



COLONY AND PROTECTORATE OF KENYA.

ORDINANCES

ENACTED DURING THE YEAR

1924.

VOL. III (NEW SERIES).

NAIROBI.

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1925.

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COLONY AND PROTECTORATE OF KENYA.

~~Repealed~~

Op. Ord 1926. Sec 3.

No. 1 OF 1924.

An Ordinance to Amend the Legislative Council Ordinance, 1919.

Title.

[4TH JANUARY, 1924.]

Date of commencement

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

Enactment.

1. This Ordinance may be cited as "The Legislative Council (Amendment) Ordinance, 1924," and shall be read as one with the Legislative Council Ordinance, 1919 (hereinafter referred to as "the Principal Ordinance"), and all amendments thereof.

Short title.

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 Section 3 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

Repeal and re-enactment of Section 3 of the Principal Ordinance

"3. Seventeen members shall be elected in accordance with the provisions of this Ordinance to represent the following electoral areas in the Council, namely:—

(1) One European member for each of the electoral areas described in Schedule I, Part A;

(2) Five Indian members to represent the interests of the Indian community for the electoral area described in Schedule I, Part B;

(3) One Arab member to represent the interests of the Arab community for the electoral area described in Schedule I, Part B.

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 Section 6 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

Repeal and re-enactment of Section 6 of the Principal Ordinance.

"6. For each electoral area a separate register of the persons entitled to vote in such area for the election of a member or members, as the case may be, shall be prepared, published and revised in the manner prescribed by the Rules contained in Schedule II and all amendments thereof".

4. Sub-section (1) of Section 9 of the Principal Ordinance is hereby repealed and the following sub-section substituted therefor:—

Repeal and re-enactment of sub-section (1) of Section 9 of the Principal Ordinance, and extension of the said section.

"(1) (a) is not a British subject of European origin or descent;

(b) is not a British subject of Indian origin or descent; or is not an Indian under the suzerainty or protection of His Majesty;

(c) is not a male Arab, a British subject or under the protection or suzerainty of His Majesty, able to write Arabic or Swahili in Arabic characters."

Qualifications
of voters.

5. Between Section 11 and Section 12 of the Principal Ordinance there shall be inserted the following section:—

“11A. Any person, not otherwise disqualified under the provisions of this Ordinance, shall be entitled:—

(a) if a British subject of European origin or descent, to have his name entered in the register of voters for one of the electoral areas described in Schedule I, Part A;

(b) if a British subject of Indian origin or descent, or an Indian under the suzerainty or protection of His Majesty, to have his name entered in the register of voters for the electoral area described in Schedule I, Part B.

(c) if a male Arab, a British subject or under the protection or suzerainty of His Majesty, to have his name entered in the register of voters for the electoral area described in Schedule I, Part B.”

Amendment of
Section 16 of
the Principal
Ordinance.

6. Section 16 of the Principal Ordinance is hereby amended by the addition thereto of the following paragraph:—

“Each voter may give one vote and no more for each of any number of persons not exceeding the number to be elected.”

Amendment of
Schedule I of
the Principal
Ordinance.

7. Schedule I of the Principal Ordinance is hereby amended as follows:—

(a) Below the word and figure “Schedule I” there shall be added the word and letter “Part A.”

(b) After the said schedule there shall be added the following part:—

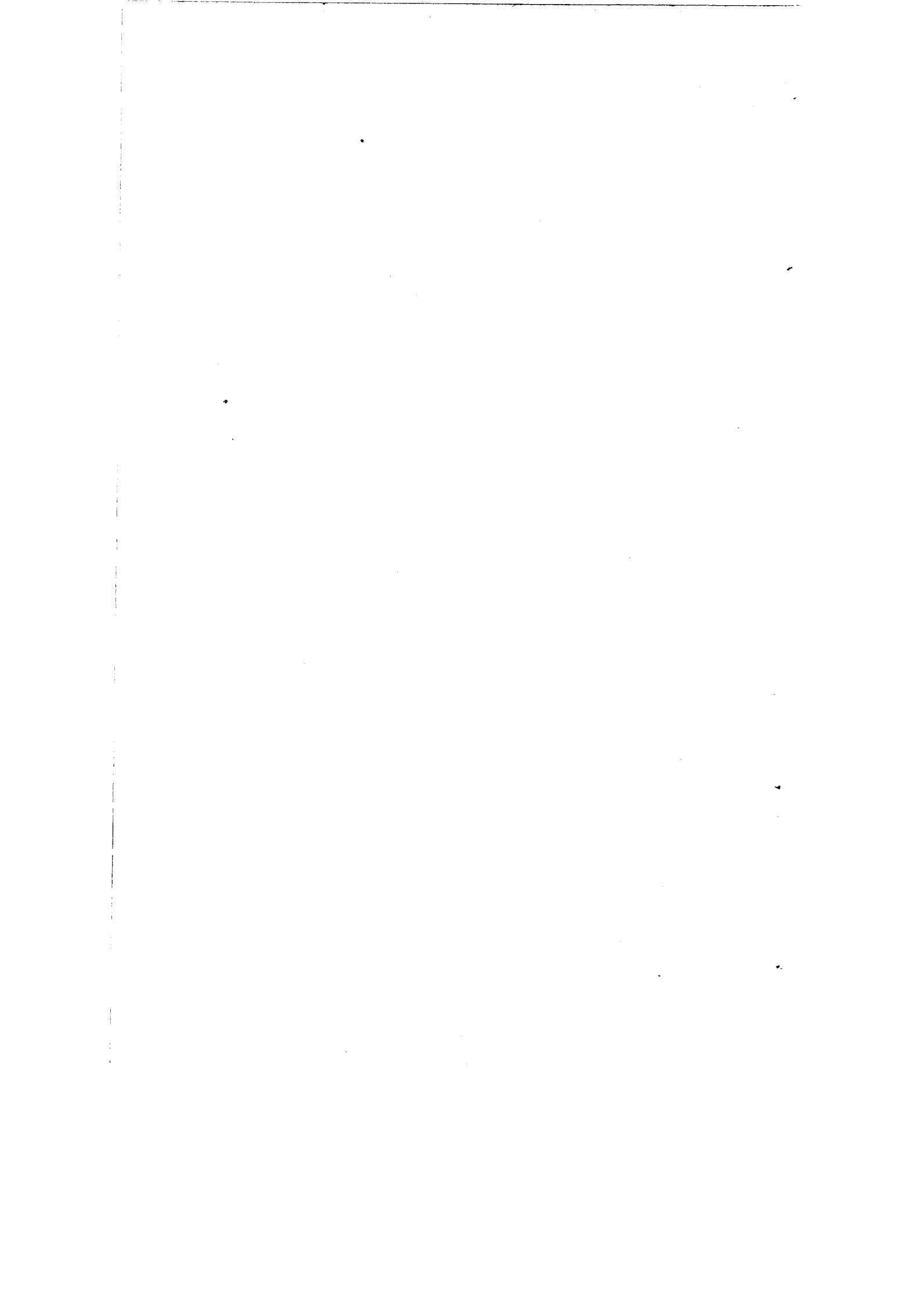
PART B.

12. The Colony and Protectorate.

Repealed.

Op Ord 1926 Sec 3

Ordinance No. 2 of 1924 was not assented
to by His Excellency the Governor.



AN ORDINANCE TO MAKE PROVISION FOR PROCEDURE IN CIVIL COURTS.

DATE OF COMMENCEMENT.
1827
VIDE O.G. 990 27

O.G. 2671/1930.
Ord. 14/1932
Supp. 24/32. P. 20.

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Civil Procedure Amnd. Ord. 1933. ~~P. 207~~ ^{Ord. 13 of} 1933
P. 207

xxxx Ord:xxxx/25.

"Provided that for the purposes of appeal the word 'decree' shall include judgment and a judgment shall be appealable notwithstanding the fact that a formal decree in pursuance of such judgment may not have been drawn up or may not be capable of being drawn up."

No. III.

Civil Procedure

1924.

O.G. 2203/1930

No. 3 OF 1924.

AS: ~~xxxxxx~~
Amend. Ord. 28/21.
" V. Ord. 14/32.
" xxxx/35

An Ordinance to make Provision for Procedure Title.
in Civil Courts.

[31ST JANUARY, 1924.] Date of commencement.

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

PRELIMINARY.

To be read as one with 4/32.

1. (1) This Ordinance may be cited as the Civil Procedure Ordinance, 1924. Short title, commencement and extent.

(2) It shall come into force on such date as the Governor may by notice in the *Gazette* declare.

(3) It shall extend to proceedings in the Supreme Court and subject to the provisions of the Kenya Colony Order-in-Council, 1921, and the Courts Ordinance, 1907, to proceedings in all Subordinate Courts in the Colony, other than Native Subordinate Courts.

2. In this Ordinance, unless there is anything repugnant in the subject or context:— Definitions.

Amended by Ord. 29 of 1932

(1) "Advocate" means any person entitled to appear and plead for another in Court.

(2) "Colony" includes "Protectorate."

Replaced by Ord. 11/32

(3) "Court" shall mean any civil Court other than Native Subordinate Courts.

(4) "Decree" means the formal expression of an adjudication which, so far as regards the Court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit and may be either preliminary or final. It shall be deemed to include the rejection of a plaint or writ and the determination of any question within section 34 or section 93, but shall not include

V. Ord. 1/32

stet
stet

(a) any adjudication from which an appeal lies as an appeal from an order, or;

(b) any order of dismissal for default.

Explanation.—A decree is preliminary when further proceedings have to be taken before the suit can be completely disposed of. It is final when such adjudication completely disposes of the suit. It may be partly preliminary and partly final.

(5) "decree holder" means any person in whose favour a decree has been passed or an order capable of execution has been made, and includes the assignee of such decree or order.

(6) "district" means the local limits of the jurisdiction of a Subordinate Court.

(7) "foreign Court" means a Court situate beyond the limits of the Colony which has no authority in the Colony.

(8) "foreign judgment" means the judgment of a foreign Court.

(9) "Judge" means the presiding officer of a civil Court.

(10) "judgment" means the statement given by the Judge of the grounds of a decree or order.

(11) "judgment debtor" means any person against whom a decree has been passed or an order capable of execution has been made.

(12) "legal representative" means a person who in law represents the estate of a deceased person, and where a party sues or is sued in a representative character the person on whom the estate devolves on the death of the party so suing or sued.

(13) "mesne profits" of property means those profits which the person in wrongful possession of such property actually received or might with ordinary diligence have received therefrom, together with interest on such profits, but shall not include profits due to improvements made by the person in wrongful possession.

(14) "moveable property" includes growing crops.

(15) "order" means the formal expression of any decision of a civil Court which is not a decree, and shall include a rule nisi.

(16) "Ordinance" includes rules.

(17) "Pleading" shall include any petition or summons, and also shall include the statements in writing of the claim or demand of any plaintiff, and of the defence of any defendant thereto, and of the reply of the plaintiff to any defence or counterclaim of a defendant.

(18) "prescribed" means prescribed by rules.

stat.

stat.

stat.

(19) "public officer" means a person falling under any of the following descriptions, namely:—

stat.

(a) every member of the Civil Service of the Colony;

(b) every commissioned or gazetted officer in the military or naval forces of His Majesty while serving in the Colony;

(c) every officer of a Court of Justice whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make authenticate or keep any document, or to take charge or dispose of any property, or to execute any judicial process; or to administer any oath, or to interpret, or to preserve order in the Court and every person especially authorized by a Court of Justice to perform any of such duties;

(d) every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;

(e) every person whose duty it is, in an official capacity, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety, or convenience;

stat.

(f) every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of the Government, or to make any survey, assessment, or contract on behalf of the Government, or to execute any revenue process, or to investigate, or to report on any matter affecting the pecuniary interests of the Government, or to make, authenticate, or keep any document relating to the pecuniary interests of the Government, or to prevent the infraction of any law for the protection of the pecuniary interests of the Government; and

(g) every officer in the service or pay of the Government or remunerated by fees or commission for the performance of any public duty.

Stat. xxxi 15 20 (a) Registrar includes a district and deputy registrar;

(20) "rules" means rules and forms made by the Rules Committee to regulate the procedure of Courts.

stat.

(21) "share in a corporation" shall be deemed to include stock, debenture stock, debentures, or bonds.

(22) "signed" includes the affixing of a mark by a person unable to write.

(23) "Suit" shall mean all civil proceedings commenced in any manner prescribed.

3. In the absence of any specific provision to the contrary nothing in this Ordinance shall be deemed to limit or otherwise affect any special jurisdiction or power conferred, or any special form of procedure prescribed by or under any other law for the time being in force. Savings.

Pecuniary
jurisdiction.

4. Save in so far as is otherwise expressly provided, nothing herein contained shall operate to give any Court jurisdiction over suits the amount or value of the subject matter of which exceeds the pecuniary limits if any of its ordinary jurisdiction.

PART I.

SUITS IN GENERAL.

JURISDICTION OF THE COURTS AND *RES JUDICATA*.

Courts to try
all civil suits
unless barred.

5. Any Court shall, subject to the provisions herein contained, have jurisdiction to try all suits of a civil nature excepting suits of which its cognizance is either expressly or impliedly barred.

Stay of suit.

6. No Court shall proceed with the trial of any suit or proceeding in which the matter in issue is also directly and substantially in issue in a previously instituted suit or proceeding between the same parties, or between parties under whom they or any of them claim, litigating under the same title, where such suit or proceeding is pending in the same or any other Court having jurisdiction in the Colony to grant the relief claimed, or before His Majesty in Council.

Explanation.—The pendency of a suit in a foreign Court shall not preclude a Court from trying a suit in which the same matters or any of them are in issue in such suit in such foreign Court.

Res judicata

7. No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court.

Explanation. (1)—The expression “former suit” shall denote a suit which has been decided prior to the suit in question whether or not it was instituted prior thereto.

Explanation. (2)—For the purposes of this section, the competence of a Court shall be determined irrespective of any provision as to right of appeal from the decision of such Court.

Explanation. (3)—The matter above referred to must in the former suit have been alleged by one party and either denied or admitted, expressly or impliedly, by the other.

Explanation. (4)—Any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit.

Explanation. (5)—Any relief claimed in a suit, which is not expressly granted by the decree, shall, for the purposes of this section, be deemed to have been refused.

Explanation. (6)—Where persons litigate *bona fide* in respect of a public right or of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purposes of this section, be deemed to claim under the persons so litigating.

8. Where a plaintiff is precluded by rules from instituting a further suit in respect of any particular cause of action, he shall not be entitled to institute a suit in respect of such cause of action. Bar to further suit.

9. A foreign judgment shall be conclusive as to any matter thereby directly adjudicated upon between the same parties or between parties under whom they or any of them claim, litigating under the same title, except:— When foreign judgment not conclusive.

(a) where it has not been pronounced by a Court of competent jurisdiction;

(b) where it has not been given on the merits of the case;

(c) where it appears on the face of the proceedings to be founded on an incorrect view of international law or a refusal to recognize the law of the Colony in cases in which such law is applicable;

(d) where the proceedings in which the judgment was obtained are opposed to natural justice;

(e) where it has been obtained by fraud;

(f) where it sustains a claim founded on a breach of any law in force in the Colony.

10. The Court shall presume, upon the production of any document purporting to be a certified copy of a foreign judgment, that such judgment was pronounced by a Court of competent jurisdiction, unless the contrary appears on the record; but such presumption may be displaced by proving want of jurisdiction. Presumption as to foreign judgments.

PLACE OF SUING.

11. Every suit shall be instituted in the Court of the lowest grade competent to try it, provided that where there are more subordinate Courts than one with concurrent jurisdiction in the same district competent to try it a suit may be instituted in any one of such subordinate Courts. Amended Court in v. O. which suits to 29 be instituted.

Provided further that any suit may be instituted in the Supreme Court which could have been commenced in a Subordinate Court of the first class, then and in every such case the following provisions shall apply:— Repealed v. Ord. 14 32 v. " xix 25

now vide next page

See slip opposite

*made
Mombasa*

If the plaintiff shall recover a sum less than S. 400, he shall not be entitled to any costs, and if he shall recover a sum of S. 400 or upwards, but not exceeding S. 1,500 he shall not be entitled to any more costs than he would have been entitled to if the action had been brought in such Subordinate Court, unless in any such action a Judge of the Supreme Court certifies that there was reason for bringing the action in that Court, or unless the Judge thereof in chambers shall by order allow costs on the Supreme Court scale.

Suits to be instituted where subject matter situate.

12. Subject to the pecuniary or other limitations prescribed by any law, suits

- (a) for the recovery of immoveable property, with or without rent or profits,
- (b) for the partition of immoveable property,
- (c) for the foreclosure sale or redemption in the case of a mortgage of or charge upon immoveable property,
- (d) for the determination of any other right to or interest in immoveable property,
- (e) for compensation for wrong to immoveable property,
- (f) for the recovery of moveable property actually under distraint or attachment,

shall be instituted in the Court within the local limits of whose jurisdiction the property is situate:

Provided that a suit to obtain relief respecting or compensation for wrong to immoveable property held by or on behalf of the defendant may, where the relief sought can be entirely obtained through his personal obedience, be instituted either in the Court within the local limits of whose jurisdiction the property is situate, or in the Court within the local limits of whose jurisdiction the defendant actually and voluntarily resides, or carries on business, or personally works for gain.

Explanation.—In this section property means property situate in the Colony.

Suits for immoveable property situate within jurisdiction of different Courts.

13. Where a suit is to obtain relief respecting, or compensation for wrong to, immoveable property situate within the jurisdiction of different Courts, the suit may be instituted in any Court within the local limits of whose jurisdiction any portion of the property is situate:

Provided that, in respect of the value of the subject matter of the suit, the entire claim is cognizable by such Court.

Suits for compensation for wrongs to person or moveables.

14. Where a suit is for compensation for wrong done to the person or to moveable property, if the wrong was done within the local limits of the jurisdiction of one Court and the defendant resides, or carries on business, or personally works for gain within the local limits of the jurisdiction of another Court, the suit may be instituted at the option of the plaintiff in either of the said Courts.

Illustrations.—(a) A residing in Mombasa beats B in Nairobi. B may sue A either at Mombasa or Nairobi.

