or finger impression

I hereby certify that I have examined the above-named servants and, with the exception of those men whose names I have deleted, they are physically fit to proceed to and there to perform the work contemplated under this Contract, the number of men so passed being *.....

Date.....19.....

.....
Medical Officer

* State number in words.

I hereby certify that I have read over and explained this Contract to all the servants concerned, and that they with full understanding of the meaning of the Contract have individually and voluntarily assented thereto.

.....
Signature of Employer or Authorized Agent

.....
Attesting Officer

Designation

Place of Attestation

District of Attestation

Date19.....

ORDINANCE No. VI of 1944

Assented to in His Majesty's name this fourth day of May, 1944.

HENRY MOORE,
Governor.

An Ordinance to make Provision for the Status of Officers in the Service of the Combined Postal and Telegraph Departments of Kenya, Uganda and Tanganyika Territory

4th May, 1944

Date of commencement.

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

1. This Ordinance may be cited as the Amalgamated Posts and Telegraphs Departments Ordinance, 1944. Short title.

2. In this Ordinance, unless the context otherwise requires, the term "combined service" means the amalgamated Posts and Telegraphs Department of the Colony, the Protectorate of Uganda and the Tanganyika Territory. Interpretation.

3. All officers who were in the service of the combined Posts and Telegraphs Department of the Colony and the Protectorate of Uganda on the first day of January, 1933, shall be deemed, with effect from that date, to have become officers in the combined service. Combined service.

4. (1) All officers who were in the service of the Posts and Telegraphs Department of the Tanganyika Territory on the first day of January, 1933, and all officers referred to in section 3 of this Ordinance shall for the purposes of any law relating to the granting of pensions, gratuities or other allowances in respect of the public service be deemed to have been transferred with effect from that date to the service of the Government of the Colony: Pensions of officers in combined service.

Provided that, notwithstanding anything contained in the European Officers' Pensions Ordinance, 1927, and Regulations made thereunder, or the Non-European Officers' Pensions Ordinance, 1932, and the Regulations made thereunder, every officer in the combined service may, at his option exercisable within thirteen months from the commencement of this Ordinance, or within one month after the earliest date on which, if retired on grounds of ill-health, he might be granted a pension under either of the said Ordinances, whichever date is the later, be paid in lieu of the pension payable under the said Ordinances in respect of his service in the combined service a pension at the rate of three-fourths of such pension together with a gratuity equal to ten times the amount of the reduction so made in the pension. No. 11 of 1927.
No. 53 of 1932.

Provided further that nothing in this section contained shall be deemed to deprive any officer, who was in the service of the Posts and Telegraphs Department of the Tanganyika Territory or in the

service of the combined Posts and Telegraphs Department of the Colony and the Protectorate of Uganda, of any right, which he would have had if the amalgamation on the first day of January, 1933, had not taken place, to exercise an option to receive a reduced pension, and a gratuity in respect of service in either of such services.

(2) All officers appointed to the combined service on or after the first day of January, 1933, shall, for the purpose of pensions, gratuities or other allowance in respect of the public service, be deemed to be in the service of the Government of the Colony.

Pensionable
offices in the
combined
service.

No. 11 of 1927.
No. 53 of 1932.

5. All offices in the combined Posts and Telegraphs Departments of the Colony and the Protectorate of Uganda declared under section 2 of the European Officers' Pensions Ordinance, 1927, under section 2 of the Non-European Officers' Pensions Ordinance, 1932, or all offices in the service of the Posts and Telegraphs Department of the Tanganyika Territory declared under section 2 of the Tanganyika European Officers' Pensions Ordinance (Chapter 36 of the Tanganyika Laws) and under section 2 of the Tanganyika Asiatic Officers' Pensions Ordinance, 1932, to be pensionable offices shall, with effect from the first day of January, 1933, be deemed to be pensionable offices in the combined service:

Provided that any such offices may be declared at any time by the Governor in Council with the sanction of the Secretary of State, by a notice in the Gazette, to be no longer pensionable, due regard being had to the existing rights.

Powers of
Postmaster
General to be
exercised by
head of
combined
service.

6. Where in any law in force in the Colony any powers are conferred upon the Postmaster General, such powers shall be deemed to be legally exercised when exercised by the officer holding for the time being the office of head of the combined service.

Saving for
existing
favourable
conditions.

No. 11 of 1927.
No. 53 of 1932.

7. Notwithstanding anything contained in the European Officers' Pensions Ordinance, 1927, or in the Non-European Officers' Pensions Ordinance, 1932, where the Governor in Council is satisfied that any officer to whom the provisions of this Ordinance apply has received an undertaking that he will be regarded as eligible for pension or gratuity under conditions more favourable to him than those prescribed by this Ordinance, the Governor in Council may direct that his pension or gratuity shall be computed with due regard to such undertaking.

Officers of
combined service
to be in service
of the Colony.

8. Every officer of the combined service shall, while stationed in the Colony, be deemed to be in the service of the Colony for all purposes.

Saving for
pensions, etc.,
already granted.

9. Nothing in this Ordinance shall affect any pensions, gratuities or other allowances granted prior to the enactment of this Ordinance, in respect of the public service, to officers of the combined service.

ORDINANCE No. VII of 1944

Assented to in His Majesty's name this fourth day of May, 1944.

HENRY MOORE,
Governor.

An Ordinance to Amend the Asiatic Widows' and Orphans' Pension Ordinance, 1927

4th May, 1944

Date of commencement.

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

1. This Ordinance may be cited as the Asiatic Widows' and Orphans' Pension (Amendment) Ordinance, 1944, and shall be read as one with the Asiatic Widows' and Orphans' Pension Ordinance, 1927, hereinafter referred to as the Principal Ordinance.

Short title.

No. 20 of 1927.

2. Section 3 of the Asiatic Widows' and Orphans' Pension (Amendment) Ordinance, 1934, is hereby amended—

Amendment of section 3 of Ordinance No. 31 of 1934.

(a) by deleting the full stop which occurs in the last line of sub-section (1) thereof and substituting therefor a colon, and by adding immediately after such colon the following proviso—

“Provided that the Governor may, for good and sufficient reason, extend the time.”;

and

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

“(3) (a) Any Asiatic officer appointed to the amalgamated Posts and Telegraphs Department of Kenya, Uganda and Tanganyika Territory since the 1st day of January, 1933, may, subject to the provisions of sections 4 and 5 of the Principal Ordinance, become a contributor whether he is serving in the Colony, in the Uganda Protectorate or in the Tanganyika Territory.

(b) Any contributor who is in the service of the amalgamated Posts and Telegraphs Department of Kenya, Uganda and Tanganyika may continue to contribute to the fund notwithstanding that he is serving in the Uganda Protectorate or in the Tanganyika Territory.”

3. Anything in the Principal Ordinance to the contrary notwithstanding, if a contributor, who is married or who is a widower with children of a pensionable age, retires on pension or otherwise leaves the service of this Government and is reappointed, permanently or temporarily, to a post in the service of this Government, he shall, as from the date of his reappointment and until he leaves the service, contribute at the rate of five per centum of his combined annual salary and pension.

Contributions by a re-engaged contributor.

ORDINANCE No. VIII of 1944

Assented to in His Majesty's name this fourth day of May,
1944.

HENRY MOORE,
Governor.

An Ordinance to Amend the Arms and Ammunition Ordinance, 1925, and the Arms and Ammunition (Amendment) Ordinance, 1941

Date of commencement.

4th May, 1944

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

Short title.

1. This Ordinance may be cited as the Arms and Ammunition (Amendment) Ordinance, 1944, and shall be read as one with the Arms and Ammunition Ordinance, 1925, hereinafter called the Principal Ordinance.

No. 8 of 1925.

Amendment of section 29 (2) of the Principal Ordinance.

2. Sub-section (2) of section 29 of the Principal Ordinance is hereby amended by substituting a comma for the full-stop at the end thereof and adding thereto the words following:—

“and if the offence was committed in the Northern Frontier District shall be liable on conviction to imprisonment of either description for a term not exceeding five years or to a fine not exceeding £500 or to both.”

Amendment of section 2 (1) of Ordinance No. 33 of 1941.

3. Sub-section (1) of section 2 of the Arms and Ammunition (Amendment) Ordinance, 1941, is hereby amended by inserting between the words “Any” and “police” in line one thereof the words following:—

“police officer in the Northern Frontier District, and any”.

ORDINANCE No. IX of 1944

Assented to in His Majesty's name this fourth day of May, 1944.

HENRY MOORE,
Governor.

An Ordinance to Amend the Sisal Industry Ordinance, 1939

4th May, 1944

Date of
commencement.

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

1. This Ordinance may be cited as the Sisal Industry (Amendment) Ordinance, 1944, and shall be read as one with the Sisal Industry Ordinance, 1939, hereinafter referred to as the Principal Ordinance.

Short title.

No. 19 of 1939.

2. Sub-section (3) of section 6 of the Principal Ordinance is hereby deleted.

Repeal of
section 6 (3) of
the Principal
Ordinance.

ORDINANCE No. X of 1944

Assented to in His Majesty's name this fourth day of May, 1944.

HENRY MOORE,
Governor.

An Ordinance to Amend the Mining Ordinance, 1940

Date of
commencement.

4th May, 1944

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

Citation

1. This Ordinance may be cited as the Mining (Amendment) Ordinance, 1944, and shall be read as one with the Mining Ordinance, 1940, hereinafter referred to as the principal Ordinance.

No. 29 of 1940.

Amendment of
section 6 of
the principal
Ordinance.

2. Section 6 of the principal Ordinance is hereby amended as follows—

(a) by inserting therein the figure and brackets "(1)" between the figure "6" and the word "Except" in line one thereof;

(b) by inserting therein the words "be guilty of an offence and shall" between the word "shall" which occurs in line two thereof and the word "be" which occurs in line three thereof;

and

(c) by adding thereto the following sub-section:—

"(2) An offence under this section shall be cognizable to the police."

ORDINANCE No. XI of 1944

Assented to in His Majesty's name this sixteenth day of June, 1944.

HENRY MOORE,
Governor.

An Ordinance to Confer on Courts Certain Powers in Relation to Remedies in Respect of Non-payment of Money, the Recovery of Possession of Mortgaged Land, and the Non-performance of Obligations (including Powers in Relation to Bankruptcy and Winding-up Proceedings), and to make provision for purposes connected with the matters aforesaid.

By Notice

Date of
commencement

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

1. (1) This Ordinance may be cited as the Courts (Emergency Powers) Ordinance, 1944, and shall come into operation on such date as the Governor may by notice in the Gazette appoint.

Short title,
commencement
and duration.

(2) This Ordinance shall continue in force until such date as the Governor may, by proclamation, declare to be the date on which the war that was the occasion of the enactment of this Ordinance came to an end.

2. (1) For the purposes of this Ordinance—

Interpretation.

(a) a contract shall be deemed to have been made before the 1st day of December, 1940, if an offer made before that day so as to be binding on a contracting party if accepted within a specified period expiring on or after that day, is accepted by the contracting party at any time within that period; and

(b) a person entitled to the benefit of a judgment or order, who issues a bankruptcy notice or presents a bankruptcy petition or a winding-up petition founded on the non-payment of money due under that judgment or order shall be deemed to be proceeding to the enforcement of that judgment or order.

(2) In this Ordinance the following expressions have the meanings hereby respectively assigned to them, that is to say—

“judgment” includes decree;

“lease” includes an under-lease and any contract of tenancy, and the expressions “lessee” and “lessor” shall be construed accordingly;

“mortgage” includes any charge, and the expressions “mortgagor” and “mortgagee” shall be construed accordingly;

“mortgage money” includes any part thereof and any interest thereon;

“mortgage obligation” means any obligation arising under or by virtue of the mortgage, other than an obligation to pay the mortgage money.

(3) References in this Ordinance to judgments or orders for the recovery of possession of land include references to any judgment or order the effect of which is to enable a person to obtain possession of land, and in particular includes, in relation to a mortgagee, a judgment or order for the delivery of possession of land.

Restriction on execution and other remedies.

3. (1) Subject to the provisions of this Ordinance, a person shall not be entitled, except with the leave of the appropriate court, to proceed to execution on, or otherwise to the enforcement of, any judgment or order of any court (whether given or made before or after the commencement of this Ordinance) for the payment or recovery of a sum of money:

Provided that nothing in this sub-section shall apply to—

- (a) any judgment for the recovery of damages for tort;
- (b) any judgment or order under which no sum of money is recoverable otherwise than in respect of costs;
- (c) any order made either in criminal proceedings or in proceedings for the recovery of a penalty in respect of any contravention of, or failure to comply with, any provisions of an Ordinance.

(2) Subject to the provisions of this Ordinance, a person shall not be entitled, except with the leave of the appropriate court—

(a) to proceed to exercise any remedy which is available to him by way of—

- (i) the levying of distress;
- (ii) the taking of possession of any property;
- (iii) the appointment of a receiver of any property;
- (iv) re-entry upon any land;
- (v) the realization of any security;
- (vi) the forfeiture of any deposit; or
- (vii) the serving of a demand under paragraph (a) of section 168 of the Companies Ordinance, 1933; or

No. 28 of 1933.

(b) to institute any proceedings for foreclosure or for sale in lieu of foreclosure, or take any step in any such proceedings instituted before the 1st day of December, 1940, or institute any proceedings for the recovery of possession of mortgaged property:

Provided that nothing in this sub-section shall affect—

- (a) any right or power of pawnbrokers to deal with pledges; or
- (b) the institution or prosecution of any proceedings for the appointment by the court of a receiver of any property.

(3) Subject to the provisions of this Ordinance, a person shall not be entitled, except with the leave of the appropriate court, to proceed to execution on, or otherwise to the enforcement of, any judgment or order of any court (whether given or made before or

after the commencement of this Ordinance) for the recovery of possession of land in default of payment of rent or for the delivery of any property other than mortgaged property by reason of a default in the payment of money.

(4) If, on any application for such leave as is required under this section for the exercise of any of the rights and remedies mentioned in sub-sections (1), (2) and (3) of this section, the appropriate court is of opinion that the person liable to satisfy the judgment or order, or to pay the rent or other debt, or to perform the obligation, in question is unable immediately to do so by reason of circumstances directly or indirectly attributable to any war in which His Majesty may be engaged, the court may, subject to the provisions of this Ordinance, refuse leave for the exercise of that right or remedy, or give leave therefor subject to such restrictions and conditions as the court thinks proper.

(5) Where a bankruptcy petition has been presented against any debtor, or a winding-up petition has been presented against any company on the ground that it is unable to pay its debts, and the debtor or company proves to the satisfaction of the court having jurisdiction in the bankruptcy or winding-up that his or its inability to pay his or its debts is due to circumstances directly or indirectly attributable to any war in which His Majesty may be engaged, the court may at any time stay the proceedings under the petition for such time and subject to such conditions as the court thinks fit.

(6) The Governor may by order direct that, in relation to the exercise of any right or power of any person or class of persons having any goods in their custody as bailees to sell the goods by reason of any default in payment of a debt, the restriction imposed by sub-section (2) of this section either shall not apply or shall apply subject to such limitations as may be specified in the order; and any such order shall have effect notwithstanding anything inconsistent therewith contained in any Ordinance other than this Ordinance.

4. (1) In the case of any judgment or order—

(a) for the recovery of a debt which has become due by virtue of a contract made after the 1st day of December, 1940; or

(b) for the recovery of possession of land in default of payment of rent, being land held on a lease or tenancy entered into after the 1st day of December, 1940; or

(c) for the delivery of any property other than mortgaged property by reason of a default under any contract made after the 1st day of December, 1940, in the payment of money;

Restriction on execution and other remedies in the case of certain causes of action arising after 1st December, 1940.

the foregoing section shall only apply if the appropriate court so directs, on being satisfied by the defendant that he is unable immediately to satisfy the judgment or order, or to pay the rent or money, by reason of circumstances directly or indirectly attributable to any war in which His Majesty may be engaged, being circumstances which arose after the contract, lease or tenancy was made or entered into.

(2) Where a direction is given under the last foregoing sub-section, the powers of the court shall thereupon be exercisable as if an application for leave to execute the judgment or order had been made under the foregoing section.

(3) Where an application is made by any person under the foregoing section for leave to exercise or take any of the remedies or proceedings mentioned in sub-section (2) of that section (other than those mentioned in the proviso to that sub-section) which are available to him in consequence of any default in the payment of a debt or the performance of an obligation, being a debt or obligation arising by virtue of a contract made after the 1st day of December, 1940, the appropriate court shall not, subject to the provisions of this Ordinance relating to mortgaged dwelling-houses, exercise its powers under sub-section (4) of that section unless it is satisfied that the circumstances referred to in that sub-section arose after the contract was made.

Restriction on
lessor's remedies.

5. (1) Where an application is made by the lessor of any premises, other than a dwelling-house to which the Increase of Rent and of Mortgage Interest (Restrictions) Ordinance, 1940, applies, for leave to exercise any of the rights and remedies mentioned in sub-sections (1), (2) and (3) of section 3 of this Ordinance, being a right or remedy arising in consequence of a default in the payment of rent or mesne profits, the appropriate court, if it gives leave subject to restrictions and conditions, shall not make the leave conditional on any default in the payment of rent or mesne profits falling due after the date of the hearing of the application; but nothing herein shall be taken as prejudicing the power of the court, on any subsequent application for leave to exercise the same right or remedy, to vary the conditions or give unconditional leave, having regard to any such default occurring after the first application but before the subsequent application.

(2) Where the appropriate court refuses leave under section 3 of this Ordinance to enforce a judgment or order for the recovery of possession of any such premises as aforesaid in default of payment of rent, or gives such leave subject to restrictions and conditions, the lease shall be deemed not to have been forfeited and shall continue in force so long as the judgment or order remains unenforceable, but no longer.

(3) In relation to any application under this Ordinance for leave to enforce a judgment or order for the recovery of possession of land in default of payment of rent, the references in sub-section (4) of section 3 and sub-section (1) of section 8 of this Ordinance to the person liable to satisfy the judgment or order or to pay the rent or other debt or to perform the obligation in question shall be construed as referring only to the person against whom the judgment or order was made and who is or would be, but for any forfeiture incurred in consequence of the default, entitled to the benefit of the lease under which the rent was reserved.

(4) On any application under this Ordinance for leave to enforce a judgment or order for the recovery in default of payment of rent of possession of land held in distinct parcels under one lease by two or more lessees, the court may (notwithstanding that a single rent was

reserved by the lease and the proviso for re-entry in default of payment of the rent was not severable) order that the application shall be dealt with as if those parcels had been held under distinct leases and applications were being made for leave to enforce separate judgments or orders in relation thereto, and may make such consequential provision as seems just for the apportionment of the arrears of rent, for the relief of any lessee from forfeiture of the parcel held by him and for the adjustment of the rights and obligations under the lease of the parties to the application.

6. (1) Where an application is made by the mortgagee of any premises, other than a dwelling-house to which the Increase of Rent and of Mortgage Interest (Restrictions) Ordinance, 1940, apply, for leave to exercise any of the rights and remedies mentioned in sub-sections (1) and (2) of section 3 of this Ordinance, being a right or remedy arising in consequence of a default in the payment of any mortgage money, the appropriate court, if it gives leave subject to restrictions and conditions, shall not make the leave conditional on any default in the payment of any mortgage money falling due after the date of the hearing of the application; but nothing herein shall be taken as prejudicing the power of the court, on any subsequent application for leave to exercise the same right or remedy, to vary the conditions or give unconditional leave, having regard to any such default occurring after the first application, but before the subsequent application.

Restriction in mortgagee's remedies.

(2) Where an application is made by the mortgagee of a dwelling-house for leave to exercise in relation to the mortgage or the dwelling-house any of the rights or remedies mentioned in sub-section (2) of section 3 of this Ordinance, and the mortgagor is a person serving in the armed forces of His Majesty or mainly dependent on a person so serving, the appropriate court, unless it is satisfied that the mortgagor is able immediately to pay the debt or to perform the obligation in question or that his inability to do so does not arise by reason of circumstances directly or indirectly attributable to any war in which His Majesty may be engaged, being circumstances which, if the mortgage was entered into after the 1st day of December, 1940, arose after it was entered into, may in its absolute discretion refuse leave for the exercise of that right or remedy or give leave therefor subject to such restrictions and conditions as the court thinks proper.

Where at the hearing of any such application as aforesaid the mortgagor is not present or is not represented, he shall, unless the contrary is proved by the applicant, be deemed for the purposes of this sub-section to be a person serving in the armed forces of His Majesty or mainly dependent on a person so serving.

(3) Where an application is made by the mortgagee of any property for leave to exercise against the property any of the rights or remedies mentioned in sub-section (2) of section 3 of this Ordinance being a right or remedy arising by virtue of a default in the payment of any mortgage money or a breach of any mortgage obligation, the appropriate court may, for the purposes of this Ordinance, treat any person appearing to the court to be affected by the exercise of the right or remedy as if he were the person liable to pay

the mortgage money or to perform the mortgage obligation or, as the context may require, as if he were the mortgagor, and may grant relief accordingly.

(4) The last foregoing sub-section shall not be taken as requiring all the persons so affected to be made parties to the application, and rules made under this Ordinance shall make provision for the persons who are to be made parties to any such application, and may provide that, in such cases as may be prescribed by the rules, and in particular in cases where the mortgagor has died and no person has taken out representation in respect of the property, the application may be made *ex parte*.

(5) Where any land is the subject of a mortgage, the mortgagee shall not be entitled to obtain possession of the land, whether by virtue of his estate or interest as mortgagee or of any attornment or other provision contained in the mortgage or in any agreement collateral thereto, unless default has been made in payment of any mortgage money, or there has been a breach on the part of the mortgagor, or of some person concurring in the making of the mortgage, or of any mortgage obligation.

(6) For the purposes of the last foregoing sub-section, default shall not be deemed to have been made in payment of any mortgage money, unless a written demand for payment has been served on the person liable, and a period of three months has elapsed since the service of the demand:

Provided that this sub-section shall not apply where the mortgage money is repayable by instalments.

Hire-purchase
agreements.

7. Where the appropriate court refuses leave under sub-section (4) of section 3 of this Ordinance to take possession of goods let under a hire-purchase agreement or to execute any judgment or order for the delivery of such goods, or gives such leave subject to restrictions and conditions, and the hirer, before possession is taken or the judgment or order is executed, pays the hire-purchase price, the owner's title to the goods, shall, notwithstanding any failure to pay the hire-purchase price at the times required by the agreement, vest in the hirer.

Court may take
into account
other liabilities
of person liable.

8. On any application for leave to exercise any of the rights or remedies mentioned in sub-sections (1), (2) and (3) of section 3 of this Ordinance, the appropriate court—

- (a) in determining whether the person liable to satisfy the judgment or order, or to pay the rent or other debt, or to perform the obligation, in question is unable immediately to do so by reason of circumstances directly or indirectly attributable to any war in which His Majesty may be engaged; or
- (b) in determining the restrictions and conditions (if any) subject to which the leave is to be given,

may take account of other liabilities, whether present or future, of that person:

Provided that nothing in this sub-section shall be construed as affecting the provisions of sub-section (1) of section 5 or sub-section (1) of section 6 of this Ordinance or as enabling the court to make the leave conditional on a failure to satisfy any such other liability.

1944

Courts (Emergency Powers)

No. XI

9. (1) The appropriate court for the purposes of any of the provisions of this Ordinance shall be such court as may be designated by rules made by the Chief Justice under this Ordinance, and such rules may designate different courts in relation to different classes of proceedings. Procedure.

(2) The Chief Justice may also make rules prescribing the manner in which applications under this Ordinance are to be made, prescribing any matter which under any provisions of this Ordinance is to be prescribed by rules, and generally for regulating the conduct of proceedings under this Ordinance.

(3) Rules made under this Ordinance may provide for the service of notice of any such application upon persons, other than the applicant, having claims against the person liable, and for enabling such person to be heard at the hearing of the application.

10. (1) Nothing in this Ordinance contained shall affect any order or rule made, instrument issued or thing done under the Ordinance repealed by this Ordinance, but any such order, rule, instrument or thing shall, if in force at the commencement of this Ordinance, continue in force, and so far as it could have been made, issued or done under this Ordinance shall have effect as if made, issued or done under this Ordinance. Saving.

(2) References in any document to any enactment repealed by this Ordinance shall be construed as referring to the corresponding provision of this Ordinance.

(3) Nothing in this section contained shall be taken to prejudice the provisions of section 7 of the Interpretation and General Clauses Ordinance.

Cap. 1.

11. The Courts (Emergency Powers) Ordinance, 1940, is hereby repealed. Repeal.
No. 27 of 1940.

ORDINANCE No. XII of 1944

Assented to in His Majesty's name this sixteenth day of June,
1944.

HENRY MOORE,
Governor.

An Ordinance to Amend the Criminal Procedure Code

16th June, 1944

Date of commencement.

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

Short title.

1. This Ordinance may be cited as the Criminal Procedure Code (Amendment) Ordinance, 1944, and shall be read as one with the Consolidated Edition of the Criminal Procedure Code prepared under the provisions of section 43 of the Criminal Procedure Code (Amendment) Ordinance, 1939, hereinafter referred to as the principal Ordinance.

No. 35 of 1939.

Amendment of section 12 of the principal Ordinance.

2. Section 12 of the principal Ordinance is hereby amended by inserting therein, immediately next after sub-section (3) thereof, the following new sub-section:—

“(4) The confirming court may in its discretion where no order has been made under sub-section (1) of this section by the convicting court, release the person sentenced on bail pending an order in revision made by the Supreme Court in exercise of its powers under section 363 of this Code.”

Amendment of section 30 of the principal Ordinance.

3. Section 30 of the principal Ordinance is hereby amended by inserting therein, between the word “warrant” and the comma which appear in the fourth line thereof, the words “under the provisions of section 29”.

Repeal and replacement of section 92 (1) of the principal Ordinance.

4. Sub-section (1) of section 92 of the principal Ordinance is hereby repealed and the following sub-section is substituted therefor:

“92. (1) Every summons shall be served either by a police officer, an officer of the court issuing it or by such other person as the court may direct, and shall, if practicable, be served personally on the person summoned by delivering or tendering to him one of the duplicates of the summons.”

Service of summons.

Amendment of section 337 (1) of the principal Ordinance.

5. Section 337 of the principal Ordinance is hereby amended by deleting therefrom the words “If any person committed to prison for non-payment” which appear in the first line of sub-section (1) thereof and by substituting therefor the words “If any person, who is confined in any prison for non-payment of any sum adjudged by a court in its criminal jurisdiction to be paid under this Code or under any other Ordinance.”.

6. (1) Section 344 of the principal Ordinance is hereby amended—

Amendment of section 344 of the principal Ordinance.

(i) by deleting therefrom the first four lines of sub-section (1) thereof and by substituting therefor the following:—

“(1) A court may at any time direct that a person shall, whilst subject to police supervision and at large in the Colony, comply with all or any of the following requirements and may vary any such directions at any time:—”;

(ii) by deleting therefrom sub-section (2) thereof and by substituting therefor the following sub-section:—

“(2) The Governor in Council may make rules for carrying out the provisions of this section and in particular prescribing the manner in which persons may be brought before a court for the purposes of this section.”

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

7. Section 384 of the principal Ordinance is hereby amended by adding thereto the following sub-section:—

Amendment of section 384 of the principal Ordinance.

“(3) When the body of a person is found or a person has committed suicide or has been killed by another or by an accident or has died under circumstances raising a reasonable suspicion that some other person has committed an offence, it shall be the duty of any person finding the body or becoming aware of the death immediately to give information thereof to the nearest district officer or police officer.”

ORDINANCE No. XIII of 1944

Assented to in His Majesty's name this sixteenth day of June, 1944.

HENRY MOORE,
Governor.

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

16th June, 1944

Date of commencement.

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

Citation.

1. This Ordinance may be cited as the Increased Production of Crops (Amendment) Ordinance, 1944, and shall be read as one with the Consolidated Edition of the Increased Production of Crops Ordinance, 1942, prepared under the provisions of section 23 of the Increased Production of Crops (Amendment) Ordinance, 1943, hereinafter referred to as the principal Ordinance.

No. 13 of 1943.

Amendment of section 4 of the principal Ordinance.

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

- (a) by inserting therein, between the word "with" and the word "any" in the fourth line of paragraph (a) of sub-section (1) thereof a comma followed by the words "or maintain under,";
- (b) by substituting a colon for the semi-colon and by deleting the word "and" which appears at the end of paragraph (a) thereof and by adding thereto, immediately after such colon, the following proviso:—

"Provided that if the farmer is a farmer who, under the provisions of section 20 of this Ordinance, had been required to, and did in fact, replant any acreage of land, the value of the guaranteed minimum return in such case may in the discretion of the Board, and subject to the provisions of sub-section (4) of section 21 of this Ordinance, be increased by such additional sum of money as in the opinion of the Board is sufficient to cover the actual expenditure incurred by such farmer in replanting such land; and";

- (c) by inserting therein, between the word "year" and the word "to" in the fourth line of sub-section (2) thereof a comma followed by the words "or at such time as the Governor in Council may, under the powers conferred upon him by section 35 of this Ordinance, by rule prescribe,".