(b) A residing in Mombasa publishes at Nairobi statements defamatory of B. B may sue A either in Mombasa or Nairobi.

15. Subject to the limitations aforesaid, every suit shall be instituted in a Court within the local limits of whose jurisdiction

Other suits to be instituted where defendants reside or cause of action arises.

(a) the defendant or each of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or

(b) any of the defendants, where there are more than one, at the time of the commencement of the suit actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution; or

(c) the cause of action, wholly or in part, arises.

Explanation. (1)—Where a person has a permanent dwelling at one place and also a temporary residence at another place, he shall be deemed to reside at both places in respect of any cause of action arising at the place where he has such temporary residence.

Explanation. (2)—A corporation shall be deemed to carry on business at its sole or principal office in the Colony, or, in respect of any cause of action arising at any place where it has also a subordinate office at such place.

Explanation. (3)—In suits arising out of contract, the cause of action arises within the meaning of this section at any of the following places, namely:—

- (i) the place where the contract was made;
- (ii) the place where the contract was to be performed or the performance thereof completed;
- (iii) the place where in performance of the contract any money to which the suit relates was expressly or impliedly payable.

Illustrations.—(a) A is a tradesman in Nairobi. B carries on business in Mombasa. B by his agent at Nairobi buys goods of A and requests A to deliver them to the Uganda Railway. A may sue B for the price of the goods either in Nairobi, where the cause of action has arisen, or in Mombasa, where B carries on business.

(b) A resides at Kisumu, B at Nairobi, and C at Mombasa. A, B, and C being together at Nakuru, B and C make a joint promissory note payable on demand and deliver it to A. A may sue B and C at Nakuru, where the cause of action arose. He may also sue them at Nairobi, where B resides, or at Mombasa, where C resides; but in each of these cases, if the non-resident defendant objects, the suit cannot proceed without the leave of the Court.

16. No objection as to the place of suing shall be allowed on appeal unless such objection was taken in the Court of first instance and unless there has been a consequent failure of justice.

Objections to jurisdiction.

Power to transfer suits which may be instituted in more than one Court.

17. Where a suit may be instituted in any one of two or more subordinate Courts, and is instituted in one of such Courts, any defendant after notice to the other parties, or the Court of its own motion, may; at the earliest possible opportunity, apply to the Supreme Court to have the suit transferred to another Court; and the Supreme Court after considering the objections, if any, shall determine in which of the several Courts having jurisdiction the suit shall proceed.

Power of Supreme Court to withdraw and transfer cases instituted in Subordinate Courts.

18. (1) On the application of any of the parties and after notice to the parties and after hearing such of them as desire to be heard, or of its own motion without such notice, the Supreme Court may at any stage

(a) transfer any suit, appeal or other proceeding pending before it for trial or disposal to any Court subordinate to it and competent to try or dispose of the same; or

v Crd. 14/1932. (b) withdraw any suit or other proceeding pending in any Court subordinate to it ~~and thereafter~~.

(i) try or dispose of the same; or

(ii) transfer the same for trial or disposal to any Court subordinate to it and competent to try or dispose of the same; or

(iii) re-transfer the same for trial or disposal to the Court from which it was withdrawn.

(2) Where any suit or proceeding has been transferred or withdrawn as aforesaid, the Court which thereafter tries such suit may, subject to any special directions in the case of an order of transfer, either re-try it or proceed from the point at which it was transferred or withdrawn.

INSTITUTION OF SUITS.

Institution of suits.

19. Every suit shall be instituted in such manner as may be prescribed by Rules.

PROCEDURE IN SUITS AND DISCOVERY.

Service on defendant.

20. Where a suit has been duly instituted the defendant shall be served in manner prescribed to enter an appearance and answer the claim.

Service where defendant resides in another district.

21. (1) Any document which is required to be served in connection with a suit may be sent for service in another district to a Court having jurisdiction in that district.

(2) The Court to which such document is sent shall, upon receipt thereof, proceed as if it had been issued by such Court and shall then return the document to the Court of issue together with the record if any of its proceedings with regard thereto.

22. Subject to such conditions and limitations as may be prescribed, the Court may, at any time, either of its own motion or on the application of any party

Power to order discovery and the like.

(a) make such orders as may be necessary or reasonable in all matters relating to the delivery and answering of interrogatories, the admission of documents and facts, and the discovery, inspection, production, impounding, and return of documents or other material objects producible as evidence;

(b) issue summonses to persons whose attendance is required either to give evidence or to produce documents or such other objects as aforesaid;

(c) order any fact to be proved by affidavit.

23. The provisions in sections 21 and 22 shall apply to summonses to give evidence or to produce documents or other material objects.

Summons to witness.

24. The Court may compel the attendance of any person to whom a summons has been issued under section 22, and for that purpose may

Penalty for default.

(a) issue a warrant for his arrest;

(b) attach and sell his property;

(c) impose a fine on him not exceeding fifty pounds;

(d) order him to furnish security for his appearance and in default commit him to prison.

JUDGMENT AND DECREE.

25. The Court, after the case has been heard, shall pronounce judgment, and on such judgment a decree shall follow.

Replaced by Ord. 21 of 1929.
Judgment and decree.

Replaced by Sec. 2 of Ord. 14 of 1929.

INTEREST.

26. (1) Where and in so far as a decree is for the payment of money, the Court may, in the decree, order interest at such rate as the Court deems reasonable to be paid on the principal sum adjudged from the date of the suit to the date of the decree in addition to any interest adjudged on such principal sum for any period prior to the institution of the suit, with further interest at such rate as the Court deems reasonable on the aggregate sum adjudged from the date of the decree to the date of payment or such earlier date as the Court thinks fit.

Interest

(2) Where such a decree is silent with respect to the payment of further interest on such aggregate sum as aforesaid from the date of the decree to the date of payment or other earlier date, the Court shall be deemed to have ordered interest at 6 per cent per annum.

COSTS.

Costs.

27. (1) Subject to such conditions and limitations as may be prescribed, and to the provisions of any law for the time being in force, the costs of and incident to all suits shall be in the discretion of the Court or Judge and the Court or Judge shall have full power to determine by whom and out of what property and to what extent such costs are to be paid, and to give all necessary directions for the purposes aforesaid.

The fact that the Court or Judge has no jurisdiction to try the suit shall be no bar to the exercise of such powers.

Provided that the costs of any action, cause or other matter or issue shall follow the event unless the Court or Judge shall for good reason otherwise order.

(2) The Court or Judge may give interest on costs at any rate not exceeding six per cent per annum and such interest shall be added to the costs and shall be recoverable as such.

PART II.

EXECUTION.

GENERAL.

Application to orders

28. The provisions of this Ordinance relating to the execution of decrees shall, so far as they are applicable, be deemed to apply to the execution of orders.

Definition of "Court which passed a decree."

29. The expression " Court which passed a decree," or words to that effect, shall, in relation to the execution of decrees, unless there is anything repugnant in the subject or context, be deemed to include

(a) where the decree to be executed has been passed in the exercise of appellate jurisdiction, the Court of first instance; and

(b) where the Court of first instance has ceased to exist or to have jurisdiction to execute it, the Court which, if the suit wherein the decree was passed were instituted at the time of making the application for the execution of the decree, would have jurisdiction to try such suit.

COURTS BY WHICH DECREES MAY BE EXECUTED.

Court by which decree may be executed.

30. A decree may be executed either by the Court which passed it or by the Court to which it is sent for execution.

Transfer of decree.

31. (1) The Court which passed a decree may, on the application of the decree-holder, send it for execution to another Court

(a) if the person against whom the decree is passed actually and voluntarily resides, or carries on business, or personally works for gain, within the local limits of the jurisdiction of such other Court; or

(b) if such person has not property within the local limits of the jurisdiction of the Court which passed the decree sufficient to satisfy such decree and has property within the local limits of the jurisdiction of such other Court; or

(c) if the decree directs the sale or delivery of immoveable property situate outside the local limits of the jurisdiction of the Court which has passed it; or

(d) if the Court which has passed the decree considers for any other reason, which it shall record in writing, that the decree should be executed by such other Court.

(2) The Court which passed a decree may of its own motion send it for execution to any Court of inferior but competent jurisdiction.

32. The Court to which a decree is sent for execution shall certify to the Court which passed it the fact of such execution, or where the former Court fails to execute the same the circumstances attending such failure.

Result of execution proceedings to be certified.

33. The Court executing a decree sent to it shall have the same powers in executing such decree as if it had been passed by itself.

Powers of Courts in executing transferred decree.

All persons disobeying or obstructing the execution of the decree shall be punishable by such Court in the same manner as if it had passed the decree. And its order in executing such decree shall be subject to the same rules in respect of appeal as if the decree had been passed by itself.

QUESTIONS TO BE DETERMINED BY COURT EXECUTING DECREE.

34. (1) All questions arising between the parties to the suit in which the decree was passed, or their representatives, and relating to the execution, discharge, or satisfaction of the decree, shall be determined by the Court executing the decree and not by a separate suit.

Questions to be determined by the Court executing decree.

(2) The Court may, subject to any objection as to limitation or jurisdiction, treat a proceeding under this section as a suit, or a suit as a proceeding, and may, if necessary, order payment of any additional Court fees.

(3) Where a question arises as to whether any person is or is not the representative of a party, such question shall, for the purposes of this section, be determined by the Court.

Explanation.—For the purposes of this section, a plaintiff whose suit has been dismissed, and a defendant against whom a suit has been dismissed, are parties to the suit.

LIMIT OF TIME FOR EXECUTION.

Execution
barred in
certain cases.

35. (1) Where an application to execute a decree not being a decree granting an injunction has been made, no order for the execution of the same decree shall be made upon any fresh application presented after the expiration of twelve years from

(a) the date of the decree sought to be executed, or

(b) where the decree or any subsequent order directs any payment of money, or the delivery of any property to be made at a certain date or at recurring periods, the date of the default in making the payment or delivery in respect of which the applicant seeks to execute the decree.

(2) Nothing in this section shall be deemed

(a) to preclude the Court from ordering the execution of a decree upon an application presented after the expiration of the said term of twelve years where the judgment-debtor has, by fraud or force, prevented the execution of the decree at some time within twelve years immediately before the date of the application: or

(b) to limit or otherwise affect the operation of article 180 of the second Schedule of the Indian Limitation Act, 1877 or other provision of law substituted therefor.

TRANSFEREES AND LEGAL REPRESENTATIVES.

Transferees.

36. Every transferee of a decree shall hold the same subject to the equities if any which the judgment-debtor might have enforced against the original decree-holder.

Legal
Representative

37. (1) Where a judgment-debtor dies before the decree has been fully satisfied, the holder of the decree may apply to the Court which passed it to execute the same against the legal representative of such deceased, or against any person who has intermeddled with the estate of such deceased.

(2) Where the decree is executed against such legal representative, or against any person as aforesaid he shall be liable only to the extent of the property of the deceased which has come to his hands and has not been duly disposed of; and, for the purpose of ascertaining such liability the Court executing the decree may, of its own motion or on the application of the decree-holder, compel such legal representative to produce such accounts as it thinks fit.

PROCEDURE IN EXECUTION.

Powers of
Court to
enforce
execution.

38. Subject to such conditions and limitations as may be prescribed, the Court may, on the application of the decree-holder, order execution of the decree

(a) by delivery of any property specifically decreed;

(b) by attachment and sale, or by sale without attachment, of any property;

(c) by attachment of debts;

(d) by arrest and detention in prison of any person;

(e) by appointing a receiver; or

(f) in such other manner as the nature of the relief granted may require.

39. (1) Where a decree is passed against a party as the legal representative of a deceased person, and the decree is for the payment of money out of the property of the deceased, it may be executed by the attachment and sale of any such property.

Enforcement
of decree
against legal
representative

(2) Where no such property remains in the possession of the judgment-debtor, and he fails to satisfy the Court that he has duly applied such property of the deceased as is proved to have come into his possession, the decree may be executed against the judgment-debtor to the extent of the property in respect of which he has failed so to satisfy the Court in the same manner as if the decree had been against him personally.

ARREST AND DETENTION.

40. (1) A judgment-debtor may be arrested in execution of a decree at any hour and on any day, and shall as soon as practicable be brought before the Court, and his detention may be in any prison of the district in which the Court ordering the detention is situate, or, if such prison does not afford suitable accommodation, in any other place which the Governor may appoint for the detention of persons ordered by the Courts of such district to be detained;

Arrest and
detention.

Provided, firstly, that for the purpose of making an arrest under this section no dwelling-house shall be entered after sunset and before sunrise:

Provided, secondly, that no outer door of a dwelling-house shall be broken open unless such dwelling-house is in the occupancy of the judgment-debtor and he refuses or in any way prevents access thereto; but when the officer authorised to make the arrest has duly gained access to any dwelling-house he may break open the door of any room in which he has reason to believe the judgment-debtor is to be found:

Provided, thirdly, that if the room is in the actual occupancy of a woman who is not the judgment-debtor, and who according to the custom of her community does not appear in public, the officer authorized to make the arrest shall give notice to her that she is at liberty to withdraw and after allowing a reasonable time for her to withdraw and giving her reasonable facility for withdrawing, may enter the room for the purpose of making the arrest:

Provided, fourthly, that where the decree in execution of which a judgment-debtor is arrested is a decree for the payment of money and the judgment-debtor pays the amount of the decree and the costs of the arrest to the officer arresting him, such officer shall at once release him.

(2) The Governor-in-Council may, by notification in the *Gazette*, declare that any person or class of persons whose arrest might be attended with danger or inconvenience to the public shall not be liable to arrest in execution of a decree otherwise than in accordance with such procedure as he may direct.

~~Amended by~~
Ord. 14/1929.

(3) Where a judgment-debtor is arrested in execution of a decree for the payment of money and brought before the Court, the Court ~~shall~~ ^{may} inform him that he may apply to be declared an insolvent, and that he will be discharged if he has not committed any act of bad faith regarding the subject of the application and if he complies with the provisions of the law of insolvency for the time being in force.

(4) Where a judgment-debtor expresses his intention to apply to be declared an insolvent and furnishes security, to the satisfaction of the Court, that he will within one month so apply, and that he will appear, when called upon, in any proceeding upon the application or upon the decree in execution of which he was arrested, the Court shall release him from arrest, and, if he fails so to apply and to appear, the Court may either direct the security to be realized or commit him to prison in execution of the decree.

Subsistence
allowances.

41. The Governor-in-Council may by notice in the *Gazette* fix scales, graduated according to race and nationality, of monthly allowances payable for the subsistence of a judgment-debtor.

Detention
and release.

42. (1) Every person detained in prison in execution of a decree shall be so detained

(a) where the decree is for the payment of a sum of money exceeding five pounds, for a period not exceeding six months; and

(b) in any other case, for a period not exceeding six weeks:

Provided he shall be released from such detention before the expiration of the said period of six months or six weeks, as the case may be:—

(i) on the amount mentioned in the warrant for his detention being paid to the officer in charge of the prison, or

(ii) on the decree against him being otherwise fully satisfied, or

(iii) on the request of the person on whose application he has been so detained, or

(iv) on the omission of the person, on whose application he has been so detained, to pay subsistence allowance:

Provided also that he shall not be released from such detention under clause (i) or clause (iii) without the order of the Court.

(2) A judgment-debtor released from detention under this section shall not merely by reason of his release be discharged from his debt, but he shall not be liable to be re-arrested under the decree in execution of which he was detained in prison.

43. (1) At any time after a warrant for the arrest of a judgment-debtor has been issued the Court may cancel it on the ground of his serious illness. Release on ground of illness.

(2) Where a judgment-debtor has been arrested, the Court may release him if in its opinion he is not in a fit state of health to be detained in prison.

(3) Where a judgment-debtor has been committed to prison, he may be released therefrom

(a) by the Superintendent of the prison in which he is confined on the grounds of the existence of any infectious or contagious disease, or

(b) by the committing Court or the Supreme Court on the ground of his suffering from any serious illness.

(4) A judgment-debtor released under this section may be re-arrested, but the period of his detention in prison shall not in the aggregate exceed that prescribed by the foregoing section.

ATTACHMENT.

44. (1) The following property is liable to attachment and sale in execution of a decree, namely, lands, houses or other buildings, goods, money, bank notes, cheques, bills of exchange, promissory notes, Government securities, bonds or other securities for money, debts, shares in a corporation, and, save as hereinafter mentioned, all other saleable property, moveable or immoveable, belonging to the judgment-debtor, or over which or the profits of which, he has a disposing power which he may exercise for his own benefit, whether the same be held in the name of the judgment-debtor or by another person in trust for him or on his behalf:

Property liable to attachment and sale in execution of decree.

v. Ord
14/1982

Provided that the following particulars shall not be liable to such attachment or sale, viz:—

(a) the necessary wearing apparel, cooking vessels, beds and bedding of the judgment-debtor, and of his wife and children and such personal ornaments as in accordance with religious usage cannot be parted with by any woman;

(b) tools of artizans: and where the judgment-debtor is an agriculturalist, such implements of husbandry and such live-stock and agricultural produce not exceeding in value S. 500 as may, in the opinion of the Court, be necessary to enable him to earn his livelihood;

(c) books of accounts;

(d) a mere right to sue for damages;

(e) any right of personal service;

(f) stipends and gratuities allowed to pensioners of the Government, or payable out of any service family pension fund notified in the *Gazette* by the Governor-in-Council in this behalf, and political pensions:

(g) the salary of any public officer, servant of a railway company or local authority, or any person privately employed to the extent of

(i) the whole of the salary, where the salary does not exceed two pounds monthly;

(ii) two pounds monthly, where the salary exceeds two pounds and does not exceed four pounds monthly; and

(iii) one moiety of the salary in any other case;

(h) an expectancy of succession by survivorship or other merely contingent or possible right or interest;

(i) a right of future maintenance;

(j) any fund or allowance declared by law to be exempt from attachment or sale in execution of a decree.

Explanation.—The particulars mentioned in clauses (f), (g) and (j) are exempt from attachment and sale whether before or after they are actually payable.

(2) Nothing in this section shall be deemed to affect the provisions of the Army Act or of any similar law for the time being in force.