Repeal and replacement of section 13 of the principal Ordinance.

3. Section 13 of the principal Ordinance is hereby repealed, and the following section substituted therefor:—

Return of crops.

"13. (1) Every farmer upon whom an order has been served under the provisions of section 11 of this Ordinance, shall, within seven days after the date appointed under the provisions of this

section in respect of any particular crop, submit in writing a return to the Board, through the District Production and Man Power Committee showing—

- (a) the total acreage planted in respect of such crop;
- (b) the quantity of such crop harvested;
- (c) the quantity of such crop the farmer wishes to retain for consumption on his farm.

(2) The return to be used for the purposes of this section shall be in the form approved by the Board.

(3) If no crop has resulted a nil return shall be submitted.

(4) For the purposes of this section the Board may, by notice in the Gazette, appoint a date or dates in each year in respect of any particular crop, and the Board may appoint different dates for different crops in respect of different areas in the Colony."

4. Section 14 of the principal Ordinance is hereby repealed and the following section substituted therefor:—

Repeal and replacement of section 14 of the principal Ordinance.

"14. The Bank, as agent for the Government of the Colony, shall, from funds provided by the Accountant General under the provisions of section 3 of this Ordinance, on the order of the Board make to any farmer—

Advances and grants to farmers.

- (a) advances against the guaranteed minimum return referred to in section 4 of this Ordinance;
- (b) a grant of money as provided for by paragraph (b) of sub-section (1) of section 4 of this Ordinance;
- (c) advances for any purpose which may, on the advice of the Board, be approved by the Governor in Council by notice in the Gazette."

5. Sub-section (1) of section 15 of the principal Ordinance is hereby amended by deleting therefrom the words "against the guaranteed minimum return" which appears in line two thereof.

Amendment of section 15 (1) of the principal Ordinance.

6. Section 16 of the principal Ordinance is hereby amended by deleting therefrom all the words commencing with "It", which appears in the seventh line of sub-section (2) thereof, down to the end of the sub-section and substituting therefor the following:—

Amendment of section 16 of the principal Ordinance.

"A farmer who receives such grant shall keep the land in respect of which the grant has been made in cultivation with crops for a period of at least three years or for the duration of this Ordinance, whichever period is the shorter:

Provided that the Board may, if it deems it expedient so to do, permit any farmer receiving such grant to cultivate any other produce as the Board may, in writing, approve."

Amendment of section 21 of the principal Ordinance.

7. Section 21 of the principal Ordinance is hereby amended—
- (a) by inserting in the first line of paragraph (a) of sub-section (1) thereof between the word “year” and the word “the” a comma followed by the words following:—
 “or at such time as the Governor in Council may, under the powers conferred upon him by section 35 of this Ordinance, by rule prescribe.”;
- (b) by deleting therefrom sub-section (2) and substituting therefor the following—
 “(2) Where the Board is satisfied as to the matters referred to in sub-section (1) of this section, the Board may, subject to the provisions of this section, order the Bank to pay to the farmer a sum of money equal to the amount of the guaranteed minimum return, less—
 (a) the value of the crop produced by the farmer under the terms of an order given under the provisions of section 11 of this Ordinance, including the value of any portion thereof retained by such farmer; and
 (b) any advances made to the farmer which have not been repaid by him.”;
- (c) by inserting therein, immediately after sub-section (2) thereof, the following new sub-section to be numbered (3), and by renumbering sub-sections (3) to (8), both inclusive, as sub-sections (4) to (9), respectively—
 “(3) If the amount due to the farmer as a guaranteed minimum return (including any amount by which such guaranteed minimum return may have been increased under the proviso to paragraph (a) of sub-section (1) of section 4 of this Ordinance), after deducting the value of the crop which he has produced under the terms of an order given under the provisions of section 11 of this Ordinance, is less than the amount of any advances made to the farmer which have not been repaid by him, such amount shall be paid by the farmer to the Bank. The amount so to be paid by the farmer shall bear interest at the rate of four per centum per annum and shall, until paid and notwithstanding any rule of law or equity or the provisions of any law for the time being in force in the Colony, be a first charge on any produce grown or to be grown by the farmer and on all chattels owned by such farmer and shall have priority over all other encumbrances whatsoever secured on such produce or chattels.”;
- (d) by deleting therefrom the words “amount of such advance to, and the amount of any interest due thereon from, such farmer” which appear in lines four and five of sub-section (7) thereof and substituting therefor the words “amount of such advance to such farmer and the amount of any interest due thereon or such proportion of such interest as the Board may direct”; and

(e) by inserting the words "or exceed" between the words "equal" and "the", which appear in line three of sub-section (9) thereof.

8. Sub-section (4) of section 23 of the principal Ordinance is hereby amended by deleting therefrom the words "received from any farmer" which appear in lines one and two thereof.

Amendment of section 23 (4) of the principal Ordinance.

9. Section 31 of the principal Ordinance is hereby amended by deleting therefrom all the words which appear after the word "Ordinance" in the twelfth line thereof and substituting therefor the following:—

Amendment of section 31 of the principal Ordinance.

"or for the purposes of checking statements made by any such person in regard to his acreage under crops, the quantities of crops he has retained or intends to retain, the numbers of live stock maintained on such premises, or in respect of any other matter connected with the farming activities of such person, and may require such person to give to him such information as he may consider necessary."

10. Section 37 of the principal Ordinance is hereby repealed and the following section is substituted therefor:—

Repeal and replacement of section 37 of the principal Ordinance.
Delegation.

"37. The Board may, by resolution, delegate to any person any of the powers conferred upon it by this Ordinance."

11. Section 38 of the principal Ordinance is hereby repealed, and the following section substituted therefor:—

Repeal and replacement of section 38 of the principal Ordinance.

"38. Any person to whom an advance has been made under this Ordinance who uses such advance or any portion thereof for any purpose other than that for which it was made, or having received a grant, fails to comply with the conditions attached to such grant, shall be guilty of an offence against this Ordinance."

Penalties for misusing advance.

12. Section 41 of the principal Ordinance is hereby amended by inserting therein, between the word "Ordinance" and the word "shall", which appear in the first and second lines thereof, a comma followed by the words "or who fails to comply with any of the provisions of this Ordinance,".

Amendment of section 41 of the principal Ordinance.

ORDINANCE No. XIV of 1944

Assented to in His Majesty's name this sixteenth day of June, 1944.

HENRY MOORE,
Governor.

An Ordinance to Amend the Bankruptcy Ordinance, 1930

Date of commencement.

16th June, 1944

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

Short title.

1. This Ordinance may be cited as the Bankruptcy (Amendment) Ordinance, 1944, and shall be read as one with the Bankruptcy Ordinance, 1930, hereinafter referred to as the Principal Ordinance.

No. 32 of 1930.

Amendment of section 2 of the Principal Ordinance.

2. Section 2 of the Principal Ordinance is hereby amended by adding thereto immediately after the definition of "Resolution" appearing therein the following new definition:—

"Relative by consanguinity or affinity' includes a grand-parent, parent, uncle, aunt, brother, sister, son, daughter, nephew, niece or first-cousin."

Amendment of section 16 of the Principal Ordinance.

3. Section 16 of the Principal Ordinance is hereby amended:—

- (a) by substituting the word "three" for the word "fourteen" which occurs in the fourth line of sub-section (2) thereof;
- (b) by substituting the word "seven" for the word "fourteen" which occurs in the sixth line of sub-section (2) thereof; and
- (c) by inserting between the word "bankrupt" and the full stop which occurs in the fourth line of sub-section (3) thereof the words—

"and the debtor shall, in addition to any other punishment to which he may be subjected, be guilty of a contempt of court and may be punished accordingly".

Amendment of section 20 (1) of the Principal Ordinance.

4. Sub-section (1) of section 20 of the Principal Ordinance is hereby amended by substituting a comma for the full stop which occurs at the end thereof and by adding thereto, immediately after such comma, the following words:—

"and the court shall at the same time specify on such order of adjudication the period within which the debtor shall apply for his discharge".

Repeal and replacement of section 21 (4) of the Principal Ordinance.

5. Sub-section (4) of section 21 of the Principal Ordinance is hereby repealed and the following sub-section is substituted therefor:—

"(4) The official receiver may be appointed the trustee by the creditors and, in such case, there shall be no committee of inspection, unless he shall so desire, and provided that where there is no committee of inspection the official receiver may do all things which may be done by a trustee with the permission of a committee of inspection."

1944

Bankruptcy

No. XIV

6. Sub-section (10) of section 22 of the Principal Ordinance is hereby amended:—

Amendment of section 22 (10) of the Principal Ordinance.

(a) by inserting therein the words "or the official receiver" between the word "court" and the word "on" which occur in the fourth line thereof; and

(b) by deleting therefrom the words "or by the official receiver, save in the case where he himself is acting as trustee" which occur at the end thereof.

7. The Principal Ordinance is hereby amended by inserting therein, immediately after section 24 thereof, the following new section:—

Amendment of the Principal Ordinance.

"24A. (1) Every debtor residing in the Colony against whom an order of adjudication is made in the Colony on or after the first day of June, 1944, shall, so long as such order remains in force keep the official receiver or the trustee, as the case may be, informed of his residential and postal address and shall submit every six months from the date of the said order a return, verified by affidavit, giving full particulars as to his employment, salary, earnings and other income during the preceding six months.

Address and particulars of employment to be furnished.

(2) The provisions of this section shall apply in like manner to every debtor resident in the Colony against whom an order of adjudication has been made on or before the 1st day of June, 1944: Provided that in any such case the first return to be made by such debtor shall be submitted to the official receiver or trustee, as the case may be, on or before the 1st day of December, 1944.

(3) Any person who fails to comply with the provisions of this section shall be guilty of an offence."

8. Sub-section (1) of section 28 of the Principal Ordinance is hereby repealed and the following sub-section is substituted therefor:—

Repeal and replacement of section 28 (1) of the Principal Ordinance.

"(1) Where, on or after the first day of June, 1944, any order of adjudication is made, then the bankrupt shall, within a period specified by the court, apply to the court for an order of discharge, and the court shall appoint a day for hearing the application, but the application shall not be heard until the public examination of the bankrupt is concluded. An application for an order of discharge shall, except when the court in accordance with rules made under this Ordinance otherwise directs, be heard in open court:

Bankrupt to apply for discharge within time specified by Court.

Provided that where the order of adjudication was made prior to the 1st day of June, 1944, the bankrupt shall apply to the court for an order of discharge within three years of the said 1st day of June, 1944."

Amendment of the Principal Ordinance.

9. The Principal Ordinance is hereby amended by adding thereto, immediately next after section 29 thereof, the following new section:—

Adjudication to be annulled on failure to apply for discharge.

“29A. (1) If the bankrupt does not appear on the day fixed for hearing his application for discharge or on such subsequent day as the court may direct, or if the bankrupt does not apply for an order of discharge within the period specified by the court under the provisions of sub-section (1) of section 28 of this Ordinance, the order of adjudication shall be annulled and the provisions of sub-section (2) of section 31 of this Ordinance shall apply accordingly.

(2) Where an order of adjudication has been annulled any creditor may sue for a debt due to him and any judgment creditor may apply for the arrest of the debtor in execution of a decree against him.”

Amendment of section 38 of the Principal Ordinance.

10. Section 38 of the Principal Ordinance is hereby amended by adding thereto, immediately next after sub-section (2) thereof, the following new sub-section:—

“(3) Where a receiving order has been made against a debtor any relative by consanguinity or affinity of such debtor who has a claim against the debtor for salary or wages due or in respect of any money or other estate lent or entrusted to the debtor such relative shall not be entitled to claim as a creditor in respect thereof until all claims of the other creditors for valuable consideration or money's worth have been satisfied.”

Repeal and replacement of section 89 of the Principal Ordinance.

11. Section 89 of the principal Ordinance is hereby repealed and the following section is substituted therefor:—

Bankruptcy Contingency Fund.

“89. (1) Whenever the cash balance standing to the credit of the Bankruptcy Estates Account is in excess of the amount which, in the opinion of the official receiver is required to meet demands in respect of bankrupts' estates, the official receiver may place the same or any part thereof to the credit of a separate account entitled the Bankruptcy Contingency Fund (hereinafter in this section referred to as “the Fund”) at the prescribed bank.

(2) The Fund shall be under the control of a Board to be known as the Bankruptcy Contingency Fund Board (hereinafter in this section referred to as “the Board”), which shall consist of three members who shall be appointed by the Governor, and such members shall hold office during the Governor's pleasure.

(3) The Board may in its discretion invest any money paid to the credit of the Fund in British Government securities.

(4) All applications for leave to make payments out of the Fund shall be made by the official receiver to the Board.

(5) The Board may from time to time authorize payment to be made out of the Fund to meet expenditure which it shall consider necessary and advisable to incur for the purpose of enabling the official receiver to carry out more efficiently the provisions of and or his duties under this Ordinance.

(6) The moneys invested in the Fund shall not at any time be reduced below the sum of Sh. 20,000.

(7) The Board may in its discretion order that the Fund be reimbursed in whole or in part in the event of any money being recovered as a result of the expenditure so authorized."

12. Sub-section (2) of section 116 of the principal Ordinance is hereby amended by deleting therefrom the commas and the words " , with the permission of the court," which occur in the second line thereof. Amendment of section 116 of the Principal Ordinance.

13. Section 134 of the principal Ordinance is hereby amended— Amendment of section 134 of the Principal Ordinance.

(a) by deleting therefrom the words "twelve months" wherever such words occur in sub-section (1) thereof and by substituting therefor in each case the words "two years";

(b) by inserting therein immediately next after paragraph (q) of sub-section (1) thereof the following new paragraphs:—

"(r) if he has continued to trade after knowing himself to be insolvent;

(s) if, within six months before the making of a receiving order, he sells goods at a price lower than cost, unless he proves that he had no intention to defraud his creditors;

(t) if he has contracted any debt provable in the bankruptcy without having at the time of contracting it any reasonable or probable ground of expectation (proof whereof shall lie on him) of being able to pay it."; and

(c) by repealing sub-section (2) thereof and substituting therefor the following sub-section:—

"(2) Any person guilty of an offence in the cases before mentioned in sub-section (1) hereof shall be liable on conviction to imprisonment for any term not exceeding three years except in the cases mentioned respectively in paragraphs (m), (n) and (o) when he shall be liable on conviction to imprisonment for any term not exceeding five years."

14. Section 138 of the principal Ordinance is hereby amended— Amendment of section 138 of the Principal Ordinance.

(a) by deleting therefrom the word "two" which occurs in the sixth line of sub-section (1) thereof and by substituting therefor the word "three";

(b) by deleting therefrom sub-section (4) thereof; and

(c) by renumbering sub-section (5) thereof as sub-section (4).