Seizure of
property in
dwelling-house.

45. (1) No person in executing any process under this Ordinance directing or authorizing seizure of moveable property shall enter any dwelling-house after sunset and before sunrise.

(2) No outer door of a dwelling-house shall be broken open unless such dwelling-house is in the occupancy of the judgment-debtor and he refuses or in any way prevents access thereto; but when the person executing any such process has duly gained access to any dwelling-house he may break open the door of any room in which he has reason to believe any such property to be.

(3) Where a room in a dwelling-house is in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, the person executing the process shall give notice to such woman that she is at liberty to withdraw; and after allowing reasonable time for her to withdraw and giving her reasonable facility for withdrawing, he may enter such room for the purpose of seizing the property, using at the same time every precaution, consistent with these provisions, to prevent its clandestine removal.

46. (1) Where property not in the custody of any Court is under attachment in execution of decrees of more Courts than one the Court which shall receive and realize such property and shall determine any claim thereto and any objection to the attachment thereof shall be the Court of the highest grade, or, where there is no difference in grade between such Courts, the Court under whose decree the property was first attached.

Property attached in execution of decrees of several Courts

(2) Nothing in this section shall be deemed to invalidate any proceeding taken by a Court executing one of such decrees.

47. Where an attachment has been made any private transfer or delivery of the property attached or of any interest therein and any payment to the judgment-debtor of any debt, dividend, or other monies contrary to such attachment, shall be void as against all claims enforceable under the attachment.

Private alienation of property after attachment to be void.

Explanation.—For the purposes of this section claims enforceable under an attachment include claims for the rateable distribution of assets.

SALE.

48. Where immovable property is sold in execution of a decree and such sale has become absolute, the property shall be deemed to have vested in the purchaser from the time when the property is sold and ^{not} from the time when the sale becomes absolute.

Purchaser's title

49. (1) No suit shall be maintained against any person claiming title under a purchase certified by the Court in such manner as may be prescribed on the ground that the purchase was made on behalf of the plaintiff or on behalf of someone through whom the plaintiff claims.

Suit against purchaser not maintainable on ground of purchase being on behalf of plaintiff.

(2) Nothing in this section shall bar a suit to obtain a declaration that the name of any purchaser certified as aforesaid was inserted in the certificate fraudulently or without the consent of the real purchaser, or interfere with the right of a third person to proceed against that property, though ostensibly sold to the certified purchaser, on the ground that it is liable to satisfy a claim of such third person against the real owner.

DISTRIBUTION OF ASSETS.

50. (1) Where assets are held by a Court and more persons than one have, before the receipt of such assets, made application to the Court for the execution of decrees for the payment of money passed against the same judgment-debtor and have not obtained satisfaction thereof, the assets, after deducting the costs of realization, shall be rateably distributed among all such persons:

Sec. 50 repealed & substituted by Ord. 47/33. Proceeds of execution to be rateably distributed among decree holders.

Provided as follows

(a) where any property is sold subject to a mortgage or charge, the mortgagee or incumbrancer shall not be entitled to share in any surplus arising from such sale;

(b) where any property liable to be sold in execution of a decree is subject to a mortgage or charge, the Court may, with the consent of the mortgagee or incumbrancer, order that the property be sold free from the mortgage or charge, giving to the mortgagee or incumbrancer the same interest in the proceeds of the sale as he had in the property sold;

(c) where any immoveable property is sold in execution of a decree ordering its sale for the discharge of an incumbrance thereon, the proceeds of the sale shall be applied

first, in defraying the expenses of the sale;

secondly, in discharging the amount due under the decree;

thirdly, in discharging the interest and principal monies due on subsequent incumbrances if any; and

fourthly, rateably among the holders of decrees for the payment of money against the judgment-debtor who have prior to the sale of the property applied to the Court which passed the decree ordering such sale for execution of such decrees, and have not obtained satisfaction thereof.

(2) Where all or any of the assets liable to be rateably distributed under this section are paid to a person not entitled to receive the same, any person so entitled may sue such person to compel him to refund the assets.

(3) Nothing in this section affects any right of the Government.

RESISTANCE TO EXECUTION.

Resistance to execution.

51. Where the Court is satisfied that the holder of a decree for the possession of immoveable property, or that the purchaser of immoveable property sold in execution of a decree, has been resisted or obstructed in obtaining possession of the property by the judgment-debtor or some person on his behalf, and that such resistance or obstruction was without any just cause, the Court may, at the instance of the decree-holder or purchaser, order the judgment-debtor or such other person to be detained in prison for a term which may extend to thirty days and may further direct that the decree-holder or purchaser be put in possession of the property.

PART III.

INCIDENTAL PROCEEDINGS.

COMMISSIONS.

52. Subject to such conditions and limitations as may be prescribed the Court may issue a commission Power of Court to issue commissions

- (a) to examine any person;
- (b) to make a local investigation;
- (c) to examine or adjust accounts; or
- (d) to make a partition.

53. (1) A commission for the examination of any person may be issued by the Supreme Court to any subordinate Court and by a subordinate Court of the first or second class to any other subordinate Court situate in a district other than the district in which the Court of issue is situate and having jurisdiction in the place in which the person to be examined resides. Commission to another Court.

(2) Every Court receiving a commission for the examination of any person under sub-section (1) shall examine him or cause him to be examined pursuant thereto, and the Commission, when it has been duly executed, shall be returned together with the evidence taken under it to the Court from which it was issued, unless the order for issuing the commission has otherwise directed, in which case the commission shall be returned in terms of such order.

54. In lieu of issuing a commission the Supreme Court or a subordinate Court with the sanction of the Supreme Court may issue a letter of request to examine a witness residing at any place not within the Colony. Letter of request.

55. Commissions issued by foreign Courts for the examination of persons in the Colony shall be executed and returned in such manner as may be from time to time prescribed. Commissions issued by foreign Courts.

PART IV.

SUITS IN PARTICULAR CASES.

SUITS BY ALIENS AND BY OR AGAINST FOREIGN RULERS.

56. (1) Alien enemies residing in the Colony with the permission of the Governor, and alien friends, may sue in the Courts of the Colony as if they were subjects of His Majesty. When aliens may sue.

(2) No alien enemy residing in the Colony without such permission, or residing in a foreign country, shall sue in any of such Courts.

Explanation.—Every person residing in a foreign country the Government of which is at war with the United Kingdom of Great Britain and Ireland, and carrying on business in that country without a license in that behalf under the hand of one of His Majesty's Secretaries of State or of the Governor, shall, for the purpose of sub-section (2), be deemed to be an alien enemy residing in a foreign country.

When foreign State may sue

57. (1) A foreign State may sue in any Court of the Colony:

Provided that such State has been recognized by his Majesty.

Provided also that the object of the suit is to enforce a private right vested in the head of such State or in any officer of such State in his public capacity.

(2) Every Court shall take judicial notice of the fact that a foreign State has or has not been recognized by his Majesty.

INTERPLEADER.

Where interpleader suit may be instituted.

58. Where two or more persons claim adversely to one another the same right, sum of money, or other property, moveable or immoveable, from another person, who claims no interest therein other than for charges or costs and who is ready to pay or deliver it to the rightful claimant, such other person may institute a suit of interpleader against all the claimants for the purpose of obtaining a decision as to the person to whom the payment or delivery shall be made, and of obtaining indemnity for himself:

Amended by Ord. 29/1925.

Replaced by Sec. 2 of Ord. 14/1929.

Provided that where any suit is pending in which the rights of all parties can be properly decided, no such suit of interpleader shall be instituted.

PART V.

SPECIAL PROCEEDINGS.

ARBITRATION.

Arbitration.

59. All references to arbitration by an order in a suit, and all proceedings thereunder, shall be governed in such manner as may be prescribed by Rules.

SPECIAL CASE.

Power to state case for opinion of Court.

60. Where any persons agree in writing to state a case for the opinion of the Court, then the Court shall try and determine the same in the manner prescribed.

SUITS RELATING TO PUBLIC MATTERS.

61. (1) In the case of a public nuisance the Attorney-General, or two or more persons having the consent in writing of the Attorney-General, may institute a suit though no special damage has been caused, for a declaration and injunction or for such other relief as may be appropriate to the circumstances of the case. Public nuisances.

(2) Nothing in this section shall be deemed to limit or otherwise affect any right of suit which may exist independently of its provisions.

62. In the case of any alleged breach of any express or constructive trust created for public purposes of a charitable or religious nature, or where the direction of the Court is deemed necessary for the administration of any such trust, the Attorney-General, or two or more persons having an interest in the trust and having obtained the consent in writing of the Attorney-General, may institute a suit, whether contentious or not, in the Supreme Court to obtain a decree. Public charities

(a) removing any trustee;

(b) appointing a new trustee;

(c) vesting any property in trustees;

(d) directing accounts and enquiries;

(e) declaring what proportion of the trust property or of the interest therein shall be allocated to any particular object of the trust;

(f) authorizing the whole or any part of the trust property to be let, sold, mortgaged, or exchanged;

(g) settling a scheme; or

(h) granting such further or other relief as the nature of the case may require.

 PART VI.

SUPPLEMENTAL PROCEEDINGS.

63. In order to prevent the ends of justice from being defeated the Court may, if it is so prescribed Supplementa proceedings.

(a) issue a warrant to arrest the defendant and bring him before the Court to show cause why he should not give security for his appearance, and if he fails to comply with any order for security commit him to prison;

(b) direct the defendant to furnish security to produce any property belonging to him and to place the same at the disposal of the Court or order the attachment of any property;

(c) grant a temporary injunction and in case of disobedience commit the person guilty thereof to prison and order that his property be attached and sold;

(d) appoint a receiver of any property and enforce the performance of his duties by attaching and selling his property;

(e) make such other interlocutory orders as may appear to the Court to be just and convenient.

Compensation
for arrest,
attachment,
or injunction
on insufficient
grounds.

64. (1) Where, in any suit in which an arrest or attachment has been effected or a temporary injunction granted under the last preceding section

(a) it appears to the Court that such arrest, attachment, or injunction was applied for on insufficient grounds; or

(b) the suit of the plaintiff fails and it appears to the Court that there was no reasonable or probable ground for instituting the same,

the defendant may apply to the Court, and the Court may, upon such application, award against the plaintiff by its order such amount, not exceeding £100, as it deems a reasonable compensation to the defendant for the expense or injury caused to him:

Provided that a Court shall not award under this section an amount exceeding the limits of its pecuniary jurisdiction.

(2) An order determining any such application shall bar any suit for compensation in respect of such arrest, attachment, or injunction.

PART VII.

APPEALS.

APPEALS FROM ORIGINAL DECREES.

Appeals from
decrees of
Subordinate
Courts.

65. Unless otherwise expressly provided by this Ordinance an appeal shall lie from the decrees or from any part of the decrees, and from the orders of all Subordinate Courts to the Supreme Court.

Provided that appeals from Cadi's Courts shall lie to the Supreme Court with the Chief Cadi as assessor.

Appeals from
decrees of
Supreme
Court.

66. Unless otherwise expressly provided in this Ordinance an appeal shall lie from the decrees or any part of decrees and from the orders of the Supreme Court to the Court of Appeal for Eastern Africa.

67. (1) An appeal may lie from an original decree passed *ex parte*. Appeal from original decree

(2) No appeal shall lie from a decree passed by the Court with the consent of parties

68. Where any party aggrieved by a preliminary decree passed after the commencement of this Ordinance does not appeal from such decree, he shall be precluded from disputing its correctness in any appeal which may be preferred from the final decree. Appeal from final decrees where no appeal from preliminary decree.

69. (1) Where an appeal is heard by a Bench of two or more Judges, the appeal shall be decided in accordance with the opinion of such Judges or of the majority (if any) of such Judges. Decision where appeal heard by two or more Judges.

(2) Where there is no such majority which concurs in a judgment varying or reversing the decree appealed from, such decree shall be confirmed.

70. No decree shall be reversed or substantially varied, nor shall any case be remanded, in appeal on account of any misjoinder of parties or causes of action or any error, defect or irregularity in any proceedings in the suit, not affecting the merits of the case or the jurisdiction of the Court. No decree to be reversed or modified for error or irregularity not affecting merits or jurisdiction.

71. Appeals from Subordinate Courts shall be heard by one Judge of the Supreme Court except when in any particular case the Chief Justice shall direct that the appeal be heard by two or more Judges of the Supreme Court; such direction may be given before the hearing of the appeal or at any time before judgment is delivered. Appeals shall be heard by one Judge except when the Chief Justice shall otherwise order.

APPEALS FROM APPELLATE DECREES.

72. (1) Save where otherwise expressly provided in the body of this Ordinance or by any other law for the time being in force, an appeal shall lie to the Court of Appeal from every decree passed in appeal by the Supreme Court, on any of the following grounds, namely:— Second appeal

(a) the decision being contrary to law or to some usage having the force of law;

(b) the decision having failed to determine some material issue of law or usage having the force of law;

(c) a substantial error or defect in the procedure provided by this Ordinance or by any other law for the time being in force, which may possibly have produced error or defect in the decision of the case upon the merits.

(2) An appeal may lie under this section from an appellate decree passed *ex parte*.

73. No second appeal shall lie except on the grounds mentioned in section 72. Second appeal on no other grounds.

No second
appeal in
certain suits

74. No second appeal shall lie in any suit when the amount or value of the subject matter of the original suit does not exceed £50, unless special leave has been first obtained from the second Appellate Court.

APPEALS FROM ORDERS.

Orders from
which appeal
lies.

75. (1) An appeal shall lie from the following orders, and save as otherwise expressly provided in this Ordinance or by any law for the time being in force from no other orders:—

(a) an order superseding an arbitration where the award has not been completed within the period allowed by the Court;

(b) an order on an award stated in the form of a special case;

(c) an order modifying or correcting an award;

(d) an order staying or refusing to stay a suit where there is an agreement to refer to arbitration;

(e) an order filing or refusing to file an award in an arbitration without the intervention of the Court;

(f) an order under section 64;

(g) an order under any of the provisions of this Ordinance imposing a fine or directing the arrest or detention in prison of any person except where such arrest or detention is in execution of a decree;

(h) any order made under rules from which an appeal is expressly allowed by rules.

(2) No appeal shall lie from any order passed in appeal under this section.

Other orders.

76. (1) Save as otherwise expressly provided, no appeal shall lie from any order made by a Court in the exercise of its original or appellate jurisdiction; but, where a decree is appealed from, any error, defect or irregularity in any order, affecting the decision of the case, may be set forth as a ground of objection in the memorandum of appeal.

(2) Notwithstanding anything contained in sub-section (1), where any party aggrieved by an order of remand from which an appeal lies does not appeal therefrom, he shall thereafter be precluded from disputing its correctness.

What Courts
to hear
appeal

77. Where an appeal from any order is allowed it shall lie to the Court to which an appeal would lie from the decree in the suit in which such order was made.

GENERAL PROVISIONS RELATING TO APPEALS.

78. (1) Subject to such conditions and limitations as may be prescribed, an Appellate Court shall have power:—

Power of
Appellate
Court.

- (a) to determine a case finally;
- (b) to remand a case;
- (c) to frame issues and refer them for trial;
- (d) to take additional evidence or to require such evidence to be taken;
- (e) to order a new trial.

(2) Subject as aforesaid, the Appellate Court shall have the same powers and shall perform as nearly as may be the same duties as are conferred and imposed by this Ordinance on Courts of original jurisdiction in respect of suits instituted therein.

79. The provisions of this part relating to appeals from original decrees shall, as far as may be, apply to appeals:—

Procedure in
appeals from
Appellate
decrees and
orders.

- (a) from appellate decrees, and
- (b) from orders made under this Ordinance or under any special or local law in which a different procedure is not provided.

 PART VIII.

REFERENCE, REVIEW AND REVISION.

80. Subject to such conditions and limitations as may be prescribed, any Court subordinate to the Supreme Court may state a case and refer the same for the opinion of the Supreme Court, and the Supreme Court may make such order thereon as it thinks fit.

Reference to
Supreme
Court.

Repealed
Ord. 29/1925

81. Subject as aforesaid, any person considering himself aggrieved—

Review.

Amended
Ord. 29/25

(a) by a decree or order from which an appeal is allowed by this Ordinance, but from which no appeal has been preferred; or

(b) by a decree or order from which no appeal is allowed by this Ordinance

may apply for a review of judgment to the Court which passed the decree or made the order, and the Court may make such order thereon as it thinks fit.

Revision.

82. The Supreme Court may call for the record of any case which has been decided by any Court subordinate to such Supreme Court and in which no appeal lies thereto, and if such Subordinate Court appears:—

Repealed
by Ord. 29/1925.

- (a) to have exercised a jurisdiction not vested in it by law,
or
(b) to have failed to exercise a jurisdiction so vested, or
(c) to have acted in exercise of its jurisdiction illegally or with material irregularity,

the Supreme Court may make such order in the case as it thinks fit.

PART IX.

RULES.

Matters for
which rules
may provide.

O.G. 193/29.
2584/29.
496/30
2243/30
2271/30

83. (1) There shall be a Rules Committee consisting of two judges of the Supreme Court, the Attorney General, and two Advocates of the Supreme Court, one to be nominated by the Law Society of the Colony of Kenya and the other by the Mombasa Law Society which shall have power to make rules not inconsistent with the provisions of this Ordinance and, subject thereto, to provide for any matters relating to the procedure of Civil Courts.

(2) In particular, and without prejudice to the generality of the powers conferred by sub-section (1), such rules may provide for all or any of the following matters, namely:—

(a) the service of summonses, notices and other processes by post or in any other manner either generally or in any specified areas, and the proof of such service;

(b) the maintenance and custody, while under attachment, of live-stock and other moveable property, the fees payable for such maintenance and custody, the sale of such live-stock and property, and the proceeds of such sale;

(c) procedure in suits by way of counterclaim and the valuation of such suits for the purposes of jurisdiction;

(d) procedure in garnishee and charging orders either in addition to, or in substitution for the attachment and sale of debts;

(e) procedure where the defendant claims to be entitled to contribution or indemnity over against any person whether a party to the suit or not;

(f) summary procedure:—

(i) in suits in which the plaintiff seeks only to recover a debt or liquidated demand in money payable by the defendant, with or without interest, arising on a contract express or implied; or

on an enactment where the sum sought to be recovered is a fixed sum of money or in the nature of a debt other than a penalty; or

on a guarantee, where the claim against the principal is in respect of a debt or a liquidated demand only; or on a trust; or

(ii) in suits for the recovery of immoveable property, with or without a claim for rent or mesne profits, by a landlord against a tenant whose term has expired or has been duly determined for non-payment of rent, or against persons claiming under such tenant;

(g) procedure by way of originating summons;

(h) consolidation of suits, appeals and other proceedings;

(i) delegation to any Registrar or other official of the Court of any judicial, quasi-judicial and non-judicial duties; and

(j) all forms, registers, books, entries and accounts which may be necessary or desirable for the transaction of the business of Civil Courts.

(3) Rules made under this section shall be laid as soon as conveniently may be before the Legislative Council; and if a resolution is passed within forty days of their being so laid before the Legislative Council praying that any such rule shall be annulled, such rule shall thenceforth be void, but without prejudice to anything done thereunder.

PART X.

MISCELLANEOUS.

84. (1) Women, who according to the customs and manners of their community ought not to be compelled to appear in public shall be exempt from personal appearance in Court. Exemption of certain women.

(2) Nothing herein contained shall be deemed to exempt such women from arrest in execution of civil process.

85. The provisions of sections 40, 41 and 43 shall apply so far as may be to all persons arrested under this Ordinance. Arrest other than in execution of decree.

86. (1) No Judge, Magistrate, or other judicial officer shall be liable to arrest under civil process while going to, presiding in, or returning from his Court. Exemption from arrest under civil process.

(2) Where any matter is pending before a tribunal having jurisdiction therein, or believing in good faith that it has such jurisdiction, the parties thereto, their advocates and recognized agents, and their witnesses acting in obedience to a summons shall be exempt from arrest under civil process other than process issued by such tribunal for contempt of Court while going to or attending such tribunal for the purpose of such matter, and while returning from such tribunal.

(3) Nothing in sub-section (2) shall enable a judgment-debtor to claim exemption from arrest under an order for immediate execution or where such judgment-debtor attends to show cause why he should not be committed to prison in execution of a decree.

Procedure where person to be arrested or property to be attached is outside district.

Replaced
by ord.
14/1929.

87. (1) ~~Where an application is made to a subordinate Court that any person shall be arrested or that any property shall be attached under any provision of this Ordinance not relating to the execution of decrees, and where such person resides or such property is situate outside the limits of the local jurisdiction of the Court to which the application is made, the Court may in its discretion issue a warrant of arrest, or make an order of attachment, and send to the subordinate Court within the local limits of whose jurisdiction such person or property resides or is situate the warrant or order together with the probable amount of the costs of the arrest or attachment.~~

(2) The subordinate Court receiving such warrant or order shall cause the arrest or attachment to be made, and shall inform the Court which issued or made such warrant or order of the arrest or attachment.

(3) The Court making an arrest under this section shall send the person arrested to the Court by which the warrant of arrest was issued, unless he shows cause to the satisfaction of the former Court why he should not be sent to the latter Court, or unless he furnishes sufficient security for his appearance before the latter Court or for satisfying any decree that may be passed against him by that Court, in either of which cases the Court making the arrest shall release him, and shall inform the Court by whom the arrest was ordered accordingly.

Language of Courts.

88. (1) The language of the Supreme Court shall be English, and the language of subordinate Courts shall be English or Swahili.

(2) Evidence in all Courts other than subordinate native Courts shall be recorded in English, and evidence in subordinate native Courts shall be recorded in English or Swahili.

(3) Written applications to the Supreme Court shall be in English and to subordinate Courts in English or Swahili.

Power to call in assessors.

89. (1) Any Court may, if it thinks fit, and shall upon the request of either party to a cause or matter pending before it in which questions may arise as to the laws or customs of any tribe, caste, or community, summon to its assistance one or more competent assessors, and such assessors shall attend and assist accordingly.

Assessors in causes of salvage, etc

(2) In any Admiralty or Vice-Admiralty cause of salvage, towage or collision, the Court, whether it be exercising its original or its appellate jurisdiction, may, if it thinks fit, and shall upon request of either party to such cause, summon to its assistance, in such manner as it may direct or as may be prescribed, two competent assessors; and such assessors shall attend and assist accordingly.

No. III.

Civil Procedure

1924.

(3) Every such assessor shall be summoned in such manner as the Court may direct, and shall receive such fees for his attendance as may be prescribed to be paid in such manner as the Court may direct.

90. In the case of any affidavit under this Ordinance

Oath on affidavit: by whom to be administered.

(a) any Court, Magistrate, Registrar of a Court, Justice of the Peace, Notary Public, or Commissioner of Oaths; or

(b) any officer or other person whom the Supreme Court may appoint in this behalf may administer the Oath to the deponent.

91. The procedure provided in this Ordinance in regard to suits shall be followed as far as it may be applicable in all proceedings in any Court of civil jurisdiction.

Miscellaneous proceedings.

92. All orders or notices served on or given to any person under the provisions of this Ordinance shall be in writing.

Orders and notices to be in writing.

93. (1) Where and in so far as a decree is varied or reversed the Court of first instance shall, on the application of the party entitled to any benefit by way of restitution or otherwise cause such restitution to be made as will, so far as may be, place the parties in the position they would have occupied but for such decree or such part thereof as has been varied or reversed; and for this purpose the Court may make any orders, including orders for the refund of costs and for the payment of interest, damages, compensation, and mesne profits, which are properly consequential on such variation or reversal.

Application for restitution.

(2) No suit shall be instituted for the purpose of obtaining any restitution or other relief which could be obtained by application under sub-section (1).

94. Where any person has become liable as surety

Enforcement of liability of surety.

(a) for the performance of any decree or any part thereof; or

(b) for the restitution of any property taken in execution of a decree; or

(c) for the payment of any money, or for the fulfilment of any condition imposed on any person, under an order of the Court in any suit or in any proceeding consequent thereon,

the decree or order may be executed against him, to the extent to which he has rendered himself personally liable, in the manner herein provided for the execution of decrees, and such person shall for the purposes of appeal be deemed a party within the meaning of section 34:

Provided that such notice in writing as the Court in each case thinks sufficient has been given to the surety.

Consent or agreement by persons under disability.

95. In all suits to which any person under disability is a party, any consent or agreement as to any proceeding shall, if given or made with the express leave of the Court by the next friend or guardian for the suit, have the same force and effect as if such person were under no disability and had given such consent or made such agreement.

Execution of decree of Supreme Court before costs are ascertained.

96. Where the Supreme Court considers it necessary that a decree passed in the exercise of its original civil jurisdiction should be executed before the amount of the costs incurred in the suit can be ascertained by taxation, the Court may order that the decree shall be executed forthwith, except as to so much thereof as relates to the costs; and as to so much thereof as relates to the costs that the decree may be executed as soon as the amount of the costs shall be ascertained by taxation.

Enlargement of time.

97. Where any period is fixed or granted by the Court for the doing of any act prescribed or allowed by this Ordinance, the Court may, in its discretion, from time to time, enlarge such period, even though the period originally fixed or granted may have expired.

Power to make up deficiency of court fees.

98. Where the whole or any part of any fee prescribed for any document by the law for the time being in force relating to court fees has not been paid, the Court may, in its discretion, at any stage, allow the person, by whom such fee is payable, to pay the whole or part, as the case may be, of such court fee; and upon such payment the document, in respect of which such fee is payable, shall have the same force and effect as if such fee had been paid in the first instance.

Saving of inherent powers of Court.

99. Nothing in this Ordinance shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court.

Amendment of judgments, decrees, or orders.

100. Clerical or arithmetical mistakes in judgments, decrees, or orders, or errors arising therein from any accidental slip or omission may at any time be corrected by the Court either of its own motion or on the application of any of the parties.

General power to amend.

101. The Court may at any time, and on such terms as to costs or otherwise as it may think fit, amend any defect or error in any proceeding in a suit; and all necessary amendments shall be made for the purpose of determining the real question or issue raised by or depending on such proceeding.

Saving of present right of appeal.

102. Nothing in this Ordinance shall affect any present right of appeal which shall have accrued to any party at its commencement.

Amendments and repeals.

103. The enactments mentioned in the Schedule hereto are hereby repealed or amended to the extent specified in the fourth column thereof.

104. Nothing in this Ordinance shall affect any suit or proceeding begun before the commencement of this Ordinance which shall be prosecuted or continued as though this Ordinance had not come into force.

Pending suits.

105. Notifications published, declarations and rules made, places appointed, agreements filed, scales prescribed, forms framed, appointments made, and powers conferred under the Indian Code of Civil Procedure of 1882 as applied to the Colony, or under any other enactment hereby repealed, shall, so far as they are consistent with this Ordinance, have the same force and effect as if they had been respectively published, made, appointed, filed, prescribed, framed, and conferred under this Ordinance and by the authority empowered thereby in such behalf.

Continuance of orders under repealed enactments

106. In every enactment or notification passed or issued before the commencement of this Ordinance in which reference is made to, or to any chapter or section of the Indian Code of Civil Procedure of 1882, or any other enactment hereby repealed, such reference shall, so far as may be practicable, be taken to be made to this Ordinance or to its corresponding Part, order, section, or rule.

Reference to Code of Civil Procedure and other repealed enactments

THE SCHEDULE.

(See Section 103).

ENACTMENTS REPEALED.

Year.	No.	Short Title.	Extent of Repeal.
1882	14	The Indian Code of Civil Procedure as applied to the Colony.	The whole Act.
1907	13	The Courts Ordinance	Sections 8, 18 and Sections 21-25 inclusive.

No. 4 OF 1924.

Title.	An Ordinance to make certain necessary Amendments in the Laws of the Colony and Protectorate of Kenya and for the inclusion of such Amendments in a Revised Edition.
Date of commencement.	[31ST JANUARY, 1924.]
Enactment.	ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof:—
Short title.	1. This Ordinance may be cited as "The General Revision Ordinance, 1924."
Obsolete Legislation	<p>2. The following proclamations and notices are declared to have no further legal effect in the Colony and Protectorate.</p> <p>(1) The Proclamation of His Highness the Sultan of Zanzibar abolishing slavery in Kismayu, Brava, (Merka) and Mogdishu, dated 15th January, 1876.</p> <p>(2) The Proclamation of His Highness the Sultan of Zanzibar forbidding the conveyance of slaves from Kilwa to Pemba, dated 18th April, 1876.</p> <p>(3) The Proclamation of His Highness the Sultan of Zanzibar forbidding slave caravans, dated 18th April, 1876.</p> <p>(4) His Majesty's Acting Agent and Consul General's notice dealing with the right of search for slaves and the freedom of imported slaves, dated 20th September, 1889.</p> <p>(5) The order of His Highness the Sultan of Zanzibar dealing with right of search and freedom of imported slaves dated 20th September, 1889.</p> <p>(6) The Proclamation of the Administrator of the Imperial British East Africa Company dealing with slavery and Coastal Tribes, dated 1st May, 1890.</p> <p>(7) The Proclamation of the Administrator of the Imperial British East Africa Company regarding stolen property and smuggling, dated 2nd May, 1890.</p> <p>(8) The Decree of His Highness the Sultan of Zanzibar dealing with slavery, dated 1st August, 1890.</p>

- (9) The Proclamation of His Highness the Sultan of Zanzibar, dated 20th August, 1890, amending the decree of 1st August, 1890.
- (10) The Notice of the Administrator General of the Imperial British East Africa Company regarding straying cattle, dated 9th October, 1890.
- (11) The aforesaid Administrator General's notice regarding buoys, beacons and other marks, dated 11th February, 1891.
- (12) The Proclamation by the aforesaid Administrator General regarding mineral and land rights, dated 2nd April, 1891.
- (13) The notice by the Administrator of the Imperial British East Africa Company imposing a produce tax dated 3rd October, 1891.
- (14) The Customs Order relating to the storage of kerosene by the aforesaid Assistant Administrator, dated 12th December, 1891.
- (15) The Notice relating to the improvement of Mombasa by the aforesaid Administrator, dated 25th March, 1892.
- (16) The Notice relating to measures by the aforesaid Assistant Administrator, dated 8th April, 1892.
- (17) A Proclamation by His Highness the Sultan of Zanzibar relating to dhows, dated 1st November, 1893.
- (18) A Notice respecting artificers and labourers on the Uganda Railway, dated 17th November, 1896.
- (19) A Notice respecting quarrying issued by His Majesty's Acting Commissioner and Consul General, dated 12th December, 1896.
- (20) A Notice respecting notification of deaths issued by His Majesty's Acting Commissioner and Consul General, dated 18th December, 1896.
- (21) A Notice respecting slaves of deceased persons issued by His Majesty's Acting Commissioner and Consul General, dated 19th December, 1896.
- (22) A Notice respecting Street Cleaning and Lighting issued by His Majesty's Acting Commissioner and Consul General, dated 24th December, 1896.
- (23) A Notice respecting Street Cleaning and Lighting approved by His Majesty's Commissioner and Consul General, dated 3rd March, 1897.
- (24) A Notice respecting land within one mile of the Uganda Railway issued by His Majesty's Commissioner and Consul General, dated 9th May, 1897.

(25) A Notice respecting land acquisition issued by His Majesty's Commissioner and Consul General, dated 12th June, 1897.

(26) A Notice respecting land claimed on Mombasa Island issued by His Majesty's Commissioner and Consul General, dated 16th August, 1897.

(27) A Notice respecting Rules under the India Railway Act issued by His Majesty's Commissioner and Consul General, dated 20th December, 1897.

(28) A Notice respecting a Rule made under the India Railway Act issued by His Majesty's Commissioner and Consul General, dated 1st January, 1898.

(29) An Order respecting the application of Indian Acts issued by The Secretary of State, dated 1st May, 1898.

(30) A Proclamation respecting Limitation of claims under Mahomedan law dated 1st September, 1898.

(31) A Notice respecting slavery issued by His Majesty's Commissioner and Consul General, dated 9th October, 1898.

Regulations
repealed.

3. The following Regulations and Rules are hereby repealed.

(1) Regulations respecting dhows, dated 17th May, 1897.

(2) Regulations respecting stamps dated 25th June, 1897.

(3) Regulations respecting Land Sales dated 8th July, 1897.

(4) Regulations respecting Boundary Marks dated 16th August, 1897.

(5) Waste Lands (Seyidie and Tanaland) Regulations dated 31st August, 1897.

(6) Regulations making Railway Servants Public Servants dated 15th January, 1898.

(7) Regulations making police officers and soldiers Public Servants, dated 8th June, 1898.

(8) Regulations respecting Ukamba Road dues, dated 1st November, 1898.

(9) Quarantine Regulations, dated 16th November, 1898.

(10) The Railway Courts Rules and Orders, 1899.

(11) A Rule respecting Court Fees, dated 18th March, 1899.

(12) Rules respecting fees to be levied in Native Courts, dated 19th July, 1899.

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(13) An Amendment of the Native Courts Regulations 1897, dated 21st October, 1899.

(14) The Native Courts Practitioners Rules, 1899.

(15) The Bubonic Plague Regulations, 1899.

(16) The Street Cleaning and Lighting Regulations, 1900.

(17) Regulations dealing with coinage dated 20th February, 1900.

(18) The Jubaland Cantonment Bazaar Regulations, 1900.

(19) The Ukamba Road Dues Regulations, dated 15th April, 1900.

(20) The Counterfeit Stamps Regulations, 1900.

(21) The Building Regulations, 1900.

(22) The Native Estates Administration Rules and Orders, 1901.

(23) A Rule affecting Court Fees, dated 25th April, 1901.

(24) The Native Courts Rules and Orders Nos. 1 and 2, 1901.

(25) A Rule affecting Court Fees, dated 15th October, 1901.

(26) The Plague Regulations, 1902.

4. The following Ordinances are hereby repealed:—

Ordinance
repealed.

(1) The Indian Tramways Act Application Ordinance, 1902.

(2) The East Africa Penalties Ordinance, 1903.

(3) The East Africa Liquor (Drugs and Perfumes) Ordinance 1903.

(4) The East Africa Lands Surveys Ordinance, 1906.

(5) The Diseases of Animals (Fencing) Ordinance, 1907.

(6) The Registration of Domestic Servants Ordinance, 1910.

(7) The East Africa Volunteer Reserve Ordinance, 1910.

(8) The Quarantine Ordinance, 1912.

(9) The East Africa Volunteer Reserve Amendment Ordinance, 1914.

(10) The Provincial Commissioners (Assistants) Ordinance, 1914.

(11) The Income Tax Ordinance, 1920 and all Ordinances amending the same.

(12) The Designation of Officers Ordinance, 1921.

(13) The Definition of the term "Native" Ordinance, 1921, to take effect on the coming into operation of the Revised Edition of the Laws.

Indian
Inventions and
Designs Act.

5. The Indian Inventions and Designs Act, 1888 as applied to the Colony and Protectorate by an order of the Secretary of State, dated 20th December 1900, is hereby repealed:—

Provided that the protection afforded by the said Act shall continue to apply to inventions and designs registered before the 1st day of June, 1914.

Bird's
Protection
Regulations.

6. The Bird's Protection Regulations, 1901, are amended as follows:—

(1) By the repeal of section 3 and its replacement as follows:—

"Every licence shall expire on the 31st day of December next following the date of issue and on every such licence a fee of S. 10 shall be paid provided that in the case of licences issued after the 30th day of June in any year half such fee shall be payable.

(2) By the deletion in section 5 of the words "or by any officer of the Uganda Railway specially authorised by a sub-commissioner."

Broker's
Regulations.

7. The Broker's Regulations, 1901 are amended as follows:—

(1) By the substitution in section 2 of the words "District Commissioner of a District" for the words "Sub-commissioner of a Province" and the repeal of the words "or from such persons as the Sub-commissioner may appoint for the purpose."

(2) By the repeal of the proviso to the Schedule and the substitution therefor of the following words:—

"Provided that in the case of licences issued after the 30th day of June in any year half the above-mentioned fees shall be payable."

East Africa
Marriage
Ordinance.