15. Section 140 of the principal Ordinance is hereby amended by substituting a full stop for the comma which appears immediately after the word "offence" in the fifth line thereof and by deleting therefrom all the words which follow such full stop. Amendment of section 140 of the Principal Ordinance.

16. Section 143 of the principal Ordinance is hereby repealed and the following section is substituted therefor:— Repeal and replacement of section 143 of the Principal Ordinance.

"143. A person guilty of an offence under this Ordinance in respect of which no special penalty is imposed by this Ordinance shall be liable on conviction to imprisonment for a term not exceeding two years." Punishment of offences.

ORDINANCE No. XV of 1944

Assented to in His Majesty's name this sixteenth day of June,
1944.

HENRY MOORE,
Governor.

An Ordinance to Amend the Coffee Industry Ordinance, 1934

16th June, 1944

Date of commencement.

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

Short title.

1. This Ordinance may be cited as the Coffee Industry (Amendment) Ordinance, 1944, and shall be read as one with the Coffee Industry Ordinance, 1934, hereinafter referred to as the principal Ordinance.

No. 54 of 1934.

Amendment of section 2 of the principal Ordinance.

2. Section 2 of the principal Ordinance is hereby amended—
(a) by deleting the definition of "coffee dealer" and inserting between the definitions of "coffee" and "coffee miller" the following definitions:—

"coffee broker" means a person employed to negotiate between two other persons the purchase and sale of coffee;

"coffee commission agent" means a person employed by a coffee dealer or a grower to sell coffee on a percentage basis;

"coffee dealer" means a person who purchases coffee either for himself or on behalf of a principal residing outside the limits of the Colony, the Protectorate of Uganda or of the Tanganyika Territory, and includes a person who so purchases for the purpose of reselling;"

(b) by inserting between the definitions of "coffee planter" and "Conference" the following definition:—

"coffee warehouseman" means a person who conducts a warehouse where coffee is handled and stored for reward;"

Repeal and replacement of section 4 of the principal Ordinance.

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

Transaction of business in coffee prohibited without licence.

"4. No person shall transact any business in coffee unless he is licensed in that behalf by the Director:

Provided that—

(a) no retail seller of provisions shall require a licence—

(i) for the purchase of clean coffee from a licensed coffee dealer or a coffee planter; or

(ii) for the sale of such coffee in retail quantities not exceeding five pounds in weight;

(b) such retail seller shall keep a register of all purchases of clean coffee from any licensed coffee dealer or coffee planter.

4A. The Director may issue licences of the several descriptions following under this Ordinance—

Description
of licences.

- (a) a Coffee Dealer's "A" Licence, which shall authorize the holder thereof to deal in and export coffee of any country of origin;
- (b) a Coffee Dealer's "B" Licence, which shall authorize the holder thereof to deal in coffee and buni of any country of origin within the Colony, but not to export the same;
- (c) a Coffee Dealer's "C" Licence, which shall authorize the holder thereof to deal in and export any coffee grown elsewhere than in the Colony;
- (d) a Buni Dealer's Licence, which shall authorize the holder thereof to deal in and export buni of any country of origin;
- (e) a Coffee Broker's Licence, which shall authorize the holder thereof to conduct the business of a coffee broker;
- (f) a Coffee Commission Agent's Licence, which shall authorize the holder thereof to conduct the business of a coffee commission agent;
- (g) a Coffee Miller's Licence, which shall authorize the holder thereof to conduct the business of a coffee miller: Provided that no such licence shall be required by a coffee planter who only mills his own coffee;
- (h) a Coffee Warehouseman's Licence, which shall authorize the holder thereof to conduct the business of a coffee warehouseman.

4B. (1) There shall be constituted a committee to be known as the Coffee Licensing Advisory Committee (hereinafter referred to as the Advisory Committee), which shall advise the Director upon the issue of every licence, and shall consist of—

Establishment
of coffee
licensing
advisory
committee.

- (a) the Director, as chairman;
- (b) three members to be appointed annually by the Board;
- (c) three members holding licences under section 4A of this Ordinance to be elected annually, two by the Nairobi branch and one by the Mombasa branch of the Coffee Trade Association of Eastern Africa.

(2) Four members of the Advisory Committee shall form a quorum.

4C. (1) The issue of every licence under section 4A of this Ordinance shall be in the discretion of the Director, who shall refuse to issue any licence unless he is satisfied that the applicant is a fit and proper person to hold such licence; and before issuing any licence the Director shall consult the Advisory Committee:

Issue of
licences.

Provided that no Coffee Dealer's "A" Licence shall be issued to any person unless, in the opinion of the Advisory Committee, such person has sufficient knowledge or experience properly to conduct the business specified in the licence, or unless such person has upon the staff of such business a person with such knowledge or experience.

(2) Any person aggrieved by any refusal of the Director to issue a licence under section 4A of this Ordinance may appeal in writing to the Governor in Council within fourteen days from the date of such refusal. The decision of the Governor in Council, on any such appeal, shall be final.

(3) Every licence issued under section 4A of this Ordinance shall specify the premises upon which the business specified in the licence is to be carried on; and only one licence fee shall be payable in respect of all or any of the premises upon which such business is to be carried on.

(4) Every licence issued under section 4A of this Ordinance shall be issued annually and, subject to the provisions of section 16 of this Ordinance, shall remain in force until the 30th day of June next following the date on which it was issued.

(5) The following fees shall be payable in respect of licences issued under section 4A of this Ordinance:—

- (a) for a Coffee Dealer's "A" Licence: Sh. 200;
- (b) for a Coffee Dealer's "B" Licence: Sh. 150;
- (c) for a Coffee Dealer's "C" Licence: Sh. 5;
- (d) for a Buni Dealer's Licence: Sh. 100;
- (e) for a Coffee Broker's Licence: Sh. 150;
- (f) for a Coffee Commission Agent's Licence: Sh. 200;
- (g) for a Coffee Miller's Licence: Sh. 200;
- (h) for a Coffee Warehouseman's Licence: Sh. 200.

(6) It shall be a condition of the issue of any licence under section 4A of this Ordinance that such licence shall be endorsed by the District Commissioner of every district in which the business specified in the licence is to be carried on.

(7) No licence issued under section 4A of this Ordinance shall authorize the holder thereof to conduct any business other than that specified in the licence.

(8) (a) Any person holding a licence issued under section 4A of this Ordinance who is convicted of any offence in relation to coffee contrary to Chapter XXXI of the Penal Code shall, in addition to any penalty which may otherwise be imposed, be liable in the discretion of the Court to have such licence cancelled with effect from such date as the Court may consider necessary to enable him to dispose of his existing stock of coffee, and to be debarred from obtaining another licence for such period as the Court may determine.

(b) Any such person who is aggrieved by any decision of the Court under the provisions of this sub-section may, notwithstanding the provisions of section 348 of the Criminal Procedure Code, within thirty days after the date of such decision appeal to the Supreme Court.

4D. (1) Where any coffee dealer employs a servant or agent to conduct the business on his account, every such servant or agent shall be provided with a licence. Such licence may be issued by the District Commissioner of the district in which the coffee dealer's principal place of business is situate and there shall be payable in respect thereof a fee of one shilling per annum. Coffee dealer's servant or agent.

(2) Every person required to be provided with a licence under this section shall produce the same on the demand of an inspector or on the demand of a coffee dealer or coffee planter."

4. Sub-section (1) of section 11 of the principal Ordinance is hereby amended by deleting the word and figure "section 4" in the third line thereof, and by substituting therefor the words "the provisions". Amendment of section 11 of the principal Ordinance.

5. Section 18 of the principal Ordinance is hereby deleted and the following is substituted therefor:— Amendment of section 18 of the principal Ordinance.

"18. The Governor in Council may make Rules—

- (a) prescribing the forms of licences issued under the provisions of this Ordinance, and the forms of application therefor;
- (b) prescribing the returns, and the forms thereof, to be made by licensed coffee dealers and coffee millers; and
- (c) generally for the better carrying out of the provisions of this Ordinance."

Power to make Rules.

6. (1) The Attorney General may consolidate into one edition the principal Ordinance and all Ordinances (including this Ordinance) amending the same, and in preparing such consolidated edition shall have powers to renumber and rearrange the order and/or sequence of any section or sections and make any amendments necessary and consequential to such renumbering and rearrangement, but so that such powers shall not be taken to imply any power to make any alteration or amendment in the matter or substance of any section of the principal Ordinance or any Ordinance (including this Ordinance) amending the same. Consolidation and reprinting.

(2) When such consolidated edition has been prepared it shall be lawful for the Government Printer, with the authority of the Governor in Council, to print copies of the said edition and such copies shall be deemed to be and be without any question whatsoever in all courts of justice and for all purposes authentic copies of the principal Ordinance and all Ordinances (including this Ordinance) amending the same.

(3) When a consolidated edition of the principal Ordinance has been prepared and printed in accordance with the provisions of sub-sections (1) and (2) of this section, the Governor may, by notice in the Gazette, declare that the same shall come into operation upon such date as he may appoint.

ORDINANCE No. XVI of 1944

Assented to in His Majesty's name this sixteenth day of June, 1944.

HENRY MOORE, *
Governor.

An Ordinance to Amend the Water Ordinance, 1929

Date of commencement.

16th June, 1944

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

Short title.

1. This Ordinance may be cited as the Water (Amendment) Ordinance, 1944, and shall be read as one with the Water Ordinance, 1929, hereinafter referred to as the Principal Ordinance.

No. 35 of 1929.

Amendment of section 7 of the principal Ordinance.

2. Section 7 of the principal Ordinance is hereby amended by deleting in paragraph (a) thereof the words "and the essential requirements of such farming operations as are not of an industrial nature", and by substituting therefor the words "and such other purposes as, in the opinion of the Water Board, are essential to farming operations.

Amendment of section 8 of the principal Ordinance.

3. Section 8 of the principal Ordinance is hereby amended—

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

“(1) Applications for water rights for the same purpose or for different purposes shall receive consideration in accordance with the circumstances of each case, and particular consideration shall be given to the extent to which the grant of a water right would be likely to interfere with the essential domestic requirements of riparian land:

Provided that if, when the application for a water right is before the Board and a majority of the Board consider that it should be granted, a minority of three or more members of the Water Board are of the opinion that a water right should not be granted, the Chairman shall refer the application to the Governor in Council whose decision shall be final and conclusive.”;

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

“(3) Where the Water Board refuses to grant an application for a water right wholly or in part, the applicant shall be notified in writing accordingly, and the applicant may, if he

Appeals.

is aggrieved by such decision, within thirty days after the date of such notification apply in writing to the Chairman of the Water Board for permission to appeal to the Governor in Council against such decision. Such application shall be accompanied by a fee of £10 which shall be returned to the applicant if permission to appeal is granted. The Chairman may either give his permission, or, without assigning any reason therefor, refuse to give his permission: Provided that permission to appeal to the Governor in Council shall not be granted by the Chairman of the Water Board except at the request of three or more members of the Water Board and then only in a case where such members satisfy the Chairman of the Water Board that the decision against which the aggrieved party wishes to appeal is, by virtue of the number of rights and interests affected, of public importance. Where an appeal is made to the Governor in Council the decision of the Governor in Council shall be final and binding on all parties concerned."

4. Section 88 of the Principal Ordinance is hereby amended— Amendment of section 88 of the Principal Ordinance.
- (a) by deleting therefrom sub-section (1) thereof and by substituting therefor the following sub-section:—

"(1) Notwithstanding anything contained in this Ordinance other than the provisions of section 75 thereof it shall be lawful for the Water Board to authorize by sanction for any fixed period of time the diversion, abstraction, obstruction, or use of water and the works required therefor according to such terms and conditions as the Water Board may embody in the sanction or as may be prescribed by Rules made under this Ordinance, regard being had to the extent to which the authorization of the sanction would be likely to interfere with the essential domestic requirements of riparian land: Provided that if, when the application for a sanction is before the Board and a majority of the Board consider that it should be granted, a minority of three or more members of the Water Board are of the opinion that the sanction should not be granted, the Chairman shall refer the application for the sanction to the Governor in Council whose decision shall be final and conclusive.";

Sanctions.

- (b) by adding thereto, immediately after sub-section (6) thereof, the following new sub-section:—

"(7) Where the Water Board refuses to grant an application for a water sanction wholly or in part, the applicant shall be notified in writing accordingly, and the applicant may, if he is aggrieved by such decision, within thirty days after the date of such notification, apply in writing to the Chairman of the Water Board for permission to appeal to the Governor in Council against such decision. Such application shall be accompanied by a fee of £10, which shall be returned to the applicant if permission to appeal is granted. The Chairman

Appeals.

may either give his permission, or, without assigning any reason therefor, refuse to give his permission: Provided that permission to appeal to the Governor in Council shall not be granted by the Chairman of the Water Board except at the request of three or more members of the Water Board, and then only in a case where such members satisfy the Chairman of the Water Board that the decision against which the aggrieved party wishes to appeal is, by virtue of the number of rights and interests affected, of public importance. Where an appeal is made to the Governor in Council the decision of the Governor in Council shall be final and binding on all parties concerned."

ORDINANCE No. XVII of 1944

Assented to in His Majesty's name this 27th day of November, 1944.

G. M. RENNIE,
Acting Governor.

An Ordinance to Amend the Expulsion from Proclaimed Areas Ordinance, 1935

27th November, 1944

Date of
commencement.

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

1. This Ordinance may be cited as the Expulsion from Proclaimed Areas (Amendment) Ordinance, 1944, and shall be read as one with the Expulsion from Proclaimed Areas Ordinance, 1935, hereinafter referred to as the principal Ordinance.

Short title.

No. 11 of 1935.

2. Section 5 of the principal Ordinance is hereby amended—

Amendment of
section 5 of
the principal
Ordinance.

(a) by inserting therein the words "or by an advocate" immediately after the word "personally" which occurs in the tenth and in the thirteenth lines of sub-section (1) thereof; and

(b) by substituting the word "thirty" for the word "seven" which occurs in the second line of sub-section (4) thereof.

ORDINANCE No. XVIII of 1944

Assented to in His Majesty's name this 27th day of November, 1944.

G. M. RENNIE,
Acting Governor.

An Ordinance to Amend the Soldiers (Exemption from Civil Process) Ordinance, 1940

Date of commencement.

By Notice

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

Short title and commencement.
No. 28 of 1940.

1. This Ordinance may be cited as the Soldiers (Exemption from Civil Process) (Amendment) Ordinance, 1944, and shall be read as one with the Soldiers (Exemption from Civil Process) Ordinance, 1940, hereinafter referred to as the principal Ordinance, and shall come into operation on such date as the Governor may, by notice in the Gazette, appoint.