8. The East Africa Marriage Ordinance, 1902, is amended as follows:—

(1) By the deletion in section 19 of the words "Secretary to Government," "sub-commissioner" and "Registrar of Deeds."

(2) By the insertion in sections 11 and 51 after the words "native law and custom" of the words "or in accordance with Mohammedan law."

(3) By the substitution in the second schedule of £5 for £1 as the fee for a special licence.

9. The Divorce Ordinance, 1904, is amended as follows:— Divorce
Ordinance.

(1) By the addition to section 2 (1) of the words "Tanganyika Territory."

(2) By the deletion in section 31 of the words "Code of Civil Procedure" and the substitution therefor of the words "law applicable to civil proceedings in the Supreme Court."

10. The Uniforms Ordinance, 1906, is amended as follows:— Uniforms
Ordinance.

(1) By the substitution of the words "Naval, Military or Air Forces" for the words "Naval or Military Forces."

(2) By the addition after the word "Protectorate" of the words "or territories governed by Great Britain or by a British Dominion under a mandate."

11. The East Africa Arms Ordinance, 1906, is hereby amended as follows:— East Africa
Arms
Ordinance.

(1) By the substitution in section 10 of the expressions "10 cents" and "20 cents" respectively for the expressions "one anna" and "two annas."

(2) By the repeal of section 14.

(3) By the substitution in section 32 of the words "the Territorial Force formed under the Territorial Force Ordinance, 1921, in respect of a rifle issued by Government to him" for the part of the section from "Rifle Corps" to "For the purpose of the Volunteer Reserve" both inclusive.

(4) In the definition of "prohibited zone" in section 40, by the substitution of the words "the area specified in Article VI of the Convention for the Control of the Trade in Arms and Ammunition of the 10th day of September, 1919" for the words "The zone specified in Article VIII of the Brussels Act."

12. The Newspaper Registration Ordinance, 1906, is hereby amended by the deletion in section 2 of the words "the chief registrar of the High Court" and the substitution therefor of the words "such person as the Governor may appoint to be registrar for the purposes of this Ordinance." Newspaper
Registration
Ordinance.

Abolition of
Legal status
of Slavery
Ordinance.

13. The Abolition of the Legal Status of Slavery Ordinance, 1907, is amended as follows:—

(1) Sections 4 to 11 both inclusive and section 16 are repealed.

(2) That portion of section 2 which follows the word "Protectorate" is repealed.

(3) That portion of section 3 which follows the words "on the grounds that such person is a slave" is repealed.

Ostrich
Ordinance.

14. The Ostrich Ordinance, 1907, is hereby amended:—

(1) By the substitution in section 9 of the words "to the 31st day of December next following" for the words "for one year only from."

(2) By the deletion in section 16 of the words "the sixth and twelfth months from the date on" and the substitution therefor of the words "June and December in the year in."

Courts
Ordinance.

15. The Courts Ordinance, 1907, is amended as follows:—

(1) In section 6 after the words "Province in which it is situated" the following words are added "or within such area as the Governor may appoint by notice in the Gazette."

(2) Section 10 is repealed and replaced as follows:—

"10. The Governor may grant jurisdiction to any headman appointed under the provisions of the Native Authority Ordinance or to any Council of Elders over the members of the tribe of such headman or council of elders, as the case may be, within such area as the Governor may appoint in each case. Such jurisdiction shall be exercised in accordance with Rules to be made by the Governor-in-Council."

(3) In section 24 the words "judgment shall follow the finding of the senior judge" are deleted and the words "appeal shall be dismissed" substituted therefor.

Judgments
Extension
Ordinance.

16. The Judgments Extension Ordinance, 1908, is amended by the repeal of section 5.

Bills of Sale
Ordinance.

17. The Bills of Sale Ordinance, 1909, is amended by the addition in section 5 after the words "such senior commissioner" of the words "or if any such place is situate in a district not included in any province then the resident Commissioner of such district" and after the words "by the senior commissioner" of the words "or resident Commissioner as the case may be."

Liquor
Ordinance.

18. The Liquor Ordinance, 1909, is hereby amended by the addition to section 2 sub-section 2 of the following proviso:—

"Provided that no person shall sell to a native any perfume, scent or essence containing more than ten per cent of alcohol except by virtue of a special permit which may be granted for each occasion by a District Commissioner."

19. The Post Office Savings Bank Ordinance, 1909, is hereby amended by the substitution of the word "December" for the word "March" wherever occurring and similarly of the word "April" for the word "July."

Post Office
Savings Bank
Ordinance.

20. The Customs Ordinance, 1910, is hereby amended by the substitution in section 201 of the words "shall be liable to be forfeited" for "shall be forfeited."

Customs
Ordinance.

21. The Police Ordinance, 1911, as amended by the Police (Amendment) Ordinance, 1922, is hereby further amended by the addition in section 30 (5) after the word "Uganda" of the words "or the Nyasaland."

Police
Ordinance.

22. The Interpretation Ordinance, 1912, is hereby amended as follows:—

Interpretation
Ordinance

(1) In section 2 the following definitions are inserted:—

"Native" means a native of Africa not of European or Asiatic origin, but shall not include a Somali or Swahili.

"Senior Commissioner" means the officer in charge of a Province and "District Commissioner" means the officer in charge of a District included in a Province.

"Resident Commissioner" means the officer in charge of a District not included in any Province.

Provided that unless the contrary intention appears the expression "District Commissioner" includes "Resident Commissioner" and the expression "Assistant District Commissioner" includes "Assistant Resident Commissioner."

(2) In section 2 to the definitions of "Colony" and "Protectorate" the following proviso is added:—

Provided that in every Ordinance the expression "Colony" shall be taken as including the expression "Protectorate" unless the contrary intention is stated in the Ordinance.

(3) By the insertion of the following section:—

"Where in any Ordinance powers are conferred on or duties are appointed to be performed by a senior commissioner then in districts not included in any province such powers shall be exercised or duties performed by a resident commissioner, and in any such case the word "Province" shall be construed as if it were equivalent to the word "district."

23. The Prisons Ordinance, 1914, as amended by the Prisons (Amendment) Ordinance, 1922, is hereby further amended:—

Prisons
Ordinance

(1) By the addition in section 30 (4) after the word "Uganda" of the words "or the Nyasaland."

(2) By the substitution of "29 sub-section (3)" for "43" in section 33.

(3) By the substitution of "45" for "55" in section 94 (i).

Patents and
Designs
Ordinance.

24. The Patents and Designs Ordinance, 1913, is amended by the substitution in section 16 of the word "January" for the word "April."

Criminal
Procedure
Ordinance.

25. The Criminal Procedure Ordinance, 1913, is amended as follows:—

By the substitution in section 264 (1) of the word "January" for the word "March."

Officers
substituted
for officers
named in
Indian Acts.

26. When any Indian Act applied to the Colony assigns to the officers specified in the first column of the following table any jurisdiction, powers or duties, such jurisdiction, powers and duties shall be exercised by the corresponding officers named in the second column:—

<i>India.</i>	<i>Kenya.</i>
1. Governor - General - in Council, Governor-in-Council or Lieutenant-Governor-in-Council.	Governor-in-Council.
2. Governor-General, Governor or Lieutenant-Governor.	Governor.
3. Chief Controlling Revenue Authority.	Treasurer or such officer as the Governor may by order appoint for the purposes of any such applied Act.
4. Commissioner.	Senior Commissioner.
5. Collector, Deputy Commissioner or District Officer.	District Commissioner.
6. Assistant Collector or Assistant Commissioner.	Assistant District Commissioner.

Rule making
power to be
exercised by
Governor-in-
Council.

27. Where by the terms of any Ordinance the Governor is empowered to make Rules the word "Governor" shall be amended to read "Governor-in-Council."

Provided that nothing herein shall affect the validity of any rule already made by the Governor.

Amendments
to be effected
to Revised
Edition.

28. The amendments set forth in this Ordinance shall be incorporated and effected in the Revised Edition of the Laws and the Commissioners appointed under the Revised Edition of the Laws Ordinance, 1921, are hereby authorised to take the necessary action herein.

No. 5 OF 1924.

Repealed by ord. 8/31

An Ordinance to make provision for giving effect to Article 438 of the Treaty of Peace with Germany as to the property of Christian Religious Missions formerly maintained by Germans in the Colony.

[31ST JANUARY, 1924.]

Date of commencement.

WHEREAS by Article four hundred and thirty-eight of the Treaty of Peace between the Allied and Associated Powers and Germany, signed at Versailles on the 28th day of June, 1919, the Allied and Associated Powers agreed that, where Christian religious missions were being maintained by German societies or persons in territory belonging to them, or of which the government is entrusted to them in accordance with the said Treaty, the property which such missions or missionary societies possessed, including that of trading societies whose profits were devoted to the support of missions, should continue to be devoted to missionary purposes. And that in order to ensure the due execution of that undertaking the Allied and Associated Governments would hand over such property to boards of trustees appointed by or approved by the Governments and composed of persons holding the faith of the mission whose property is involved:

Preamble.

Be it therefore enacted by the Governor of the Colony of Kenya with the advice and consent of the Legislative Council thereof:—

Enactment.

1. This Ordinance may be cited as "The German Missions Ordinance, 1924."

Short title.

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

Interpretation

"Colony" means the Colony and Protectorate of Kenya;

"German national" means a person who is a subject or citizen of Germany or of any component state thereof or who, having at any time been such subject or citizen, has not changed his allegiance as a result of recognition of new states or territorial re-arrangements, or been nationalised in any British Possession or, before the treaty of peace with Germany came into force, in any foreign state in accordance with the laws thereof and when actually resident therein and does not retain according to the law of his state of origin the nationality of that state, and includes an association, partnership, company, or corporation established or incorporated under the law of Germany or any component state thereof, or of any former German Colonial Possession;

"Mission" includes a missionary society, and a trading society whose profits are devoted to the support of any mission.

Vesting of German Mission Property in trustees appointed by a Secretary of State.

3. All property in the Colony, whether movable or immovable and not disposed of by a custodian of enemy property prior to the commencement of this Ordinance (in this Ordinance referred to as "German Mission Property") which, immediately before it became vested in a custodian of enemy property, or on the 10th day of January, 1920, belonged to or was held in trust for a Christian Religious Mission which was before or during the war being maintained by a German national, shall by virtue of this Ordinance be vested in such trustees upon such trust as a Secretary of State may appoint and determine, but subject to the conditions, provisions and agreements contained in any document of title under which such property is held, and it shall be lawful for a Secretary of State to make such appointments and determinations.

Registration of trust deeds.

4. Any instrument declaring the trusts on which German Mission property is to be held and purporting to be signed by a Secretary of State may be registered under any Ordinance relating to the Registration of Documents notwithstanding that it does not contain a description sufficient for the proper identification of any land dealt with by the instrument, and that the signatures to the instrument are not attested or authenticated in manner required by any Ordinance or other law.

Exemption from Stamp Duty.

5. Every declaration of trust made for the purposes of this Ordinance and every transfer or lease to or in favour of any mission made in exercise of any powers contained in any such declaration of trust shall be exempt from Stamp Duty.

Transfer not a breach of prohibition of assignment.

6. A declaration of trust made for the purposes of this Ordinance, and a transfer or letting made in exercise of any power contained in any such declaration of trust shall not be deemed to be a breach of any provision prohibiting or restricting assignment, sub-letting or parting with possession, which may be contained in any grant, lease, agreement, or licence under which any German Mission property is held, or give to a German national, whose interest is extinguished, any claim against the trustees to or in favour of whom the transfer or declaration of trust is made.

No. VI.

Criminal Procedure (Amendment)

1924.

No. 6 OF 1924.

An Ordinance to Amend the Criminal Procedure Ordinance, 1913.

[31ST JANUARY, 1924.] Date of commencement.

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

1. This Ordinance may be cited as "The Criminal Procedure (Amendment) Ordinance, 1924," and shall be read as one with "The Criminal Procedure Ordinance, 1913," hereinafter referred to as "the Principal Ordinance." Short title.

2. Section 427 of the Principal Ordinance is hereby amended by adding after the words "expenses of any" the words "Juror, Assessor," Amendment of Section 427 of the Principal Ordinance

No. 7 OF 1924.

Title.	An Ordinance to Amend Further the Law Relating to Masters and Servants and in Particular to Regulate the Residence of Native Families on Areas outside Native Reserves.
Date of commencement.	[31ST JANUARY, 1924.]
Preamble	WHEREAS it is desirable to encourage resident labour on farms and to take measures for the regulation of the squatting or living of natives in places other than those appointed for them by the Government and for the preservation of law and order amongst such natives and whereas it is expedient to amend the law relating to Masters and Servants accordingly.
Enactment.	Be it therefore enacted by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof:—
Short title.	1. This Ordinance may be cited as “The Master and Servants (Amendment) Ordinance, 1924,” and shall be read as one with the Master and Servants Ordinance, 1910, hereinafter referred to as “the Principal Ordinance” and all Ordinances in amendment thereof.
Definitions.	<p>2. For the purposes of this Ordinance the expression:—</p> <p>“Farm” shall mean any area of land (other than an area of land situated in a Township or gazetted Trading Centre) not included in a Native Reserve whether such land is leased or sold by the Crown or not and whether such area is unalienated Crown Land or Forest Reserve or not but shall not include the land at Freretown granted to the Church Missionary Society by His Highness the Sultan of Zanzibar for the purpose of settling released slaves thereon, provided, however, that settlement on the land shall be in accordance with the purpose of the original grant.</p> <p>“Magistrate” shall mean the Magistrate having jurisdiction in the area in which a farm is situate.</p> <p>“Occupier” shall mean and include the owner or lessee or any other person having a legal right to occupy a farm and shall also mean and include in respect of unalienated Crown Lands the Commissioner of Lands and in respect of Forest Reserves the Conservator of Forests.</p> <p>“Family” shall mean a male native together with his wife or wives and children, if any.</p>

No. VII. Master and Servants (Amendment)**1924.**

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

"Mission" shall mean any Mission recognised as such by the Governor.

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

Where natives may reside on farms.

(a) the occupier thereof,

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

(c) a native in actual employment on such farm under a contract made under the provisions of the Principal Ordinance,

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

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

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

4. (1) When the head of a family has entered into a contract of service for a period of not less than 12 months as hereinafter provided such family may also be permitted to reside on such farm.

Contract of service to work on farm.

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

(a) for a term which shall not be less than one year and shall not exceed five years, notwithstanding anything to the contrary contained in the Principal Ordinance,

(b) for the head of a family and any male member thereof resident on the farm who is of the apparent age of 16 years or over or who shall attain that age during the continuance of the contract to work for the occupier for not less than 180 days at the election of the occupier in any one year during the term of such contract and for the occupier to provide employment for that number of days for each such person,

No. VII. *Master and Servants (Amendment)* 1924.

(c) for the supply by the occupier of building material for the family's huts,

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

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

(f) for the termination of the contract by not less than six months' notice on either side. Provided that the term of residence on a farm shall in no case be less than one year except with the approval of a Magistrate,

(g) for the removal by the family of crops cultivated by such family or for payment by the occupier of compensation in lieu thereof,

(h) in the case of Missions, for the regular attendance of the children of the family at school for the purpose of education as defined in Section 12 of this Ordinance.

(3) Any contract under this Section may with the consent of the parties and of the attesting officer relate to a group of farms in the same district.

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

(5) A Magistrate or other attesting officer may refuse to attest any contract which does not provide for a fair remuneration in money having regard to the local rates of wages, or which in his opinion is likely to lead to a breach of the provisions of this Ordinance, provided that remuneration in money may be waived in such cases as the Governor in Council may in the public interest direct.

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

When native
may not reside
on farms.

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

(2) No native shall move his family from the jurisdiction of an official Headman, not being a Headman appointed to exercise jurisdiction on a farm, to a farm unless he has previously produced to the District Commissioner of the area in which such family is residing a permit signed by the Magistrate of the area in which the farm is situated authorising such family to reside on such farm. The head of the family shall provide the District Commissioner with full particulars as regards his name and location and his wives and children, if any, proceeding with him. Such information

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1924.

shall be endorsed on the permit by the District Commissioner who shall also record the particulars in a Register to be kept by him.

6. Any Magistrate, or any person duly authorised in writing in that behalf by a Magistrate or any Police Officer or Justice of the Peace may demand from any occupier the production of any contract entered into under the provisions of Section 4 hereof and such occupier shall forthwith produce such contract.

Contract to be produced.

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

Register of resident natives.

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

Register of resident natives' cattle.

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

Registers to be produced.

10. (1) Any native lawfully residing on a farm by virtue of a permit or contract under Sections 3 and 4 of this Ordinance may with the consent of the occupier thereof, take on such farm any stock which is his property on such conditions as to numbers or otherwise as may be agreed by the occupier thereof and such native with the approval of a Magistrate. Every head of cattle over the age of six months so taken on such farm and all increase thereof over the age of six months shall be branded by such occupier with his brand together with the letter "S". Nothing in this Section shall be construed as entitling any stock to be moved in contravention of any restrictions imposed under the law for the time being in force relating to the Diseases of Animals. Provided that should there be any such restrictions in force at the time of the termination of such permit or contract prohibiting the moving of stock from such farm such stock shall remain on such farm without charge, and the owner thereof may also remain on such farm until such restrictions are removed, unless other arrangements are made for the care or disposal of such stock to the satisfaction of the parties and a Magistrate. Provided also that in the event of any such cattle being removed from such farm the owner of such cattle shall first produce them to the occupier of such farm who shall cause such cattle to be re-branded with his brand reversed.

Movement and branding of resident natives' cattle.

No. VII. *Master and Servants (Amendment)* 1924.

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

Prohibition
against
payment by
natives.

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

Natives
employed on
Mission lands.

12. Natives employed on farms in the occupation of Missions in receiving or imparting industrial or technical instruction with or without literary or theological instruction or training for not less than 180 days in each year shall be exempt from the provisions of Section 3 of this Ordinance provided that such instruction or training is under proper and responsible control to the satisfaction of a Magistrate.

Sections 24, 25
and 27 of the
Principal
Ordinance not
to apply to
resident
natives.

13. The provisions of Sections 24, 25 and 27 of the Principal Ordinance in so far as they relate to housing and to the supply of blankets and cooking utensils shall not apply to any native residing on a farm under the provisions of Section 3 or 4 of this Ordinance.

Cognizable
offences.

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

(2) A Magistrate may in his discretion rescind any Contract of Service where it has been proved to his satisfaction that there has been a breach of the terms thereof or on the application of the employer when the servant has been convicted of a criminal offence and may cancel any permit given by an occupier in contravention of the provisions of this Ordinance.

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

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

Penalty.

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

No. VII. *Master and Servants (Amendment)*

1924.

16. Sub-section (6) (a) of Section 3 of the Master and Servants Amendment Ordinance, 1919, is hereby repealed and the following sub-section is substituted therefor:—

Amendment of
Section 3 (6)
(a) of the
Master and
Servants
Amendment
Ordinance,
1919.

(6). (a) To institute proceedings in respect of any offence committed by an employer against any of the provisions of the Master and Servants Ordinance, 1910, or of any Ordinance amending the same, except where otherwise provided under Sections 9 and 14 of this Ordinance, and to prosecute and appear in his own name in respect of the same, or”

17. Sub-section (3) of Section 2 of the Master and Servants Amendment Ordinance, 1918, is hereby repealed and the following sub-section substituted therefor:—

Amendment of
sub-section 2
(3) of the
Master and
Servants
(Amendment)
Ordinance,
1918.

“(3) Notwithstanding anything contained in the Principal Ordinance it shall be competent for an employer and a servant to enter into a contract of service,

(a) Either orally or in writing, for the servant to work for the employer for 30 days (in succession or otherwise at the election of the employer) and in such cases,

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

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

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

(iv) the contract shall be known as a “30 days contract” and shall not extend beyond a period of 42 days from the making thereof.

(b) In writing, for the servant to work within a specified calendar period for the employer for a definite number of days (in succession or otherwise at the election of the employer) and in such case

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

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

(iii) the contract shall be known as a “special contract.”

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

SCHEDULE.

SECTION 4, ORDINANCE No. VII OF 1924.

Memorandum of Agreement made, this _____ day of _____

1. Full name of employer.

19____, by and between¹

2. Address.

of².

3. Full name of native as given on Registration Certificate.

(hereinafter referred to as the employer) and³
Registered No. _____

4. Insert name of native's district, location and Chief.

of⁴

(hereinafter referred to as the native) whereby it is agreed.

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

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

(3) That during the period of this Agreement the native and every male member of his family who is of the apparent age of 16 years or over or who shall attain that age during the continuance of this contract and is resident on the employer's farm shall each work for the employer, at such times as the employer may direct, for not less than⁵ _____ days at the election of the occupier in each period of twelve months, and that the employer shall provide employment for the native and for the male members of his family for such number of days.

Not to be less than 180 days but may be more if agreed.

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

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

(5) That the employer agrees to pay to the native and to the male members of his family wages at the rate of _____ for every⁶ _____, and⁷ _____.

Insert conditions as to rations or other consideration if agreed upon, or strike out if inapplicable.

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

No. VII. Master and Servants (Amendment)

1924.

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

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

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

(9) In the event of this Agreement being determined the native shall be entitled to remove all his movable property on the farm but shall not move any buildings and shall not be entitled to any compensation therefor or for any improvements to immovable property made by him.

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

(This Clause to be inserted only in the case of Missions or farms on which schools to the satisfaction of the Magistrate are provided, otherwise to be struck out).

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

AS WITNESS the hands of the parties hereto.

Witness to the signature of the employer. }

Witness to the signature or mark of the native. }

No. 8 OF 1924.

An Ordinance further to Amend the Widows and Orphans Pension Ordinance. Title.

[5TH JULY, 1924.] Date of commencement.

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

1. This Ordinance may be cited as "The Widows and Orphans Pension (Amendment) Ordinance, 1924," and shall be read as one with the Widows and Orphans Pension Ordinance, 1921, hereinafter referred to as "the Principal Ordinance," and all amendments thereto. Short title.

2. Sub-section 3 (2) of the Principal Ordinance is hereby repealed and the following sub-section and clauses are substituted therefor:— Amendment of Sub-section 3 (2) of the Principal Ordinance.

(2) (a) Subject to the same exceptions, every European Officer who was in, or selected for appointment to, the East African Service on the 1st of April, 1921, may, if at the time of election he is in the Service of this Government, by a written notice addressed to the Crown Agents and received by them before the 1st October, 1922, elect to become a contributor; and if he so elect, he shall contribute as from the first day of the month after that in which his notice was received by the Crown Agents.

(b) Subject to the same exceptions, any European officer in the Service of the Government, who was in, or selected for appointment to the East African Service on the 1st of April, 1921, and who has not since become a contributor may apply to this Government for special permission to become a contributor, and if, after the examination of the officer by a Government Medical Board, the Governor in his discretion decides that such permission should be granted, the officer shall contribute as from the first day of the month next after that in which the Governor's decision is notified to him.

3. Clause 4 (1) (b) of the Principal Ordinance is hereby repealed and the following clause is substituted therefor:— Amendment of Clause 4 (1) (b) of the Principal Ordinance.

(1) (b) Officers, Non-Commissioned Officers and men of the active list of the Navy, the Regular Army, or the Royal Air Force temporarily employed by an East African Government in either a military or civil capacity, and all Officers and Non-Commissioned Officers of the King's African Rifles, except those holding pensionable posts under the Government.

No. VIII. Widows and Orphans Pension (Amendment) 1924.

Amendment of
Sub-section 4
(1) of the
Principal
Ordinance.

4. Sub-section 4 (1) of the Principal Ordinance is hereby amended by the addition of the following clauses:—

(e) Persons whose engagement is for a specified period which is less than twenty months or persons whose engagement not being for a specified period is terminable at one month's notice or less.

(f) Persons who are unmarried and are at the time of employment under the age of twenty-one; provided that if they are otherwise liable to contribute under the terms of this Ordinance, they shall, on becoming married or on reaching the age of twenty-one, forthwith become contributors.

Amendment of
Clause 5 (1) (b)
of the
Principal
Ordinance.

5. Clause 5 (1) (b) of the Principal Ordinance is hereby amended by the deletion of the words "after medical examination" and by the substitution thereof of the words "after examination by a Government Medical Board."

Amendment of
Sub-section 5
(1) of the
Principal
Ordinance.

6. Sub-section 5 (1) of the Principal Ordinance is hereby amended by the addition of the following clause:—

(d) No officer shall, after attaining the age of 49, contribute at a higher rate than that at which he was contributing before attaining that age.

This clause shall have effect from the 1st of April, 1921.

Amendment of
marginal note
to Section 9
of the
Principal
Ordinance.

7. The marginal note to Section 9 of the Principal Ordinance is hereby amended by the deletion of the word "contribution" and by the substitution thereof of the word "contributors."

Amendment of
Sub-section 14
(1) of the
Principal
Ordinance

8. Sub-section 14 (1) of the Principal Ordinance is hereby amended by the deletion of the figures II (2) and by the substitution thereof of the figures 11 (2)

Amendment of
Section 21 of
the Principal
Ordinance.

9. Section 21 of the Principal Ordinance is hereby amended by the deletion of the words "ceases to assist" and by the substitution thereof of the words "does not assist or."

No. 9 OF 1924.

An Ordinance to Regulate the Making of Private Streets in Townships. Title.

[2ND JULY, 1924.] Commencement

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

1. This Ordinance may be cited as "The Township Private Streets Ordinance, 1924." Short title.

2. The Governor-in-Council may, from time to time, by proclamation declare that all or any of the provisions of this Ordinance shall be in force in any municipality or township or part thereof and, upon the publication of any such proclamation, the said provisions shall extend to and be in force in the municipality or township or part thereof mentioned therein. Operation of Ordinance.

3. In this Ordinance, unless the context otherwise requires, the following terms shall have the following meanings:— Definition of items.

"Local Authority" means the Council of any municipality constituted under the Municipal Corporations Ordinance, 1922, and any authority appointed under the East Africa Townships Ordinance, 1903, for the purpose of the said Ordinance and any other body constituted and appointed under this Ordinance.

"Municipality" means the area under the control of a municipality, constituted under the Municipal Corporations Ordinance, 1922.

"Owner" shall in the case of freehold property mean the person (other than His Majesty) owning such property and in the case of leasehold and other immovable property shall mean the person (other than His Majesty) holding such property directly from the Crown (or from a Local Authority) as lessee or licensee and includes any agent who receives rents or profits for such person and also any superintendent, overseer or manager of a lessee or licensee from the Crown (or from a Local Authority) in respect of any holding on which he resides as such superintendent, overseer or manager.

"Private street" means a street which is not a public street.

"Public street" means any street which is or has been usually repaired or maintained in whole or in part by the Government or any Local Authority, or which has become vested in the Government or such Local Authority under any Ordinance or by operation of law.

“Street” means any highway, road, lane, footway or passage or any lands reserved therefor, within the area of a Local Authority, used or intended to be used as a means of access to two or more premises or areas of land in different occupation, whether the public have a right of way thereover or not and includes all channels, ditches, drains, sidewalks, bridges, culverts and other works appurtenant thereto.

“Township” means any township proclaimed under the East Africa Townships Ordinance, 1903.

Making of new private streets.

4. (1) Any person who intends to form or lay out any new private street or to widen, extend or alter any street shall make written application to the Local Authority for permission to do so and shall with such application submit plans, longitudinal and cross sections and specifications showing the following particulars, namely:—

(a) The intended levels, gradients, direction and width of the street;

(b) The street alignment and the building lines and the lines of carriageway and footways and, if any, the lines of spaces to be reserved for the planting of trees or shrubs;

(c) The mode of construction and the materials proposed to be used;

(d) The intended lines, levels, gradients and dimensions of the proposed sewers and drains, or means of drainage;

(e) The relative level of the street and its sewers and drains with the adjacent land and levels of the said land;

(f) The means of drainage of the buildings erected or to be erected fronting or abutting thereon;

(g) (if desired by the Local Authority) the estimated volume, expressed in cubic feet per second, of sewage and rain water to be conveyed by the proposed sewers and drains and the carrying capacity of the said sewers and drains;

(h) The proposed method of the disposal of the sewage and rainwater conveyed by the proposed sewers and drains.

(2) The particulars mentioned in the immediate preceding clauses (a) to (h) inclusive, shall be fixed and determined by the Local Authority.

(3) Any person who makes application as aforesaid shall furnish such additional plans, specifications, sections, levels and information as the Local Authority may require.

(4) Within 30 days after the receipt of any application as aforesaid or within thirty days after the receipt by the Local Authority of any further plans, sections, levels, specifications or

information asked for, the Local Authority shall either refuse the application or sanction the making of such street subject to such alterations and modifications of the plans, sections and specifications and such other lawful conditions as the Local Authority may impose.

(5) Such sanction may be refused,

(a) if the proposed street would conflict with any arrangements which have been made, or which are in the opinion of the Local Authority likely to be made for carrying out any general scheme of street improvement or town planning;

(b) if the proposed street is not designed so as to connect at one end with a street which is already open or with a street the construction of which has been sanctioned by the Local Authority;

(c) if the requirements of this Ordinance are not complied with, or

(d) if the requirements of the Local Authority under this section are not complied with.

(6) The Local Authority may prohibit the erection of any buildings fronting or abutting on any new street in any case where any part of the proposed buildings would be within a distance of fifteen feet from the boundary of the street until sanction for the formation of such street has been granted.

(7) The plans, levels, sections and specifications approved by the Local Authority, together with any conditions they may impose, shall, except in so far as they may afterwards be altered by agreement with the Local Authority, be adhered to by the applicant and his successors and by any person erecting any buildings fronting or abutting on the street.

(8) In the event of part of any new private street for the formation of which sanction has been obtained not being formed or laid out within two years from the date of such sanction, the sanction shall lapse and it shall be necessary before more of the street is formed or laid out to obtain fresh sanction. The approval or sanction of any proposed new private street by any official of the Government or other competent authority prior to the operation of this Ordinance shall be deemed to be sanction by the Local Authority for the purpose of this part of this section.

5. Any person presenting an application to the Local Authority for sanction to form or lay out any new private street shall fulfil any conditions which the Local Authority may in sanctioning the application impose with regard to the following matters, namely:—

Conditions
may be
imposed by
Local
Authority.

(1) The avoidance of a *cul-de-sac* :

(2) The provision of suitable and convenient accesses to the street by cross streets, continuation of streets or otherwise :

(3) The formation of lanes (parallel to the street or otherwise) or other secondary means of access to buildings for the purpose of removing refuse :

(4) The fixing of the line, levels, width, position and direction of the street, carriageways and footways so as to make provision for the amenity of the locality, for convenient communication with other streets, for gradients suitable for traffic, for the convenient drainage of the streets and footways and of buildings fronting or abutting on the same and for areas for light and ventilation :

(5) The continuation of existing streets, the provision of main traffic streets in directions to suit the public convenience and of streets communicating with adjacent land :

(6) Provision for carrying off the surface water, and

(7) The rounding off, or truncating of street corners :

Local Authority's directions to be observed.

6. No person shall form or lay out or begin to form or lay out any new private street or erect or begin to erect any buildings on any plots abutting thereon, or widen, extend or otherwise alter any street or make any excavation for any of the afore-mentioned purposes otherwise than in accordance with the directions of the Local Authority.

Private street, when properly paved, etc., may be declared public street.

7. Where any private street or part thereof has been levelled, paved or metalled, kerbed, channelled, sewered and drained, or otherwise made good in a permanent manner to the satisfaction of the Local Authority, the Local Authority shall, upon the request of the owner or of any of the owners of such street and upon the concurrence in writing in such request by the owner or the owners of the greater part of the frontage of such street, declare, within three months of the date of such concurrence, the same to be a public street, and thereupon such private street or part thereof shall become a public street.

Power of Local Authority to construct and maintain private streets.

8. (1) If any private street, or any part thereof, be not constructed or maintained to the satisfaction of the Local Authority, the Local Authority may from time to time resolve with reference to such street, or part thereof, to do any one or more of the following works (herein called "private street works") that is to say:—to sewer, drain, level, pave, kerb, metal, channel, or make a carriageway or footway by any method; and the expenses incurred by the Local Authority in executing such private street works, or in renewing and maintaining them, or such part of the expenses as may be deemed reasonable by the Local Authority, shall be apportioned among the premises fronting, adjoining, abutting, or served by such street or part thereof and shall be recoverable from the owners of such premises by the Local Authority.

(2) Before passing any such resolution, the Local Authority shall serve upon the owners of all premises affected thereby a notice:—

(a) Indicating the works of construction proposed to be undertaken and the estimated probable cost thereof; and,

(b) Stating a place at which the plans and particulars of the said works, together with a provisional apportionment of the cost thereof, may be inspected;

and shall afford an opportunity for the hearing of any objection to the proposed work, or to the proposed apportionment of the cost thereof, in such manner as may be ordered or prescribed by the Local Authority.

(3) The Local Authority may at any time resolve to contribute any proportion of the expense of any such work of construction which would otherwise be recoverable from the owners of any such premises.

(4) The said expenses shall be apportioned according to the frontage of the respective premises, provided that the Local Authority may have regard to the greater or less degree of benefit to be derived by any premises from any work so undertaken.

(5) The Local Authority may include in any such apportionment any premises which do not front, adjoin or abut on the street or part thereof, but access to which is obtained from the street by means of a lane, passage or otherwise, and which, in their opinion, would be benefitted by any work so undertaken and fix the sum so apportioned to be charged against any such premises accordingly.

(6) Every apportionment made by the Local Authority shall be published in the Gazette.

(7) Any person aggrieved by any apportionment or resolution made under this Section may appeal to the Court of a First Class Magistrate having jurisdiction within the area, provided such appeal is made within one month from the date of the publication of the notice in the Gazette. The Court, which shall sit with two assessors, may make a new apportionment, or such other order as it may deem just. Such apportionment or order shall be final and conclusive.

(8) The Court may on the application of any person quash in whole or in part or may amend the resolution, plans, sections, estimates, and provisional apportionments, or any of them, on the application either of any objector or of the Local Authority. The Court may also, if it thinks fit, adjourn the hearing and direct any further notices to be given.

(9) No objection as aforesaid shall be made in any manner other than as provided in this Ordinance.

(10) The costs of any proceedings before a Court of First Class Magistrate sitting with two assessors in relation to objections under this Ordinance shall be in the discretion of the Court and the Court shall have power, if it thinks fit, to direct that the whole or any part of such costs ordered to be paid by an objector or objectors shall be paid in the first instance by the Local Authority and charged as part of the expenses of the works on the premises of the objector or objectors in such proportions as may appear just.

(11) It shall be lawful for the parties to agree to the assessors referred to in this section and failing such agreement any two assessors may be nominated by the Magistrate.

(12) Any premises liable to the payment of a proportionate part of the expenses incurred by the Local Authority shall stand and remain charged with the sum apportioned on them, or of such part thereof as remain unpaid, as a charge with interest at the rate of 6% per annum if not paid within six months from the date of the rendering of the account with effect from the date of expiry of the said six months, which charge shall take priority over all encumbrances and charges, with the exception of Crown debts and Municipal or Township rates, whether such encumbrances and charges are prior in point of time or not.

Register of charges

(13) The Local Authority shall keep a register of charges under this Ordinance and of the payments made in satisfaction thereof and the register shall be open to inspection at all reasonable times on payment of a sum not exceeding \$ 2 in respect of each search and the Local Authority shall furnish copies of any part of such register to any person applying for the same on payment of such reasonable sum as may be fixed by the Local Authority.

Temporary construction of private streets.

9. (1) Where, in the opinion of the Local Authority, the immediate construction of certain private street works on any private street or part thereof, in a permanent manner, is not required, the resolution may provide for the construction of such works in a temporary manner and the apportionment of the expenses among the premises may include an annual charge for the maintenance and renewal of such temporary works; which shall be recoverable from the owners in the manner prescribed in Section 8.

(2) The construction of temporary private street works shall not preclude the Local Authority from resolving at a later date that such works shall be replaced by other works constructed in a permanent manner or that the works be extended or new works on the same street be constructed. Provided that a period of at least two years shall elapse before a new resolution in respect of the construction of such new works on the same street shall be passed, and provided that the procedure laid down in Section 8 shall be followed in the case of any new resolution.