Amendment of section 3 of the principal Ordinance.

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

“(2) Notwithstanding anything contained in any other law for the time being in force, no part of the pay of an officer or soldier serving in a scheduled unit shall be attached by direction of a court in satisfaction of any decree or order enforceable against him.”

Amendment of section 5 of the principal Ordinance.

3. Section 5 of the principal Ordinance is hereby amended by substituting a full stop for the comma immediately after the word “applies” in the third line thereof, and by deleting the words appearing thereafter to the end of the section.

Amendment of section 6 of the principal Ordinance.

4. Section 6 of the principal Ordinance is hereby amended by deleting therefrom the comma and words “, in so far as the soldiers appointed to the King's African Rifles Regiment on or after the 3rd day of September, 1939, are concerned,”.

ORDINANCE No. XIX of 1944

Assented to in His Majesty's name this 27th day of November, 1944.

G. M. RENNIE,
Acting Governor.

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

27th November, 1944

Date of commencement.

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

1. This Ordinance may be cited as the Land and Agricultural Bank (Amendment) Ordinance, 1944, and shall be read as one with the Land and Agricultural Bank Ordinance, 1930, hereinafter referred to as the principal Ordinance.

Short title.

No. 3 of 1931.

2. Sub-section (2) of section 4 of the principal Ordinance is hereby repealed and the following sub-section substituted therefor:—

Repeal and replacement of section 4 (2) of the principal Ordinance.

“(2) The members of the Board, other than the Chairman, shall retire in rotation, one each year, in the order of their appointment, and the vacancy so created shall be filled by the appointment, by the Governor, of another member. Any member so retiring shall be eligible for re-appointment as a member of the Board.”

3. The principal Ordinance is hereby amended by inserting therein, immediately after section 7 thereof, the following new section:—

Insertion of new section 7A in the principal Ordinance.

“7A. (1) The Board may, subject to the approval of the Governor in Council, establish, control, manage, maintain and contribute to a provident fund for the benefit of the officers, clerks and servants of the Bank, and may grant gratuities from any such fund to such officers, clerks and servants upon their retirement from the service of the Bank and to their dependants on the death of any such officers, clerks or servants.

Provident Fund.

(2) If no provident fund is established under sub-section (1) of this section or in cases where no benefits or, in the opinion of the Board, insufficient benefits accrue from any fund established, the Board may, with the approval of the Governor in Council, grant from the funds of the Bank gratuities or additional gratuities, as the case may be, to officers, clerks and servants of the Bank on their retirement from the service of the Bank and to any dependants of deceased officers, clerks and servants of the Bank.

(3) The Governor in Council may make rules—

(a) with regard to the liability, or otherwise, to assignment, attachment, sequestration, or other levy of any sums payable to an officer, clerk or servant under the provisions of this section; and

(b) generally for the better carrying out of the provisions of this section."

Amendment of section 10 of the principal Ordinance.

4. Section 10 of the principal Ordinance is hereby amended by inserting therein between the words "Board" and "underneath", which appear in lines 4 and 5 thereof, the words and commas "or, in the absence of the Chairman, by two members of the Board".

Amendment of section 11 of the principal Ordinance.

5. Section 11 of the principal Ordinance is hereby amended by inserting therein, immediately after sub-section (2) thereof, the following new sub-section:—

"(3) It shall be lawful for the Board to pay out of the funds of the Bank the reasonable travelling expenses incurred by a member when engaged in the business of the Bank: Provided that no such expenses shall be paid to any member who resides not more than five miles from the place at which he is engaged on the business of the Bank."

Amendment of section 26A (1) of the principal Ordinance.

6. Sub-section (1) of section 26A of the principal Ordinance is hereby amended by deleting therefrom the words "obtaining assistance in", which occur in the fifth line thereof.

Amendment of section 28 (2) of the principal Ordinance.

7. Sub-section (2) of section 28 of the principal Ordinance is hereby amended by inserting therein between the words "is" and "permanently", which occur in the seventh line thereof, a comma and the words ", or is to be".

Amendment of sections 47 and 48 of the principal Ordinance.

8. Sections 47 and 48 of the principal Ordinance are hereby amended by substituting the words "Financial Secretary" for the words "Accountant General" wherever such words occur therein.

Amendment of section 2 (2) of Ordinance No. 4 of 1933.

9. Sub-section (2) of section 2 of the Land and Agricultural Bank (Amendment) Ordinance, 1933, is hereby amended by substituting the word "Bank" for the word "Board", which occurs in the first line thereof.

Amendment of section 8 (1) of Ordinance No. 4 of 1934.

10. Sub-section (1) of section 8 of the Land and Agricultural Bank (Amendment) Ordinance, 1934, is hereby amended by inserting therein, between the words "land" and "for", which occur in the fifth line thereof, the word "and".

Amendment of section 2 (2) of Ordinance No. 14 of 1940.

11. Sub-section (1) of section 2 of the Land and Agricultural Bank (Amendment) Ordinance, 1940, is hereby amended by substituting the word "Board" for the word "Bank" which occurs in the seventh and ninth lines of paragraph (b) and in the third line of paragraph (d) thereof.

1944

Land and Agricultural Bank

No. XIX

12. Sub-section (2) of section 5 of the Land and Agricultural Bank (Amendment) Ordinance, 1940, is hereby amended by substituting the word "Board" for the word "Bank" which occurs in the first line thereof and where it secondly occurs in the third line thereof. Amendment of section 5 (2) of Ordinance No. 14 of 1940.
13. Section 6 of the Land and Agricultural Bank (Amendment) Ordinance, 1940, is hereby amended by substituting the word "Board" for the word "Bank", which occurs in the first line of sub-section (2), and in the first line of sub-section (3) thereof. Amendment of section 6 of Ordinance No. 14 of 1940.
14. Sub-section (3) of section 4 of the Land and Agricultural Bank (Amendment) Ordinance, 1943, is hereby amended by substituting the figures "1944" for the figures "1943" which occur in the fourth line thereof. Amendment of section 4 (3) of Ordinance No. 15 of 1943.

ORDINANCE No. XX of 1944

Assented to in His Majesty's name this 27th day of November, 1944.

G. M. RENNIE,
Acting Governor.

An Ordinance to Amend the Juveniles Ordinance, 1934

Date of commencement

27th November, 1944

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

Short title.

1. This Ordinance may be cited as the Juveniles (Amendment) Ordinance, 1944, and shall be read as one with the Juveniles Ordinance, 1934, hereinafter referred to as the principal Ordinance.

No. 22 of 1934.

Amendment of section 16 of the principal Ordinance.

2. Section 16 of the principal Ordinance is hereby amended as follows:—

- (a) by deleting the comma and the word “, whether” which appear in the sixth line of sub-section (1) thereof;
- (b) by deleting the word “or” which occurs at the end of paragraphs (a) to (k), inclusive, of sub-section (1) thereof; and
- (c) by inserting therein, immediately after sub-section (2) thereof, the following new sub-section:—

“(3) Nothing in this section contained shall be construed as in any way restricting the power of the court to pass any sentence or combination of sentences which it is empowered to pass under this or any other Ordinance for the time being in force:

Provided that no court shall order an offender to be whipped in addition to directing that he be sent to an approved school.”

ORDINANCE No. XXI of 1944

Assented to in His Majesty's name this twenty-ninth day of November, 1944.

G. M. RENNIE,
Acting Governor.

An Ordinance to Make Provision for the Removal of Detained Persons from the Colony in Certain Circumstances

29th November, 1944

Date of commencement

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

1. This Ordinance may be cited as the Detained Persons Removal Ordinance, 1944. Short title.

2. Where any person has been lawfully ordered to be detained in the Colony, the Governor may, if it appears to him that the continued detention of that person in the Colony is impracticable or inexpedient, make arrangements with the Government of the United Kingdom or of any other country or territory, to which the Emergency Powers (Defence) Act, 1939, of the United Kingdom has been extended by Order in Council made under section 4 of that Act for the removal of that person to the United Kingdom or to that other country or territory, as the case may be, and may make an order directing that the said person be removed, in pursuance of the arrangements, from the Colony and for that purpose be placed on any vehicle, ship or aircraft. Governor may order transfer of persons detained in the Colony.

3. Where a person lawfully ordered to be detained in any country or territory to which the Emergency Powers (Defence) Act, 1939, of the United Kingdom has been extended by Order in Council made under section 4 of that Act has, in pursuance of arrangements made between the Government of that country or territory and the Governor, been removed to the Colony and is detained therein, the Governor may, on receiving a request from the Government of that country or territory that the said person shall be returned thereto, make an order directing that the said person be placed on any vehicle, ship or aircraft for the purpose of his being returned to that country or place. Governor may order return of person to the territory where originally detained.

4. Where a person—

(a) lawfully ordered to be detained in a country or territory to which the Emergency Powers (Defence) Act, 1939, of the United Kingdom has been extended by Order in Council made under section 4 of that Act is, in pursuance of arrangements made between the Government of that country or territory and the Government of the United Kingdom or of some other country or territory to which the said Act has been so extended, being removed to the United Kingdom or that country or territory, as the case may be; or Governor may order detention of a transferred person in transit through the Colony.

(b) after having been so removed is being returned to the first-mentioned country or territory,

and passes or is likely to pass in transit through the Colony, the Governor may make an order directing that the said person be detained and placed on any vehicle, ship or aircraft for the purpose of his continuing his journey.

Person detained under Governor's order shall be deemed to be in lawful custody.

5. Any person with respect to whom an order has been made under this Ordinance may be detained in such manner as may be directed by the Governor and shall be deemed to be in lawful custody while so detained and while on any vehicle, ship or aircraft on which he has, in pursuance of the order, been placed.

Governor's order shall not be affected by any other proceedings against the person detained.

6. The operation of any order made under this Ordinance for the placing of any person on any vehicle, ship or aircraft shall not be affected by any proceedings instituted or by any procedural act under any other law with the object of preventing or delaying the departure of that person.

Application.

7. This Ordinance shall apply to all persons whether British subjects or not and whether born in the Colony or not.

ORDINANCE No. XXII of 1944

Assented to in His Majesty's name this fourteenth day of December, 1944.

P. E. MITCHELL,
Governor.

An Ordinance to Provide for the Control of Dealings in Land and to Provide for the Acquisition of Land by the Crown for Settlement Purposes

19th October, 1943

Date of commencement.

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

1. This Ordinance may be cited as the Land Control Ordinance, 1944, and shall be deemed to have come into force on the 19th day of October, 1943. Short title and commencement.

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

“Board” means the Land Control Board, established under section 3 of this Ordinance;

“Commissioner” means the Commissioner of Lands and Settlement;

“Highlands Board” means the Highlands Board established under Article 4 of the Kenya (Highlands) Order in Council, 1939;

“land” means any land in the Highlands as described in the Seventh Schedule to the Crown Lands Ordinance; and includes any right over or in respect of immovable property and standing trees or timber on such land. Cap. 140.

PART I—ESTABLISHMENT OF THE LAND CONTROL BOARD

3. (1) There is hereby established a Board, under the name of “The Land Control Board”, which shall have the powers and shall exercise the duties and functions, conferred upon it by this Ordinance. The Board.

(2) The Board shall consist of—

(a) the Commissioner;

(b) the Financial Secretary;

(c) the Director of Agriculture; and

(d) six other persons appointed by a majority of the European Elected Members of the Legislative Council of the Colony present and voting at a meeting of the European Elected Members convened for the purpose.

(3) (a) The names of the persons appointed in accordance with paragraph (d) of sub-section (2) of this section shall be submitted to the Governor, who shall cause notice thereof to be published in the Gazette.

(b) Such persons need not themselves be European Elected Members of the Legislative Council, and the appointment of such members shall not be affected by any dissolution of the Legislative Council.

(4) The Board shall, from among their members, elect and appoint a Chairman, who shall hold office for one year from the date of his appointment as Chairman, and shall be eligible for re-election.

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

Membership of
the Board.

4. (1) The following provisions shall apply in respect of the members of the Board appointed under the provisions of paragraph (d) of sub-section (2) of section 3 of this Ordinance:—

- (a) each member shall, subject to the provisions of paragraph (b) of this sub-section, be appointed for a term of three years;
- (b) two shall retire annually;
- (c) the order of retirement of the members first appointed shall be by rotation which shall be decided by the Board by ballot;
- (d) any member retiring as aforesaid shall be eligible for re-appointment.

(2) It shall be competent for a majority of the European Elected Members of the Legislative Council of the Colony present and voting at a meeting, of the European Elected Members convened for the purpose, to cancel the appointment of any member of the Board appointed under the provisions of paragraph (d) of sub-section (2) of section 3 of this Ordinance. A meeting for such purpose shall be convened by the Clerk to the Legislative Council at the request of any two European Elected Members.

(3) A member of the Board appointed under the provisions of paragraph (d) of sub-section (2) of section 3 of this Ordinance shall become disqualified from retaining and shall *ipso facto* cease to hold office as such member if he is absent from four consecutive meetings of the Board without the leave of the Board.

(4) If the appointment of any member of the Board who has been appointed under the provisions of paragraph (d) of sub-section (2) of section 3 of this Ordinance is cancelled, or if he vacates his office under the provisions of this section, or dies or resigns before the expiry of the period for which he was appointed, his place shall forthwith be filled by a person appointed by the European Elected Members in accordance with the provisions of paragraph (d) of sub-section (2) of section 3 of this Ordinance; and any person so appointed to fill the place of any such member shall hold office for the remainder of the period for which such member would otherwise have held office.

(5) Members of the Board, not being officers of the public service of the Colony, may be paid such remuneration by way of fees or allowances as may from time to time be determined by the Governor out of moneys appropriated by the Legislative Council of the Colony for the purpose.

Chairman
and quorum.

5. (1) The Chairman shall preside at all meetings of the Board unless he has obtained leave of absence from the Governor, or is absent on duty, or on leave, or is incapacitated by sickness or other cause. In the absence for any cause of the Chairman, the Board shall choose one of their number, who shall, during the absence of the Chairman, act as Chairman.

(2) The Chairman at any meeting shall, in addition to his deliberative vote as a member of the Board, have a casting vote.

(3) Five members of the Board, of which three at least shall be members appointed under the provisions of paragraph (d) of sub-

section (2) of section 3 of this Ordinance, shall constitute a quorum at any meeting of the Board and all acts, matters or things authorized or required to be done by the Board may be decided at any meeting at which a quorum is present.