10. (1) Where the ownership of land charged with expenses of private street works or their maintenance has changed between the date of a resolution charging such land, or of an order of a Court arising out of any appeal under Section 8 of this Ordinance, and the date on which any payment becomes due, the new owner shall be liable for the sum due. Liability on change of ownership.

(2) Where the land has been sub-divided between the said dates, decision regarding the apportionment of the sum due, or any sums which may subsequently become due under the resolution or order of Court, between the owners of the sub-divisions shall rest with the Local Authority without appeal.

11. Any person who contravenes any of the provisions of this Ordinance or the requirements of any Local Authority thereunder shall be liable, on conviction, to a fine not exceeding £100: and in such case the Local Authority may take such steps as may be necessary to do anything omitted to be done in contravention of this Ordinance or to remove or restore to its original condition any work or thing done in contravention of this Ordinance and that at the expense of the persons so contravening this Ordinance and such expense shall be recoverable as a civil debt. Penalties

No. 10 OF 1924.

Title.	An Ordinance to Amend the Law Relating to Trespass.
Date of commencement	[2ND JULY, 1924.]
Enactment.	ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof:—
Short title	1. This Ordinance may be cited as “The Trespass Ordinance, 1924.”
Definitions.	<p>2. In this Ordinance, unless inconsistent with the context “Native” shall include Somali and Swahili.</p> <p>“Enclosed land” shall mean any lands, either private or public, enclosed or surrounded with any fence, hedge, wall or other erection by which the boundaries thereof may be known or recognised or which may be partly so enclosed or surrounded and partly with a river so that the whole boundaries thereof may be known or recognised.</p> <p>“Cultivated lands” include ploughed or tilled land, land under crops, and plantations.</p>
Penalty for unlawful entry upon cultivated or enclosed lands.	<p>3. Any person who shall, without reasonable excuse, whereof the burden of proof shall lie upon him, enter upon the cultivated or enclosed lands of any other person, without the consent of the owner, occupier or person in charge thereof, shall be guilty of an offence, and, on conviction, shall be liable to a fine not exceeding fifty shillings, and, in default of payment, to imprisonment of either description for a term not exceeding one month.</p>
Damage to fences.	<p>4. Any person who shall, without reasonable excuse, whereof the burden of proof shall lie upon him, creep through a wire fence, or tie the wires thereof to each other, or loosen the poles or supports of such fence, shall be guilty of an offence, and, on conviction, shall be liable to the penalties prescribed in Section 3 of this Ordinance.</p>
Cognizance of Offences.	<p>5. No Court shall take cognizance of an offence under this Ordinance except upon a report made to a Police Officer or upon a complaint made to such Court by the owner, occupier or person in charge of cultivated or enclosed lands, or the owner or person having the supervision of a wire fence, as the case may be.</p>
When person committing an offence may be arrested.	<p>6. (1) When any person is seen or found committing an offence under this Ordinance, the owner, occupier or person in charge of cultivated or enclosed lands, or the owner or person having the supervision of a wire fence, as the case may be, may require such person so seen or found to give his name and address, and if such person shall fail to comply with such demand, or if such person be</p>

a native and on demand thereof shall fail to produce his Registration Certificate, and the person demanding the name and address or Registration Certificate of such person has reason to believe that, except by arresting him, such person may not afterwards be found without undue delay, trouble or expense, he may arrest such person without warrant.

(2) A person apprehended under this section shall be taken with all practicable speed before a Magistrate and shall not be detained, without a warrant, longer than is necessary for the purpose.

(3) A person making an arrest under the provisions of sub-section (1) of this section may make over any person so arrested to a Police Officer who shall take the person arrested with all practicable speed before a Magistrate and shall not detain him without a warrant, longer than is necessary for that purpose.

(4) A person making over a person arrested to a Police Officer under the provisions of the last preceding sub-section shall give such Police Officer a written and signed statement setting out the circumstances under which the arrest was made.

7. Any person who upon being required to give his name and address shall give a false or fictitious name or address shall be guilty of an offence, and, on conviction, shall be liable to the penalties prescribed in section 3 of this Ordinance. Penalty for giving false name and address

8. The Trespass Ordinance, 1913, and the Trespass Amendment Ordinance, 1914, are hereby repealed. Repeal.

DATE OF COMMENCEMENT.

1. 1. 25.
VIDE O.G. 990/24

No. 11 OF 1924.

Title, **An Ordinance to Provide for the Exploitation of
Certain Lands for Oil.**

Date of
commencement

[2ND JULY, 1924.]

Enactment.

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

Short title and
commencement
DATE OF COMING INTO
OPERATION 1-1-25
VIDE O.G. 938/24

Definitions.

1. This Ordinance may be cited as the "Oil Production Ordinance, 1924," and shall come into operation on such date as the Governor-in-Council by notice in the Gazette shall determine.

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

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

"Land-owner" includes also a mortgagee, grantee and a lessee, and any person occupying land under a licence from the Crown.

"Minerals" includes metals and precious stones, but does not include coal, oil, or common minerals.

"Prospecting" includes all modes of prospecting or searching

"Mineral Oil" includes bitumen, asphalt, and other bituminous substances with the exception of coal.

"Oil" includes all descriptions of mineral oil and natural gas.

"Private Land" includes lands privately owned and land the subject of a grant, lease or licence from the Crown.

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

Application of
Ordinance.

3. The provisions of this Ordinance shall extend to all land situate within the Colony and Protectorate of Kenya.

Providing, however, that nothing herein contained shall be deemed to authorise any person to prospect or mine on or under:—

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

(b) lands held under any title which gives the holder the rights of working oil, provided that those rights are recognised by the Governor.

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

(d) land over which prospecting or mining rights have been granted by the Governor or by or on behalf of His Majesty under the Mining Ordinance, 1912, or any Ordinance amending or substituted for such Ordinance, and during such time as such rights shall be subsisting except by or on behalf of the persons to whom such rights shall have been granted.

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

(f) land the site of or within 300 yards of any building, or the site of or within 500 yards of any artificial dam or reservoir, the property of the Crown or of the Government, except with the sanction of the Governor.

(g) private land, where the mineral rights are vested in the Crown, except with the consent of the owner of the land; provided that such exemption shall cease upon payment of compensation to the landowner for the loss resulting from the cesser of such exemption, such compensation, if not otherwise agreed upon, to be determined by arbitration. The person desiring the cesser of such exemption, and the land-owner shall be deemed parties of such arbitration.

(h) lands declared by the Governor-in-Council by notice in the Gazette to be exempt from the operations of this Ordinance.

(i) a street, road, highway, or road reserve, without the consent of the Governor or public body having the control thereof.

(j) salt licks, except with special permission of the Commissioner of Mines.

4. Land reserved for the use of natives under the provisions of any Ordinance shall, for the purposes of this Ordinance, be deemed to be private land, and the administrative authority of each reserve for the time being shall be deemed to be the owner.

Native Reserves.

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

Unauthorised prospecting.

6. The officers for the time being appointed under the Mining Ordinance, 1912, or under any Ordinance amending or in substitution therefor, shall be deemed to be the officers appointed for the administration of this Ordinance and the powers vested in them by virtue of the Mining Ordinance, 1912, shall be taken as

Officers and powers.

full and sufficient authority for the administration of this Ordinance. These powers shall include the holding of the Commissioner of Mines Court, vesting of authority in Wardens, Inspectors, Registrars and other officers, surveys, inspections, recovery of rent, fees, penalties and monies payable under this Ordinance, and all powers necessary for the full administration of this Ordinance, so far as those powers are consistent with the provisions of this Ordinance.

Regulations.

7. The Governor-in-Council may make regulations to provide for the granting of licences or leases to prospect and mine for oil and for the effective control of any rights granted, and for the better carrying out of the provisions of this Ordinance, and for the following particular purposes:—

(a) fees, rents and royalties payable.

(b) for regulating safety in mining operations, protection of employees, mode of inspection and powers and duties of inspectors, water and timber rights, drainage, pollution of land and water, repair to land on abandonment.

(c) working conditions to be observed under prospecting or other licences or leases.

(d) The laying of pipe-lines for the conveyance of oil and the conditions upon which such pipe-lines shall be operated.

Provided that any regulation dealing with fees, rents or royalties shall be laid on the table of Legislative Council at the earliest convenient opportunity and may be amended or cancelled by a vote of such Council.

**Rights of
His Majesty's
Government.**

8. All licences and leases shall be granted only on the implied agreement by the licensee and lessee with the following:—

(a) that His Majesty's Government shall have the right of pre-emption at current commercial prices of all crude oil won from the area concerned and of all products of the refining or treatment of such oil.

(b) that in the event of war, whether His Majesty's Government is involved or not, the Governor on behalf of His Majesty shall have power to take control of the works and plant in the area granted, or to take control of any refinery or stores of oil.

(c) that the Governor shall have the power to regulate the site of any refinery or place of storage of oil in the Colony and Protectorate of Kenya.

(d) that the licensee or lessee will forward to the Commissioner of Mines a copy of every geological map of the area concerned within one month from the making of such report or map.

Bond.

9. The Commissioner of Mines may before the granting of any rights hereunder require any applicant for such rights to enter into a bond with two sureties of reasonable amounts for the due observance and performance of any covenants and conditions to be inserted in any licence, protection area or lease or otherwise prescribed by law.

No. 12 OF 1924.

An Ordinance to Amend the Criminal Procedure Ordinance, 1913. Title.

[2ND JULY, 1924.] Date of commencement.

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

1. This Ordinance may be cited as "The Criminal Procedure (Amendment) Ordinance (No. 2), 1924," and shall be read as one with the Criminal Procedure Ordinance, 1913, hereinafter referred to as "the Principal Ordinance," and with all amendments thereof. Short title.

2. The Criminal Procedure (Amendment) Ordinance, 1921, is hereby repealed. Repeal

3. Section 331 of the Principal Ordinance is replaced as follows:— Summary dismissal of Appeal

331. (1) On receiving the petition and copy under Section 329 or Section 330 the Supreme Court shall peruse the same, and if it considers that there is no sufficient ground for interfering, it may dismiss the appeal summarily;

Provided that no appeal presented under Section 329 shall be dismissed unless the appellant if not in custody, or his advocate, has had a reasonable opportunity of being heard in support of the same, and provided further that no appeal presented under Section 330 shall be dismissed unless the appellant's advocate (if the Court has been notified that he has an advocate) has had such opportunity.

(2) Before dismissing an appeal under this section, the Court may call for the record of the case, but shall not be bound to do so.

4. Section 332 of the Principal Ordinance is replaced as follows:— Notice of Appeal.

332. If the Supreme Court does not dismiss the appeal summarily it shall cause notice to be given to the appellant or his advocate, and to the Attorney General of the time and place at which such appeal will be heard, and shall furnish the Attorney General with a copy of the proceedings and of the grounds of appeal. Notice of time and place of hearing.

5. Section 333 of the Principal Ordinance is replaced as follows:— Powers of Appellate Court.

No. XII. *Criminal Procedure (Amendment)* 1924.

333. (1) The Supreme Court shall then send for the record of the case, if such record is not already in Court. After perusing such record and hearing the appellant or his advocate if he appears and the Public Prosecutor if he appears the Court may, if it considers that there is no sufficient ground for interfering, dismiss the appeal, or may:—

(a) in an appeal from a conviction

(1) reverse the finding and sentence and acquit or discharge the accused, or order him to be retried by a Court of competent jurisdiction or commit him for trial, or

(2) alter the finding, maintaining the sentence, or with or without altering the finding, reduce or increase the sentence, or

(3) with or without such reduction or increase and with or without altering the finding, alter the nature of the sentence.

(b) in an appeal from any other order alter or reverse such order.

(c) make any amendment or any consequential or incidental order that may be just or proper.

(2) An appellant who is in custody shall not be entitled to be present at the hearing of an appeal: Provided that the Court may, in any case in which it considers it to be in the interest of the appellant that he be present, direct his attendance.

CHAPTER XL.

CASE STATED AND REFERENCE.

6. Sections 447, 448 and 449 of the Principal Ordinance are hereby repealed and replaced by the following sections:—

Case stated
by Magistrate.

447. After the hearing and determination by any Magistrate of any summons, charge, information or complaint, either party to the proceedings before the said Magistrate may, if dissatisfied with the said determination as being erroneous in point of law, or as being in excess of jurisdiction apply in writing within thirty days after the said determination to the said Magistrate to state and sign a case setting forth the facts and the grounds of such determination for the opinion thereon of the Supreme Court, and such party, hereinafter called the appellant, shall within fourteen days after receiving such case transmit the same to the Supreme Court, first giving notice in writing of such appeal, with a copy of the case so stated and signed, to the other party to the proceedings in which the determination was given, hereinafter called the respondent.

Recognizance
to be taken
and fees paid

448. The appellant, at the time of making such application and before the case shall be stated and delivered to him by the Magistrate shall in every instance enter into a recognizance before such Magistrate with or without surety or

sureties and in such sum, not exceeding £50, as to the Magistrate shall seem meet, conditioned to prosecute without delay such appeal, and to submit to the judgment of the Supreme Court, and pay such costs as may be awarded by the same; and before he shall be entitled to have the case delivered to him, pay to the clerk of such Magistrate his fees for and in respect of the case and recognizances, and any other fees to which such clerk shall be entitled, which fees shall be in accordance with the schedule to this Ordinance, and which shall be paid in stamps to be affixed to the original case stated, recognizance or certificate of refusal, as the case may be, and shall be cancelled by the Magistrate.

The appellant if then in custody, shall be liberated upon the recognizance being further conditioned for his appearance before the same Magistrate, or if that is impracticable, before some other Magistrate exercising the same jurisdiction who shall be then sitting, within fourteen days after the judgment of the Supreme Court shall have been given, to abide such judgment unless the determination appealed against be reversed.

Provided that nothing in this section shall apply to an application for a case stated by or under the direction of the Attorney General.

449. If the Magistrate be of opinion that the application is merely frivolous, but not otherwise, he may refuse to state a case, and shall, on the request of the appellant, sign and deliver to him a certificate of such refusal. Provided that the Magistrate shall not refuse to state a case when the application for that purpose is made to him by or under the direction of the Attorney General, who may require a case to be stated with reference to proceedings to which he was not a party.

Magistrate may refuse case when he thinks application frivolous

450. When a Magistrate has refused to state a case as aforesaid it shall be lawful for the appellant to apply to the Supreme Court within two months of such refusal upon an affidavit of the facts for a rule calling upon such Magistrate and also upon the respondent to shew cause why such case should not be stated, and the said Court may make the same absolute or discharge it, with or without payment of costs, as to the Court shall seem meet, and the Magistrate upon being served with such rule absolute, shall state a case accordingly, upon the appellant entering into such recognizance as is hereinbefore provided.

Procedure on refusal of Magistrate to state case.

451. The Supreme Court shall (subject to the provisions of Section 452) hear and determine the question or questions of law arising on the case stated, and shall thereupon reverse, affirm or amend the determination in respect of which the case has been stated, or remit the matter to the Magistrate with the opinion of the Court thereon, or may make such other order in relation to the matter, and may make such order as to costs as to the Court may seem fit, and all such orders shall be final and conclusive on all parties: Provided always that no Magistrate who shall state and deliver a case in pursuance of this Ordinance or *bona fide* refuse to state one shall be liable to any

Supreme Court to determine the questions on the case: its decision to be final.

No. XII. *Criminal Procedure (Amendment)* 1924.

costs in respect or by reason of such appeal against his determination or refusal, and provided further that no costs shall be awarded against the Crown except where the Crown is the appellant.

Case may be sent back for amendment or re-hearing.

452. The Supreme Court shall have power, if it thinks fit,

(a) to cause the case to be sent back for amendment or re-statement, and thereupon the same shall be amended or re-stated accordingly, and judgment shall be delivered after it has been so amended or re-stated;

(b) to remit the case to the Magistrate for re-hearing and determination with such directions as it may deem necessary.

Powers of Magistrate after decision of Supreme Court.

453. After the decision of the Supreme Court has been given on a case stated the Magistrate in relation to whose determination the case has been stated, or any other Magistrate exercising the same jurisdiction, shall have the same authority to enforce any conviction or order, which may have been affirmed, amended or made by the Supreme Court, as the Magistrate who originally decided the case would have had to enforce his determination if the same had not been appealed against; and no action or proceeding whatsoever shall be commenced or had against the Magistrate for enforcing such conviction or order, by reason of any defect in the same respectively.

Appellant may not proceed under both Chapter XXVII and this Chapter

454. No person who has appealed under Chapter XXVII of this Ordinance shall be entitled to have a case stated and no person who has taken any proceedings under this chapter shall be entitled to appeal under Chapter XXVII.

Contents of case stated

455. A case stated by a Magistrate under this chapter shall set out

(a) the charge, summons, information or complaint.

(b) the facts found by the Magistrate to be admitted or proved.

(c) any submission of law made by or on behalf of the prosecutor or complainant during the trial.

(d) any submission of law made by or on behalf of the accused or defendant during the trial.

(e) the finding and, in case of conviction, the sentence of the Magistrate.

(f) any question or questions of law which the Magistrate or any of the parties may desire to be submitted for the opinion of the Supreme Court.

(g) any question of law which the Attorney General may require to be submitted for the opinion of the Supreme Court.

No. XII. Criminal Procedure (Amendment) 1924.

456. A case stated for the opinion of the Supreme Court shall be heard by not less than two Judges. If on the hearing of a case stated the Court is equally divided in opinion the decision of the Magistrate shall be affirmed.

Constitution of Court hearing case stated.

457. The Supreme Court may if it deems fit enlarge any period of time prescribed by the preceding sections of this chapter.

Supreme Court may enlarge time.

458. (1) When any person has, in a trial before a Judge of the Supreme Court acting in the exercise of its original criminal jurisdiction, been convicted of an offence, the Judge, if he thinks fit, may reserve and refer for the decision of a Court consisting of two or more Judges of the Supreme Court any question which has arisen in the course of the trial of such person, and the determination of which would affect the event of the trial.