(4) The Board shall meet at such times and on such occasions as the Chairman or acting Chairman may determine; and he shall give to each member of the Board not less than seven days notice in writing of every meeting:

Provided that if for any cause the Chairman or acting Chairman is unable to call a meeting of the Board a meeting may be called by the Commissioner or in the absence of the Commissioner, by the Financial Secretary.

6. (1) Minutes of the proceedings of every meeting of the Board shall be regularly entered in a book to be kept for the purpose, and the book shall be kept so as to show proper details of the business conducted or transacted at each meeting. The minutes of the proceedings of each meeting shall be submitted at the next meeting and, if then passed as correct, shall be confirmed by the signature of the person presiding thereat, and shall, when so confirmed, be prima facie evidence in all courts and places that the proceedings as recorded in the minutes were the proceedings of such meeting. Minutes.

(2) A copy of the minutes of every meeting, certified by the Chairman, shall be forwarded to the Highlands Board.

PART II—RESTRICTIONS ON DEALINGS IN LAND

7. (1) No person shall, except with the consent in writing of the Board in the exercise of its powers under sub-section (1) of section 8 of this Ordinance, sell, lease, sub-lease, assign, mortgage or otherwise by any means whatsoever, whether of a like kind to the foregoing or not, alienate, encumber, charge, or part with the possession of, any land, or any right, title or interest whether vested or contingent, in or over any land to any other person; nor, except with the consent in writing of the Board in the exercise of its powers under sub-section (1) of section 8 of this Ordinance, shall any person acquire any right, title or interest in or over any land for or on behalf of any person or any company registered under the Companies Ordinance, 1933; nor shall any person enter into any agreement for any of the above purposes without the consent in writing of the Board in the exercise of its powers under sub-section (1) of section 8 of this Ordinance: No person to alienate land without consent of Board.

No. 28 of 1933.

Provided that nothing in this sub-section contained shall affect—

- (a) any gift of land by way of testamentary disposition;
- (b) any such transactions made by or in favour of the Crown;
- (c) any such transactions to which the Commissioner has given his consent since the date on which this Ordinance is deemed to have come into operation.

(2) Any instrument, in so far as it purports to effect any of the transactions referred to in sub-section (1) of this section, which is entered into after the date provided in section 1 of this Ordinance for the coming into force of this Ordinance, shall be void to all intents and purposes unless the terms and conditions of such transactions have received the consent in writing of the Board in the exercise of its

powers under sub-section (1) of section 8 of this Ordinance, which shall be endorsed on the instrument:

Provided that where the Board refuses its consent and any money has been paid by either party in respect of such transaction, such money shall be recoverable as a civil debt from the party to whom it has been paid.

(3) Nothing in this section contained shall be deemed to preclude any person, without the consent of the Board, from—

- (a) mortgaging any of his land to the Land and Agricultural Bank of Kenya;
- (b) depositing his title deeds to any land by way of equitable mortgage or charge with any branch of Barclays Bank (Dominion, Colonial and Overseas), the National Bank of India, Limited, the Standard Bank of South Africa, Limited, or with any bank or body of persons, whether corporate or unincorporate, approved by the Governor in Council.

PART III—DUTIES AND FUNCTIONS OF THE BOARD

Powers of the Board.

8. (1) Subject to any special or general directions of the Governor, acting after consultation with the Highlands Board, the Board shall have power—

- (a) in any transaction relating to land to tender advice to the Governor in the exercise of his powers under sub-section (1) of section 70A of the Crown Lands Ordinance;
- (b) to give its consent to any transaction relating to land where the consent of the Board is required under the provisions of Part II of this Ordinance, or to refuse to give its consent upon the ground that the applicant already has sufficient land or that it objects to the proposed selling price of the land to which the transaction relates or to the rent to be charged for the lease of such land or to any premium or other pecuniary consideration in addition to the selling price of the land or in addition to the rent to be charged for the lease of such land or to the amount of money to be secured on such land by way of mortgage, charge or other encumbrance;
- (c) in giving its consent to any transfer of land by sale or gift, to impose specific conditions that the transferee of such land shall within a specified time, effect or place upon such land improvements of the nature and to the value specified.

(2) Applications for the consent of the Board to any transaction relating to land under the provisions of paragraph (b) of sub-section (1) of this section and the communication to the Board of the Governor's decision in the exercise of his powers under sub-section (1) of section 70A of the Crown Lands Ordinance, shall be made in the manner prescribed.

(3) Where, acting under the provisions of section 70A of the Crown Lands Ordinance, the Governor declines to give his consent to any transaction, the Board shall notify, in writing, the applicant to that effect, and shall not then proceed to consideration of the application.

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(4) Before refusing to give its consent to any transaction in the exercise of its powers under paragraph (b) of sub-section (1) of this section, the Board shall notify the parties to the transaction, in writing, of its intention so to do and give them an opportunity to appear before it either in person or by a representative.

(5) Every decision of the Board in the exercise of its powers under paragraphs (b) and (c) of sub-section (1) of this section shall be in writing, and in every case where the Board refuses its consent under paragraph (b) thereof on the ground that the applicant already has sufficient land or that it objects to the proposed selling price of the land or to the rent to be charged for the lease of such land or to any premium or other pecuniary consideration in addition to the selling price of the land or in addition to the rent to be charged for the lease of such land or to the amount of money to be secured on such land by way of mortgage, charge, or other encumbrance, the Board's decision shall show—

- (a) the Board's valuation of the land; and
- (b) the considerations which the Board has taken into account in determining such valuation; or
- (c) the grounds which have led the Board to consider that the applicant already has sufficient land.

9. (1) The Board may, by notice, require the attendance of any person as a witness, and the production of any documents. Evidence before the Board.

(2) Any person who without reasonable excuse refuses or neglects to attend before the Board as a witness or to produce any document when required by the Board, shall be guilty of an offence, and shall be liable to a fine not exceeding Sh. 200, or in default of payment of such fine, to a term of imprisonment not exceeding one month.

(3) In an inquiry by the Board evidence may be taken on oath, and any person who knowingly gives false evidence in any such inquiry shall be deemed to have given false evidence in a judicial proceeding.

10. The Board, or any person authorized by them, may enter upon and inspect any land for the purpose of carrying out their duties and functions under this Ordinance. Power of entry.

11. It shall be competent for the Board to tender advice to the Governor, in any particular case, as to the suitability of land for settlement and to make recommendations to the Governor as to the land that should be acquired by the Crown under the provisions of this Ordinance and as to the price that should be paid for such land. Board may advise on suitability of land for settlement.

12. (1) Before making a recommendation to the Governor, under the provisions of section 11 of this Ordinance, the Board shall notify, in the manner prescribed, every person holding any right, title or interest in or over any land and every such person shall have the right to appear, in person or by a representative, before the Board to show cause why such land should not be recommended for acquisition. Persons interested to have right to show cause why land should not be acquired.

(2) Any decision made by the Board after hearing any person or his representative under the provisions of sub-section (1) of this section shall be communicated to such person or his representative in the manner prescribed.

(3) No appeal shall lie against a recommendation or decision made by the Board under the provisions of sub-section (1) of this section.

(4) The Board may, in its discretion, award to any person or his representative who appears before them under the provisions of sub-section (1) of this section, out of moneys appropriated by the Legislative Council of the Colony for the purpose, such sum by way of travelling expenses and subsistence allowance as to the Board may seem just.

PART IV—NON-COMPLIANCE WITH DEVELOPMENT CONDITIONS

Notice to show cause why proceedings for forfeiture should not be taken.

13. Where the Board, in giving its consent to any transfer of land, has imposed specific conditions under the provisions of paragraph (c) of sub-section (1) of section 8 of this Ordinance, and the transferee has failed to comply with any of the conditions subject to which the Board's consent was granted, the Commissioner may serve a notice upon such transferee specifying the conditions with which he has failed to comply, and calling upon him to show cause within one month from the date of such notice, why proceedings for forfeiture should not be taken under the provisions of section 14 of this Ordinance.

Proceedings for forfeiture.

14. (1) Where the Commissioner is satisfied that the failure of the transferee to comply with any of the specific conditions imposed by the Board under the provisions of paragraph (c) of sub-section (1) of section 8 of this Ordinance, is due to the wilful default of the transferee, he may with the consent of the Board commence an action in the Supreme Court claiming that the land shall be forfeited to the Crown under the provisions of this section.

(2) Before any action is commenced by the Commissioner under the provisions of sub-section (1) of this section he shall notify, in the manner provided by Rules made by the Supreme Court under the provisions of paragraph (a) of section 40 of this Ordinance, all persons having any interest in the land, and such persons may apply to the Supreme Court to be joined as defendants in any such action.

(3) If the Supreme Court is satisfied upon evidence that the conditions specified in the notice referred to in section 13 of this Ordinance have not been complied with, it may—

- (a) subject to relief, upon such terms as may appear just, declare the land forfeited to the Crown, and the land shall thereupon vest in the Crown; or
- (b) subject to such terms as may appear just, defer giving judgment for forfeiture of the land to the Crown subject to the transferee, within a period to be named by the Court, complying with the conditions specified in such notice.

PART V—ACQUISITION OF LAND BY CROWN BY MUTUAL CONSENT

Acquisition of land out of moneys appropriated by Legislative Council for the purpose.

15. Upon any written recommendation by the Board that land is suitable and should be acquired for settlement the Governor after consultation with the Highlands Board may, subject to the provisions of this Part of this Ordinance, out of moneys appropriated by the Legislative Council of the Colony for the purpose, acquire land on

behalf of His Majesty. All land so acquired shall be alienated for the purpose of settlement:

Provided that if any portion of such land is, in the opinion of the Governor, after consultation with the Highlands Board—

- (a) unsuitable for settlement; or
- (b) can be more usefully used for some other purpose in connexion with settlement; or
- (c) can be more usefully used for some other public purpose, such portion may be used for such purpose as the Governor may determine.

16. Upon any written recommendation by the Board that any land is suitable and should be acquired for settlement the Governor may—

- (a) subject to the provisions of sections 17 and 18 of this Ordinance, acquire the land by mutual consent;
- (b) subject to the provisions of Part VI of this Ordinance, acquire the land compulsorily.

Methods of acquiring land upon recommendation of Board.

17. Upon any written recommendation by the Board that any land is suitable and should be acquired for settlement, the Governor may conclude the acquisition thereof by purchase or exchange at a price or land-equivalent agreed upon between the seller of the land and the Commissioner; and the Commissioner may execute all deeds and instruments and do and perform all acts necessary (including the purchase by himself or by a person appointed by him for the purpose, of the land at an auction) for the completion of any such purchase or exchange.

Acquisition by mutual consent.

18. In acquiring land by mutual consent under this Ordinance the Governor may, after consultation with the Board, agree with the seller of the land that he shall receive and accept as the whole or part of the consideration for the sale thereof a lease or licence under the Crown Lands Ordinance of other land for such term as the Board may recommend; and any such lease or licence may be by way of extension of a lease or licence which has not yet expired.

Power to grant lease as part of consideration for land acquired by mutual consent.
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PART VI—COMPULSORY ACQUISITION OF LAND BY CROWN

19. If any land is recommended by the Board for acquisition and it appears to the Governor that—

- (a) it has not been possible to acquire the land by mutual consent;
- or
- (b) the negotiations for the acquisition of the land by mutual consent have been, or are being, unduly delayed by the owner or his representative,

Power of Governor to direct compulsory acquisition.

the Governor shall notify the Board accordingly and may, subject to the provisions of the proviso to this section, by order under his hand, direct the Commissioner forthwith to proceed to acquire, and to enter upon and take possession of, the land compulsorily in accordance with the provisions of this Ordinance:

Provided that the Governor shall not, subject to the provisions of section 20 of this Ordinance, acquire any land compulsorily which

in the opinion of the Board, whose decision in any such matter shall be final and conclusive, is being adequately developed and utilized by the person having control thereof.

Where part only of land is being compulsorily acquired, Governor may be required to acquire the whole.

20. (1) Where the Governor, acting under the provisions of section 19 of this Ordinance, directs the Commissioner to acquire compulsorily a part only of any land and such part is reasonably required for the full and unimpaired use of the remainder of the land, the Governor shall, at the option of the owner thereof, acquire the whole of such land.

(2) Where any question arises as to whether or not a part of any land is reasonably required for the full and unimpaired use of the remainder of the land, and the Governor and the owner of such land cannot agree thereon, the matter shall be referred by the Commissioner for the determination of the Board of Assessment appointed under the provisions of section 24 of this Ordinance to award compensation in respect of the land which the Governor has directed the Commissioner to acquire compulsorily, whose decision on such matter shall be final and conclusive.

(3) If the Commissioner and the owner of any land to be acquired under the provisions of this section cannot agree as to the price to be paid for such land, the compensation to be paid for such land shall be determined by the Board of Assessment appointed to determine the compensation to be paid for the land compulsorily acquired, in accordance with the provisions of section 28 of this Ordinance.

Acquisition of chattels at option of the owner.

21. (1) When the Governor directs the compulsory acquisition of land under the provisions of section 19 of this Ordinance he shall, at the option of the owner thereof, also acquire, out of moneys appropriated by the Legislative Council of the Colony for the purpose, any chattels owned by such owner which, in the opinion of the Board, are such as would normally be used in farming operations which are similar to those carried on by the owner on the land to be compulsorily acquired. The opinion of the Board in any such matter shall be final and conclusive.

(2) The compensation to be paid for any chattels acquired under the provisions of sub-section (1) of this section shall be such as may be agreed upon by the owner of the land compulsorily acquired and the Commissioner, and in default of any such agreement the compensation to be paid shall be determined by the Board of Assessment appointed to determine the compensation to be paid for the land compulsorily acquired. The award of the Board of Assessment in such matter shall be final and conclusive.

Commissioner to issue notice of acquisition.

22. (1) In every case where he is directed by the Governor, under the provisions of section 19 of this Ordinance, to acquire any land compulsorily, the Commissioner, as soon as he has complied with the requirements of paragraph (a) of section 25 of this Ordinance, shall issue a notice of acquisition which shall contain the particulars, and which shall be published in the manner, provided for in this section.

(2) Every notice of acquisition under this section shall set out, in respect of the land to be acquired—

(a) the decision of the Governor to acquire, and take possession of, the land compulsorily;

- (b) the district in which the land is situate;
- (c) a description of the land, giving the approximate area and such other particulars as are necessary to identify the land;
- (d) in cases when a plan has been prepared, the place where, and the time when, a plan of the land can be inspected,

and shall require the owner of, and every person in any way interested in, the land, to appear personally, or by a representative, at an inquiry to be held by the Board of Assessment (the place, date and time whereof shall be stated in the notice), for the purpose of adjudicating upon the amount and particulars of any claims for compensation which may be submitted in respect of the ownership of, or of any interest in, the land; and such notice shall further require such owner and every such person to submit to the Commissioner (for transmission to the Board of Assessment) before the date of the inquiry, a signed statement of the nature of their respective interests and of their claims.

(3) Every notice of acquisition under this section shall—

- (a) be published in two consecutive issues of the Gazette;
- (b) be published in two separate issues (with an interval of at least seven days between such issues) of a daily newspaper circulating in the Colony;
- (c) be served in the manner prescribed upon the owner and the occupier of the land to which the notice relates, and, so far as is possible, upon all such persons as are known or believed to be interested therein, or upon the attorneys or agents of such owners, occupiers or persons interested.

(4) The date fixed for the holding of an inquiry by the Board of Assessment shall in no case be earlier than twenty-one days after the first publication in the Gazette of the notice of acquisition.

23. (1) The Commissioner may require the owner or occupier of, or any person known or believed to be interested in, any land which the Commissioner has entered upon or which is to be acquired compulsorily under this Ordinance, to deliver to him (within a time to be specified by him) a statement in writing containing so far as may be practicable, the name of every other person possessing any interest in the land, or any part thereof, as co-owner, mortgagee, lessee, sub-lessee, tenant or otherwise, and of the nature of such interest, and of the rents and profits, if any, received or receivable on account thereof for the period of three years next preceding the date of the statement.

Power of
Commissioner to
call for state-
ments.

(2) Every person who is required under the provisions of this section to deliver a statement and who—

- (a) without reasonable excuse refuses or neglects so to do, shall be guilty of an offence and shall be liable to a fine not exceeding Sh. 200, or in default of payment of such fine, to imprisonment for a term not exceeding one month; or
- (b) wilfully makes a false statement, shall be guilty of an offence and shall be liable to a fine not exceeding Sh. 2,000 or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

PART VII—INQUIRY AND AWARD BY BOARD OF ASSESSMENT

Board of
Assessment.

24. (1) In every case where the Governor has directed the compulsory acquisition of land under section 19 of this Ordinance, all questions and claims relating to the compensation to be paid to persons interested in the land, and the chattels, if any, to be acquired under the provisions of section 21 of this Ordinance, and to the apportionment of such compensation, shall be determined by a Board of Assessment to be appointed in each case in accordance with the provisions of this section.

(2) A Board of Assessment shall have full power to assess and award compensation in such cases, in accordance with the provisions of this Ordinance, and the award of the Board of Assessment shall be final and conclusive.

(3) A Board of Assessment for the purposes of this Ordinance shall, in every case, be constituted of—

- (a) a person, nominated by the Chief Justice, who holds, or who has held, judicial office, who shall be appointed by the Governor and who shall be Chairman of the Board of Assessment; and
- (b) a member to be appointed by the Governor; and
- (c) a member to be nominated by the owner, or his representative, of the land to be acquired:

Provided that where, in any case, the Governor is satisfied that the owner of the land or his representative has refused to exercise his right to nominate a member of the Board, or has unreasonably delayed such nomination, the Governor, by order in writing, may direct the Chairman of the Board of Assessment to proceed with an inquiry notwithstanding that there has been no such nomination by the owner or his representative; and in every such case the Board of Assessment shall be deemed to be lawfully constituted by the Chairman and the member appointed by the Governor under this section, and the Chairman, in addition to his deliberative vote, shall have a casting vote.

Steps to be
taken by
Commissioner.

25. In every case where the Commissioner receives the directions of the Governor to acquire land compulsorily under this Ordinance, he shall forthwith—

- (a) ensure that a Board of Assessment is appointed in accordance with the provisions of section 24 of this Ordinance, and, after ascertaining from the Chairman of the Board of Assessment, the place, date and time when the Board of Assessment will hold the inquiry for the purposes of assessing compensation, shall forthwith cause to be issued the notice of acquisition provided for in section 22 of this Ordinance;
- (b) forward to the Chairman of the Board of Assessment—
 - (i) a copy of the Governor's direction to acquire the land compulsorily;
 - (ii) a copy of the notice of acquisition;
 - (iii) the names of the persons who the Commissioner has reason to believe are interested in the land, and where possible, the addresses of such persons, and particulars of any notices served upon them;

- (iv) a copy of all statements delivered to the Commissioner in accordance with the provisions of sections 22 and 23 of this Ordinance;
- (v) details of the chattels, if any, to be acquired under the provisions of section 21 of this Ordinance;
- (vi) a description of the land, if any, to be acquired under the provisions of section 20 of this Ordinance, giving the approximate area and such other particulars as are necessary to identify the land.

26. (1) The Board of Assessment shall hear any persons, by themselves or their representatives, who claim to own, or to have any interest in, the land which is, and the chattels, if any, which are, to be acquired, and may by notice require the attendance of any person as a witness, and the production of any documents.

Procedure at inquiry by Board of Assessment.

(2) Any person who without reasonable excuse refuses or neglects to attend before the Board of Assessment as a witness or to produce any document when required so to do by the Board of Assessment, shall be guilty of an offence, and shall be liable to a fine not exceeding Sh. 200, or in default of payment of such fine, to a term of imprisonment not exceeding one month.

(3) In any inquiry before the Board of Assessment evidence may be taken on oath, and any person who knowingly gives false evidence in any such inquiry shall be deemed to have given false evidence in a judicial proceeding.

(4) The costs of any inquiry under this Part of this Ordinance shall be in the discretion of the Board of Assessment who may, in proper cases, award such sum by way of costs as to them may seem just.

(5) Any sum awarded as costs, under the provisions of subsection (4) of this section, shall be recoverable as a civil debt, or may (with the consent of the parties concerned) be added to or deducted from the amount of any compensation payable as a result of the inquiry.

27. The Board of Assessment, or any person authorized by them, may at any time before, during or after an inquiry, enter upon and inspect any land, and may inspect any chattels to be acquired under the provisions of section 21 of this Ordinance, for any purpose connected with such inquiry.

Power of entry for purposes of inquiry.

28. (1) Notwithstanding anything contained in any other Ordinance, the Board of Assessment, in determining the amount of compensation to be awarded for land compulsorily acquired or to be acquired under the provisions of section 20 of this Ordinance, shall take into consideration the following matters, namely—

Matters to be considered in determining compensation.

- (a) the market value of the land at the date of the publication of the notice of acquisition under section 22 of this Ordinance;
- (b) any increase in the value of any other land of any person interested likely to accrue from the use to which the land acquired will be put;

- (c) the damage, if any, sustained by any person interested, by reason of the severing of such land from any other land of such person;
- (d) the damage, if any, sustained by any person interested, by reason of the acquisition injuriously affecting any other property of such person (whether movable or immovable);
- (e) the reasonable expenses, if any, incidental to any change of residence or place of business of any person interested which is necessary in consequence of the acquisition.

(2) Notwithstanding anything contained in any other Ordinance, the Board of Assessment, in determining the amount of compensation to be awarded for land compulsorily acquired or to be acquired under the provisions of section 20 of this Ordinance shall not take into consideration any of the following matters, namely—

- (a) the fact that the acquisition is compulsory;
- (b) the degree of urgency which has led to the acquisition;
- (c) any disinclination of any person interested to part with the land to be acquired;
- (d) any damage sustained by any person interested which, if caused by a private person, would not be a good cause of action;
- (e) any increase in the value of the land to be acquired which is likely to accrue from the use to which it will be put when acquired;
- (f) any outlay on additions or improvements to the land to be acquired, which has been incurred after the date of the publication of the notice of acquisition under sub-section (3) of section 22 of this Ordinance, unless such additions or improvements were, in the opinion of the Board of Assessment, necessary.

(3) If the market value of the land has been increased by means of any improvement made within one year immediately preceding the publication of the notice of acquisition under section 22 of this Ordinance, such increase shall be disregarded unless it be proved that the improvement was made bona fide and not in contemplation of such land being compulsorily acquired under the provisions of this Ordinance.

(4) In determining the amount of compensation to be paid for any chattels to be acquired under the provisions of section 21 of this Ordinance the Board of Assessment shall award the amount which such chattels might have been expected to realize if sold in the open market immediately prior to the publication, under the provisions of sub-section (3) of section 22 of this Ordinance, of the notice of acquisition.

Award of Board.

29. At the conclusion of every inquiry held by them, a Board of Assessment shall decide upon any claims for compensation and apportionment in relation to the land, and chattels, if any, acquired or to be acquired, and shall make an award under the hand of the Chairman; and such award, in every case, shall be final and conclusive.

30. In every case where an award has been made by a Board of Assessment under this Part of this Ordinance, the Commissioner shall—

Procedure for giving effect to an award.

- (a) file the award in his office, and transmit a copy to the Chief Secretary;
- (b) serve a copy of the award on the owner and occupier of, and as far as possible, on every person who has an interest in, the land, and chattels, if any, to which the award relates;
- (c) pay to the owner of the land, and chattels, if any, and to all persons to whom a proportion of the compensation for such land and chattels has been awarded in respect of their interest in such land and chattels, the amount of compensation set out in the award;
- (d) enter upon and take possession of the land described in the award in cases where he has not already so entered and taken possession of such land.

31. Where an inquiry has been held by a Board of Assessment under the provisions of this Part of this Ordinance, the Commissioner shall add to any compensation awarded by the Board of Assessment interest at the rate of five per centum per annum calculated—

Interest.

- (a) in the case of land, from the date upon which the Commissioner entered into possession thereof; and
- (b) in the case of chattels, from the date upon which the Commissioner took possession of such chattels,

until the date of the payment of the amount of compensation awarded by the Board of Assessment.

32. (1) Where land is compulsorily acquired under this Ordinance and there is no person competent to alienate such land or to receive compensation, or where any person interested in land, by reason of absence from the Colony and of not being there represented by a duly authorized attorney, does not submit a statement to the Commissioner as required by sub-section (2) of section 22 of this Ordinance or appear before the Board of Assessment at their inquiry, and where such person, after diligent inquiry, cannot be found, the Commissioner shall apply to a judge of the Supreme Court, (*ex parte* by summons in Chambers supported by affidavit) for an order authorizing the Commissioner to deposit in the Treasury, to the credit of the owner of, and the persons interested in, the land, the amount awarded as compensation, and any judge of the Supreme Court shall have power to make such an order.

Absentees.

(2) Nothing in this section contained shall be construed as affecting the liability of any person, who may receive the whole or any part of any compensation awarded under this Ordinance, to pay the same to the person lawfully entitled thereto.

33. It shall be lawful for the Governor to authorize, out of moneys appropriated by the Legislative Council of the Colony for the purpose—

Expenses of Boards of Assessment.

- (a) the reimbursement of travelling expenses for the Chairman and members of Boards of Assessment appointed under the provisions of this Ordinance; and

(b) the payment of such fees as may be prescribed to the Chairman and members of Boards of Assessment.

Bar of suits to set aside awards.

34. No suit or proceeding shall be brought to set aside an award or any part of an award made by a Board of Assessment under the provisions of this Ordinance.

PART VIII—APPEALS

The Land Control Appeal Tribunal.

35. (1) There shall be established a tribunal under the name of the Land Control Appeal Tribunal (hereinafter referred to as "the Appeal Tribunal") which shall consist of a Chairman, to be nominated by the Chief Justice, who shall be a person holding, or who has held, judicial office, and two other members. The Chairman and other members of the Appeal Tribunal shall be appointed by the Governor by notice in the Gazette.

(2) The Governor may from time to time remove all or any of the persons appointed under sub-section (1) of this section and appoint others in the stead of such of them as shall be removed, die, resign or depart from the Colony.

(3) The Appeal Tribunal shall determine every appeal in respect of any of the matters entrusted to it under the provisions of this Ordinance and may hear evidence, and any person who is aggrieved by any decision of the Board, and the Board, shall have the right to appear before the Appeal Tribunal or to be represented.

Appeals.

36. (1) Except where otherwise provided, an appeal from any decision of the Board given in the exercise of any of the powers conferred upon it under this Ordinance shall lie to the Appeal Tribunal whose decision upon any such question shall be final and conclusive:

Provided that the opinion of the Chairman on any question of law shall prevail over that of the other members of the Appeal Tribunal:

Provided further that the Chairman may, if he so desires, and shall, on the application of any party to the appeal, state a case on a question of law for the opinion of the Supreme Court.

(2) The costs of any appeal under sub-section (1) of this section shall be in the discretion of the Appeal Tribunal who may make such order as to costs as to them may seem just.

(3) Where a case is stated on a question of law for the opinion of the Supreme Court, the Supreme Court shall (subject to the provisions of sub-section (4) of this section) hear and determine the question or questions of law arising on the case stated, and shall remit the matter to the Appeal Tribunal with the decision of the Supreme Court thereon, and may make such order as to costs as may seem fit, and any determination or order made by the Supreme Court in the exercise of its powers under this sub-section shall be final and conclusive on all parties.

(4) The Supreme Court shall have power, if it thinks fit, to cause the case stated to be sent back for amendment or restatement by the Chairman of the Appeal Tribunal, and thereupon the same shall be amended or restated accordingly, and the question or questions of law shall be heard and determined under the provisions of sub-section (3) of this section after the case has been so amended or restated.

37. It shall be lawful for the Governor to authorize, out of the moneys appropriated by the Legislative Council of the Colony for the purpose—

Expenses of the Appeal Tribunal.

- (a) the reimbursement of travelling expenses of the members of the Appeal Tribunal; and
- (b) the payment of such fees as may be prescribed to the members of the Appeal Tribunal.

PART IX—MISCELLANEOUS PROVISIONS

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

Governor in Council. Rules

- (a) regulating the meetings of the Board and the conduct of its business;
- (b) prescribing any thing which may be prescribed under this Ordinance;
- (c) prescribing the arrangements for convening Boards of Assessment for the purposes of this Ordinance;
- (d) prescribing the procedure to be followed by Boards of Assessment at inquiries for any of the purposes of this Ordinance;
- (e) prescribing the fees to be paid to—
 - (i) the Chairman and members of Boards of Assessment; and
 - (ii) members of the Appeal Tribunal;
- (f) prescribing the forms to be used for any of the purposes of this Ordinance.

39. The Governor, acting after consultation with the Highlands Board, may make rules—

Governor may make rules after consultation with Highlands Board.

- (a) prescribing the mode, terms, and conditions in and subject to which land acquired under this Ordinance may be disposed of;
- (b) prohibiting or regulating the sale of land by auction.

40. The Supreme Court may make Rules—

Supreme Court. Rules.

- (a) governing the procedure to be followed in proceedings for forfeiture under section 14 of this Ordinance;
- (b) prescribing the procedure to be followed on a case stated under section 36 of this Ordinance.

41. The Appeal Tribunal may make Rules governing the manner in which, and the time within which, appeals may be made to the Appeal Tribunal from any decision of the Board given in the exercise of any of the powers and duties conferred upon it by this Ordinance.

Appeal Tribunal. Rules.

42. (1) Notwithstanding anything in this Ordinance contained, the Governor may at any time withdraw from the acquisition of any land before possession thereof has been taken by the Commissioner.

Power of Governor to withdraw from acquisition.

(2) Whenever the Governor withdraws from any such acquisition, the Commissioner shall pay to the persons interested all such costs as have been reasonably incurred by them by reason, or in consequence, of any proceedings for the acquisition of the land.

Vesting of land in the Governor in trust for His Majesty.

43. (1) In every case, as soon as the Commissioner enters into possession of any land in accordance with any of the provisions of this Ordinance relating to acquisition, the land shall vest in the Governor in trust for His Majesty from the date of such entry into possession, and a notice to that effect shall be published in the Gazette.

(2) The Commissioner shall furnish the Registrar of Titles with a copy of every notice published under this section, and the Registrar shall register the same against the title affected.

Registrar to refuse registration.

44. The Registrar of Titles is hereby empowered to, and shall, refuse to register any document relating to any land transaction, for which the consent of the Board is required under the provisions of this Ordinance, unless he is satisfied that the consent of the Board has been given to such transaction.

Reservation of rights.

45. Nothing in this Ordinance contained shall affect—

- (a) the powers of the Governor to acquire land compulsorily for any public purpose, other than for settlement, under any law for the time being in force;
- (b) the right of His Majesty to acquire land, for any purpose, from any person by mutual consent.

Penalties.

46. Any person who—

- (a) opposes, obstructs or impedes any person in the doing of any act necessary for, or in connexion with, any of the purposes of this Ordinance; or
- (b) opposes or impedes the lawful taking of possession of any land under this Ordinance,

shall be guilty of an offence, and shall be liable to a fine not exceeding Sh. 1,000, or in default of payment of such fine, to a term of imprisonment not exceeding three months.

Exemptions.

47. The Governor may, after consultation with the Board and the Highlands Board, by notice in the Gazette, exempt from all or any of the provisions of this Ordinance such classes of land, and such dealings or transactions relating to land, as he may think fit.

ORDINANCE No. XXIII of 1944

Assented to in His Majesty's name this fourteenth day of December, 1944.

P. E. MITCHELL,
Governor.

An Ordinance to Amend the Crown Lands Ordinance

14th December, 1944

Date of
commencement.

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

1. This Ordinance may be cited as the Crown Lands (Amendment) Ordinance, 1944, and shall be read as one with the Crown Lands Ordinance (Chapter 140 of the Revised Edition), hereinafter referred to as the principal Ordinance.

Short title.

Cap. 140.

2. The principal Ordinance is hereby amended by inserting immediately after section 70 thereof the following new sections:—

Insertion of new
sections 70A
and 70B in the
principal
Ordinance.

“70A. (1) No person shall, except with the written consent of the Governor, sell, lease, sub-lease, assign, mortgage or otherwise by any means whatsoever, whether of the like kind to the foregoing or not, alienate, encumber, charge, or part with the possession of any land which is situate in the Highlands, or any right, title or interest whether vested or contingent, in or over any such land to any other person, nor, except with the written consent of the Governor, shall any person acquire any right, title or interest in any such land for or on behalf of any person or any company registered under the Companies Ordinance, 1933; nor shall any person enter into any agreement for any of the transactions referred to in this sub-section without the written consent of the Governor:

Restrictions on
dealing in land
situate in
Highlands.

No. 28 of 1933.

Provided that nothing in this sub-section contained shall affect—

- (a) any such transactions made by or in favour of the Crown;
- (b) any gift of land by way of testamentary disposition.

(2) Applications for the consent of the Governor under the provisions of sub-section (1) of this section shall be made in the manner prescribed.

(3) Any instrument, in so far as it purports to effect any of the transactions referred to in sub-section (1) of this section shall

be void unless the terms and conditions of such transactions have received the consent of the Governor which shall be endorsed on the instrument :

Provided that where the Governor refuses his consent and any money has been paid by either party in respect of any such transaction, such money shall be recoverable as a civil debt from the party to whom it has been paid.

(4) Nothing in this section contained shall be deemed to preclude any person, without the consent of the Governor, from—

- (a) mortgaging any of his land to the Land and Agricultural Bank of Kenya;
- (b) depositing his title deeds to any land by way of equitable mortgage or charge with any branch of Barclays Bank (Dominion, Colonial and Overseas), the National Bank of India, Limited, the Standard Bank of South Africa, Limited, or with any bank or body of persons, whether corporate or unincorporate, approved by the Governor in Council.

Registrar to
refuse registra-
tion.

70B. The Registrar of Titles is hereby empowered to, and shall, refuse to register any document relating to any land transaction, for which the consent of the Governor is required under the provisions of section 70A of this Ordinance, unless he is satisfied that the consent of the Governor has been given to such transaction."

Insertion of new
Part VIII A in
the principal
Ordinance.

3. The principal Ordinance is hereby amended by inserting therein immediately after section 74 thereof the following new Part:—

**"PART VIII A—SPECIAL PROVISIONS RELATING TO
COMPANIES HOLDING LAND**

Application.

74A. The provisions of this Part of this Ordinance shall apply to any company within the meaning of the Companies Ordinance, 1933, which owns any interest in any land situate in the Highlands, and to any such company which may hereafter acquire any interest in any such land.

No. 28 of 1933.

Restriction on
dealings with
shares and
assets in
companies
owning land.

74B. (1) No share, share warrant, debenture or stock in any company shall be sold, assigned, transferred or otherwise disposed of in any manner whatsoever to a person of a different race to the person by whom such share, share warrant, debenture or stock is sold, assigned, transferred or otherwise disposed of, nor shall any person mortgage or charge any of the assets of any company to a person of a different race to the person by whom such assets are mortgaged or charged, without the previous consent in writing of the Governor.

(2) Application for the Governor's consent, under the provisions of sub-section (1) of this section, shall be made in the manner prescribed.

74C. The secretary and directors of any company are hereby empowered to, and shall, refuse to register the transfer of any share, share warrant, debenture or stock in, or mortgage or charge over the assets of, such company to any person of a different race to the person by whom such share, share warrant, debenture or stock in such company is sold, assigned, transferred or otherwise disposed of, or such mortgage or charge over the assets of such company is made, unless the Governor has given his consent in writing to such transaction.

Secretary and directors of company to refuse to register certain transactions unless Governor has given his consent in writing.

74D. Within a period of thirty days from such date as the Governor may by notice in the Gazette appoint, it shall be the duty of—

Bearer securities to be returned to company for registration.

(a) the secretary and directors of any company which has issued any bearer shares, share warrants, debentures payable to bearer or unregistered stock to recall such bearer shares, share warrants, debentures payable to bearer or unregistered stock and register them in the name of the holder thereof in a register which shall be kept at the registered offices of such company;

(b) any person having possession of any bearer shares, share warrants, debentures payable to bearer or unregistered stock in any company to transmit such bearer shares, share warrants, debentures payable to bearer or unregistered stock, to the secretary of such company for the purpose of having them registered in the name of the holder thereof,

and thereupon such bearer shares, share warrants, debentures payable to bearer or unregistered stock shall cease to be negotiable and shall, subject to the provisions of section 74B of this Ordinance, be transferable only by a properly executed instrument which shall be registered in a register which shall be kept at the registered offices of such company.

74E. No company shall issue any bearer shares, share warrants, debentures payable to bearer or unregistered stock.

No company shall issue bearer securities.

74F. (1) Any person who without reasonable excuse contravenes any of the provisions of this Part of this Ordinance shall be guilty of an offence and shall, on conviction before a subordinate court of the first class, be liable to a fine not exceeding £1,000 or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

Penalties.

(2) Where any offence under this Part of this Ordinance committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of any director, manager, secretary

or other officer of the body corporate, he, as well as the body corporate, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Forfeiture of
shares, etc.

74G. Where any person is convicted of an offence against the provisions of this Part of this Ordinance, the court may, in addition to any penalty or in substitution for any penalty which it may impose, order any share, share warrant, debenture or stock in respect of which the offence has been committed to be forfeited to the Crown."

ORDINANCE No. XXIV of 1944

Assented to in His Majesty's name this twenty-ninth day of December, 1944.

P. E. MITCHELL,
Governor.

An Ordinance to Apply a Sum of Money for the Service of the Year Ending the 31st day of December, 1945

1st January, 1945

Date of commencement.

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

1. This Ordinance may be cited as the 1945 Appropriation Ordinance, 1944. Short title.

2. The public revenues for the year 1945 and other funds of the Colony and Protectorate of Kenya are hereby charged towards the service of the year ending the thirty-first day of December, one thousand nine hundred and forty-five, with the sum of seven million, two hundred and fifty-seven thousand, eight hundred and ninety-four pounds. Public revenue and other funds charged.

3. The money granted by this Ordinance shall be applied for the purposes and services expressed in the Schedule hereto. Application of money granted.

4. The Accountant General of the Colony and Protectorate of Kenya is hereby authorized and required from time to time upon the warrant or order of the Governor to pay out of the Revenue and other funds of the Colony and Protectorate of Kenya, for the several services specified in the Schedule hereto, the said sum of seven million, two hundred and fifty-seven thousand, eight hundred and ninety-four pounds, which will come in course of payment during the year ending the thirty-first day of December, one thousand nine hundred and forty-five. Accountant General's authority for payment.

SCHEDULE

No. of Head	Amount £
1. His Excellency the Governor	15,729
2. Accountant General's Department	25,841
3. Administration	262,528
3A. Administration Extraordinary	44,760
4. Agricultural Department	130,587
4A. Agricultural Department Extraordinary	125,590
4B. Agricultural Production and Settlement Board Extraordinary	212,772
5. Audit	26,655

SCHEDULE—Contd.

<i>No. of Head</i>	<i>Amount £</i>
6. Civil Aviation	27,893
7. Coast Agency	7,127
8. Conference of East African Governors	16,216
9. Customs	82,359
9A. Customs Extraordinary	205
10. Education Department	383,099
10A. Education Department Extraordinary	25,083
11. Forest Department	58,186
11A. Forest Department Extraordinary	116,350
12. Game Department	19,760
13. Government Chemist	3,005
14. Inland Revenue Department	73,305
15. Judicial Department	41,650
16A. K.A.A.U. Extraordinary	2,500
17. Labour Department	23,343
17A. Labour Department Extraordinary	10,007
18. Lands, Settlement and Local Government	38,108
19. Legal Department	11,243
20. Local Government Contributions	183,985
20A. Local Government Contributions Extraordinary	13,630
21. Medical Department	362,693
21A. Medical Department Extraordinary	23,205
22. Military	136,822
23. Mining and Geological	11,620
23A. Mining and Geological Extraordinary	3,500
24. Miscellaneous Services	85,632
25. Naval	8,570
26. Pensions and Gratuities	329,500
26A. Pensions and Gratuities Extraordinary	100,000
27. Police	249,670
27A. Police Extraordinary	2,000
28. Posts and Telegraphs	402,348
28A. Posts and Telegraphs Extraordinary	62,245
29. Printing and Stationery	42,012
30. Prisons	102,911
30A. Prisons Extraordinary	825
31. Public Debt	1,328,836
32. Public Works Department	157,236
33. Public Works Recurrent	200,380
34. Registrar General's Department	9,416
35. Rent and Interest to H.H. the Sultan of Zanzibar	16,000
36. Secretariat and Legislative Council	38,458
37. Subventions	33,813
38. Veterinary Services	100,650
38A. Veterinary Services Extraordinary	15,196
39. Public Works Extraordinary	674,419
40. War Expenditure, Civil	778,421

£7,257,894

ORDINANCE No. XXV of 1944

Assented to in His Majesty's name this twenty-ninth day of December, 1944.

P. E. MITCHELL,
Governor.

An Ordinance to Allow and Confirm Certain Expenditure incurred in the Financial Year 1943

29th December, 1944

Date of commencement

WHEREAS the amount of six million eight hundred and eighty-one thousand five hundred and eighty-eight pounds, eighteen shillings and fifty-one cents was necessarily incurred during the Financial Year 1943 on certain services, of which the sum of four million eight hundred and sixty-six thousand six hundred and eighty-seven pounds has been provided by the 1943 Appropriation Ordinance, 1942, and it is now requisite to make a further provision of two million fourteen thousand nine hundred and one pounds, eighteen shillings and fifty-one cents: No. 32 of 1942.

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

1. This Ordinance may be cited as the Supplementary Appropriation (1943) Ordinance, 1944. Short title.

2. The expenditure during the Financial Year 1943 to the amount of two million fourteen thousand nine hundred and one pounds, eighteen shillings and fifty-one cents on the several services specified in the Schedule to this Ordinance and not provided for or not fully provided for by the 1943 Appropriation Ordinance, 1942, is hereby allowed and confirmed. Further expenditure for the Financial Year 1943 authorized. No. 32 of 1942.

SCHEDULE

Head No.	Department	Amount		
		£	s.	cts.
3A	Administration Extraordinary	91,303	13	74
4A	Agricultural Department Extraordinary ..	172,218	6	06
6	Civil Aviation	18,120	4	94
7A	Coast Agency Extraordinary	576	18	00
9	Customs	5,640	8	39
10	Education	12,197	14	33
11	Forest	2,414	8	13
11A	Forest Extraordinary	54,104	12	32
12	Game	1,851	6	08

Supplementary Appropriation

1944

SCHEDULE—(Contd.)

Head No.	Department	Amount		
		£	s.	cts.
14A	Inland Revenue Extraordinary	233	1	15
15	Judicial	1,173	3	56
17	Labour	712	1	83
17A	Labour Extraordinary	1,200	0	00
19	Legal	178	6	42
20	Local Government Contributions	17,221	3	46
20A	Local Government Contributions Extra-ordinary	9,281	2	52
21A	Medical Extraordinary	3,700	16	36
24	Miscellaneous Services	17,597	1	54
24A	Miscellaneous Services Extraordinary ..	909,093	0	20
25	Naval	3,208	5	58
27A	Police Extraordinary	1,738	12	00
28	Posts and Telegraphs	7,513	15	03
30	Prisons	33,795	7	97
31	Public Debt	31,946	4	66
32	Public Works Department	23,853	3	34
33	Public Works Recurrent	10,414	0	06
36	Secretariat and Legislative Council	1,377	9	58
37	Subventions	141	3	09
38	Veterinary Services	6,996	14	37
38A	Veterinary Services Extraordinary	3,487	2	32
39	Public Works Extraordinary	110,992	6	51
40	War Expenditure, Civil	460,620	4	97
Total:		£2,014,901	18	51