Power to reserve questions arising in original jurisdiction of Supreme Court.

(2) If the Judge reserves any such question, the person convicted shall, pending the decision thereon, be remanded to jail, or, if the Judge thinks fit, be admitted to bail; and the Supreme Court shall have power to review the case, or such part thereof as may be necessary, and finally determine such question, and thereupon to alter the sentence passed by the Court of original jurisdiction, and to pass such judgment or order as the Supreme Court thinks fit.

SCHEDULE.

FEEs TO BE TAKEN BY MAGISTRATES.

(See Section 448).

	Shs.	Cts.
For drawing case and copy, when the case does not exceed five folios of one hundred words each ...	10	00
When the case exceeds five folios, then for every additional folio ...	1	00
For the recognizance to be taken in pursuance of Section 448 ...	5	00
For every enlargement or renewal thereof ...	2	50
For certificate of refusal of case ...	2	00

No. XIII. Nairobi (Rating of Unimproved Site Values) (Amendment) 1924.

No. 13 OF 1924.

Title. An Ordinance further to Amend the Nairobi (Rating of Unimproved Site Values) Ordinance, 1921, and the Nairobi (Rating of Unimproved Site Values) Amendment Ordinance, 1922.

Date of commencement. [2ND JULY, 1924.]

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

Short title 1. This Ordinance may be cited as "The Nairobi (Rating of Unimproved Site Values) Amendment Ordinance, 1924," and shall be read as one with the Nairobi (Rating of Unimproved Site Values) Ordinance, 1921, (hereinafter referred to as "the Principal Ordinance") and the Nairobi (Rating of Unimproved Site Values) Amendment Ordinance, 1922.

Amendment of Section 2 of the Principal Ordinance. 2. Section 2 of the Principal Ordinance is hereby amended—

(a) By inserting the words "or registered" immediately after the word "actual" appearing in the definition of the word "owner."

(b) By adding the following definitions:—

"Registered owner" shall mean the person who appears from any Land Registry of the Colony to be the actual owner.

"The Court" shall, except where otherwise specially provided, mean the Resident Magistrate's Court, Nairobi, which shall be a Court of special jurisdiction for the purposes of this Ordinance.

"Land" shall include crops.

Amendment of Section 15 of the Principal Ordinance. 3. Section 15 of the Principal Ordinance is hereby amended:—

(a) By inserting the words "as valued in the Valuation Roll, payable by the owner or owners," immediately after the word "land" therein first appearing.

(b) By inserting the words "as valued in the Valuation Roll" immediately after the word "land" therein last appearing, and

(c) By adding thereto the following words:—

It shall be no objection to the making of a rate that, at the date on which it is imposed, any part of the period in respect of which it is imposed has elapsed.

No. XIII. *Nairobi (Rating of Unimproved Site Values) (Amendment)*

1924.

4. Section 16, Clause (b) of the Principal Ordinance is hereby amended:—

Amendment of Section 16 of the Principal Ordinance.

(a) By inserting the words "in the discretion of the Council" immediately after the words "or" therein first appearing, and

(b) By adding thereto the following words:—

Provided that it shall be no objection to the making or publishing of any rate, whether before or after the date of this Ordinance, that such rate is not expressly declared to be payable in one sum.

5. Section 17 of the Principal Ordinance is hereby amended:—

Amendment of Section 17 of the Principal Ordinance.

(a) In Sub-section (1) thereof, by the deletion of the figures "VI," and by the substitution therefor of the figures "III," and

(b) In Sub-section (2) thereof, by the deletion of the words from the word "Provided" to the end of that sub-section, and by the substitution therefor of the following words:—

And it shall be sufficient to describe such owner in the Rate Book and in any proceedings to recover a rate as the owner of the property on which the rate is assessed without further description: Provided further that in any proceedings which may be taken for the recovery of any rate, it shall be no objection that the name of the owner, or in the case of a firm the names of the partners, have not been properly set out, or in the case of a deceased person that the name or names of the executor or executors have not been disclosed.

6. Section 22 of the Principal Ordinance is hereby amended by adding thereto the following words:—

Amendment of Section 22 of the Principal Ordinance.

The Town Clerk shall, as may be necessary from time to time, make any alteration or correction in the names of the owners of property appearing in the Rate Book and shall verify such alteration or correction by his initials.

7. Section 24 of the Principal Ordinance is hereby amended by the deletion of the words "and in such other mode as it may by resolution direct."

Amendment of Section 24 of the Principal Ordinance.

8. Section 26 of the Principal Ordinance is hereby amended:—

Amendment of Section 26 of the Principal Ordinance.

(a) In Sub-section (1) thereof by inserting the following words:—

Without registration maintainable (unless satisfied) for twelve years from the date of the imposition thereof, whether such date was before or after the date of this Ordinance.

immediately after the word "charge," and by the deletion of the words from the words "and if not paid" to the end of that sub-section, and

No. XIII. *Nairobi (Rating of Unimproved Site Values) (Amendment)* 1924.

(b) In Sub-section (2) thereof, by the deletion of the words "the seizure or sale of his property for non-payment by the owner of the rate or rates due in respect of his land has," and by the substitution therefor of the words "threatened disturbance of his rights or interference with the peaceful or beneficial enjoyment of his tenancy shall have."

Proceedings
for the
recovery of
unpaid rates

9. Sections 27 and 28 of the Principal Ordinance, as amended by the Nairobi (Rating of Unimproved Site Values) Amendment Ordinance, 1922, and Section 29 of the Principal Ordinance are hereby repealed and the following section is hereby substituted therefor:—

27. (a) If any sum payable in respect of any rate remains unpaid after the date on which it became due, the Council may apply to the Court for the attachment and sale of the land charged with such rate, or of any movable property found thereon, or of any movable property wheresoever found belonging to the person liable to pay such rate. Thereupon, the Court shall attach such property, and by notice declare its intention of selling any such land or movable property at the expiration of thirty days from the date of such attachment. If at the expiration of such period such rate has not been paid or satisfied, the Court shall sell by public auction any such property as shall have been attached as aforesaid. The Court fee payable on such application and order shall be five shillings.

(b) Such notice of sale shall be served by the Court by publication in one issue of the Gazette, and, where land has been attached under Sub-section (a) hereof, by affixing a copy thereof on such land. Where the Court has reason to believe that, at the time of such application by the Council, the registered owner of such land or his manager, agent or attorney, or any person interested in such land as mortgagee or the manager, agent or attorney of such mortgagee, is resident within the municipal area, it may direct the manner of any further service. Provided that, if personal service or service by post shall be made on such registered owner or other person as aforesaid the affixing of such notice on such land shall not be necessary.

(c) Wherever it shall appear that any person liable for a rate under this Ordinance has died or become insolvent, and no notice of the appointment of an executor, administrator, liquidator or receiver has been received, the Court shall give such orders for the service of such notice as it shall deem proper.

Amendment of
Section 30 of
the Principal
Ordinance.

10. Section 30 of the Principal Ordinance is hereby amended by the deletion of the words "at the rate of seven," and by the substitution therefor of the words "from the date of the notice of sale at the rate of six."

No. XIII. *Nairobi (Rating of Unimproved Site Values) (Amendment)*

1924.

11. Section 31 of the Principal Ordinance is hereby amended:—

Amendment of Section 31 of the Principal Ordinance.

(a) In Sub-section (1) thereof, by the deletion of the figures "29" and by the substitution therefor of the figures "27" and by the deletion of the word "right" and by the substitution therefor of the word "property," and

(b) In Sub-section (2) thereof, by the deletion of the words "or right."

12. Section 33 of the Principal Ordinance is hereby amended:—

Amendment of Section 33 of the Principal Ordinance.

(a) By inserting the words "by way of mortgage or otherwise" immediately after the word "interest" therein first appearing, and

(b) By adding thereto the following words:—

And such person shall then be entitled to recover the amount so paid by him with all costs and interest from the person or persons liable for the rate.

13. After Section 33 of the Principal Ordinance there shall be inserted the following section:—

Proceedings for recovery of balance of rate after sale.

33 A. In the event of any land or movable property, sold under Section 27, not realising the amount of the rate with interest and costs, the Council may apply to the Court for a warrant of personal attachment as though on a judgment obtained for a civil debt against the person or persons liable to pay such rate as in manner prescribed by the Civil Procedure Code or by any Ordinance in substitution or amendment thereof.

14. Section 34 of the Principal Ordinance is hereby repealed and the following section is hereby substituted therefor—

Amendment of Section 34 of the Principal Ordinance.

"34. (1) Any person whose land or movable property has been attached under Section 27 of this Ordinance (not being the person liable for the rate on the land charged or a tenant or occupier of such land or of any house, building or tenement on such land) may apply to the Court, within 14 days from the date of publication in the Gazette of the notice of sale under that section, for the removal of such attachment, and the Court may thereupon direct a stay of sale in respect of such attachment pending the hearing of such application.

(2) After hearing such applicant and the Council and making such enquiry as it may deem necessary, the Court shall, if it be satisfied that

(a) the land so attached is not the land charged with the payment of the rate in respect of which it has been attached, or

No. XIII. *Nairobi (Rating of Unimproved Site Values) (Amendment)* 1924.

(b) the movable property so attached is the property of such applicant,

pass an order releasing such land or movable property from attachment.

(3) In the event of the Court making such order as aforesaid, it shall not hold the Council liable in costs unless the applicant, prior to making an application as aforesaid, has given notice in writing claiming such land or movable property as his and that the person liable to pay the rate in respect of which it has been attached has no right thereto.

(4) No appeal shall lie from any order or proceedings under this section, nor shall any party thereto be entitled to institute any other proceedings in respect of any question decided by the Court under this section.

Amendment of Section 36 of the Principal Ordinance.

15. Section 36, Sub-section (2) of the Principal Ordinance is hereby repealed and the following sub-section is substituted therefor:—

(2) Wherever the owner of any rateable property dies or becomes insolvent, it shall be the duty of his executor, administrator, liquidator or receiver to give notice of his appointment to the Town Clerk in writing, within six months of the date thereof.

Limitation in respect of rights, claims and obligations under this and the Principal Ordinance.

16. After Section 36 of the Principal Ordinance there shall be inserted the following section:—

36 A. Notwithstanding any provision in any other Ordinances or applied Acts, the period of limitation assigned under this and the Principal Ordinance in respect of all rights, claims and obligations thereunder shall be twelve years from the date of the constitution thereof whether such date was before or after the date of this Ordinance.

Amendment of Schedule to the Principal Ordinance.

17. The Schedule to the Principal Ordinance is hereby repealed and the Schedule hereto is substituted therefor.

Repeal of Section 2 of the Nairobi (Rating of Unimproved Site Values) Amendment Ordinance, 1922.

18. Section 2 of the Nairobi (Rating of Unimproved Site Values) Amendment Ordinance, 1922, is hereby repealed.

Certain Sections to have retrospective operation.

19. Sections 2, 3, 4, 8, 9, 12, 13 and 16 and the Schedule hereto shall be held to operate retrospectively as from the date of the Principal Ordinance.

General saving clause.

20. It shall be no objection or defence to any proceedings for the recovery of unpaid rates that any notice or publication required under this or the Principal Ordinance is in any manner defective in form.

No. XIII. *Nairobi (Rating of Unimproved Site Values) (Amendment)*

1924.

SCHEDULE.

ATTACHMENT, SALES, ETC.

1. The notice issued under Section 27 shall be in Form I hereto.
2. The warrant of attachment issued under Section 27 shall be in the Form II hereto.
3. The attachment of land shall be made by the attaching officer by affixing a copy of the warrant of attachment to a conspicuous part of such land.
4. The attachment of movable property shall be made by the attaching officer by the actual seizure thereof. He shall forthwith make an inventory of such property and shall arrange for and be responsible for the safe custody thereof.
5. When the movable property attached is of a perishable nature, or when the expenses of keeping it in custody will exceed its value, it may be sold at once by the attaching officer.
6. The expense and the maintenance of livestock and the custody of movable property, while under attachment, shall be costs of the attachment.
7. The attaching officer may, if he thinks desirable, advertise, in such manner as he shall think fit, any sale to be held under these Rules, and any expenses incurred in so doing shall be costs of the sale.
8. No officer of the Council nor any person having any duty to perform in connection with any sale shall, either directly or indirectly, bid for, acquire or attempt to acquire any interest in any property sold at such sale.
9. A sale may be adjourned by the attaching officer to any specified day and hour as he shall so deem fit. Every such sale shall be stopped if the sum due and costs (including the costs of sale) are tendered to the attaching officer at any time before the completion of such sale.
10. On the sale of movable property the price of each lot shall be paid for by the purchaser to the attaching officer at the time of the sale, or as soon thereafter as such officer directs; in default of such payment such property shall forthwith again be put up for sale. On payment of the purchase price such officer shall give a receipt for the same to the purchaser of such property.
11. (a) On the sale of the land the person declared to be the purchaser thereof shall pay, immediately after such declaration, a deposit of 25% of the amount of the purchase price to the attaching officer, and in default of such deposit such land shall forthwith again be put up for sale.

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(b) The balance of such purchase price shall be paid by the purchaser to the Court on or before the fifteenth day after such sale, or, if the fifteenth day be a Sunday or other holiday, then on the first day following such Sunday or other holiday.

(c) In default of such payment within the period mentioned above, the deposit after defraying the expenses of such sale, shall be forfeited to the Government and such land shall again be put up for sale, and the defaulting purchaser shall forfeit all claim to such land and to any part of the sum for which it may subsequently be sold.

12. The sum to be deducted from the proceeds of the sale, besides the sum due to the Council, shall be the costs incurred up to the time of sale.

13. In the case of a sale of land, on payment of the purchase price, the Court shall make an order as provided in Section 55 of the Registration of Titles Ordinance, 1919, preferring the purchaser as proprietor of such land or interest therein sold to him, and he shall forthwith be put in possession of the purchased property, the aid of the police being afforded if needful.

FORM I.

NOTICE OF SALE.

Whereas the sum of S..... being arrears, interest and costs recoverable under the Nairobi (Rating of Unimproved Site Values) Ordinance, 1921, and all amendments thereof, is due to the Council as the rate for the year.....charged on the land Plot No....., Nairobi, of which the registered owner is..... and whereas the said sum has not been paid.

Notice is hereby given that, at the expiration of thirty days from the date of this notice, the Court will proceed to sell by public auction the property described at the foot hereof and all persons are hereby warned against alienating or receiving such property in any manner whatsoever.

Given under my hand this.....day of..... 19.....

..... Resident Magistrate.

No. XIII. Nairobi (Rating of Unimproved Site Values) (Amendment)

1924.

(Description of Property).

FORM II.

WARRANT OF ATTACHMENT.

To

Whereas the sum of S... being arrears, interest and costs recoverable under the Nairobi (Rating of Unimproved Site Values) Ordinance, 1921, and all amendments thereof less sums recovered (as noted in the margin hereto), is due to the Council as the rate for the year... charged on the land Plot No..., Nairobi, whereof the registered owner is... and whereas the said sum of S... has not been paid.

Rate for 19.....	
Interest thereon	
Arrears for.....years viz: 19..... to 19.....	
Attachment Fees S... ..	
Less recovered to account	
Total S ...	

THESE ARE TO COMMAND you to attach and at the expiration of thirty days from the date hereof to sell by public auction the property described at the foot hereof unless the said sum of S... together with the costs of this attachment, be paid before such sale.

You are further commanded to return this warrant on or before the.....day of.....19..... with an endorsement certifying the date and manner in which it has been executed or why it has not been executed.

Given under my hand at.....this..... day of.....19.....

Resident Magistrate.

No. XIII. *Nairobi (Rating of Unimproved Site Values) (Amendment)* 1924.

(Description of Property).

FORM III.

RATE BOOK.

A rate of.....per centum under the provisions of the Nairobi (Rating of Unimproved Site Values) Ordinance, 1921, and all amendments thereof, imposed by the Council, on the.....day of.....,19....., for the period.....19....., payable in.....equal instalments on the.....

1	2	3	4	5	6	7
No. on Roll.	Registered Owner.	Description and Situation of Property.	Rateable Value.	Rate at%	By whom Rate paid.	Date of Payment.

Signed by us, with the corrections initialled, this..... day of.....19.....

A.B. }
C.D. } *Members of the Municipal Council.*

(N.B.—The two last columns will appear in blank when the rate-book is signed, and will be filled in from time to time as the rates are paid).

No. 14 OF 1924.

An Ordinance further to Amend the Native Authority Ordinance, 1912.

[26TH SEPTEMBER, 1924.]

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

1. This Ordinance may be cited as "The Native Authority (Amendment) Ordinance, 1924," and shall be read as one with the Native Authority Ordinance, 1912, hereinafter referred to as "the Principal Ordinance," and all amendments thereof.

2. The Governor-in-Council may establish a Council in any area, which may be a district or part of a district, in the Colony, to be known as a Local Native Council, which shall be composed of the District Commissioner and the Assistant District Commissioners (if any) of such district together with such Headmen and other natives as the Governor may appoint thereto.

Provided that before any person other than an Official Headman is so appointed the natives of the area shall be given an opportunity to nominate any suitable persons, who may or may not be headmen, to represent their interests and a complete list of persons so nominated shall be submitted to the Governor together with the recommendation of the District Commissioner.

3. Appointments of native members of Local Native Councils shall ordinarily be for a period of three years but shall be terminable at the Governor's pleasure.

4. The District Commissioner shall be the President of a Local Native Council, and in his absence the senior Assistant District Commissioner present shall preside over such Council.

5. A Local Native Council shall meet, at intervals of not more than three months, at such place and at such time as the President thereof shall determine. The President shall cause minutes of each meeting to be recorded.

6. (1) A Local Native Council may make and pass resolutions for the welfare and good Government of the native inhabitants of such area in respect of any matters affecting purely local native administration and particularly the following:—

- (a) The provision, maintenance and regulation of;
 - (i) Food and water supplies,
 - (ii) Forests,
 - (iii) Outspans,
 - (iv) Cattle dips,
 - (v) Roads, bridges and culverts.

No. XIV. *Native Authority (Amendment)* **1924.**

(b) Public Health;

(c) The recruitment of labour for any purpose provided in Section 2 of the Native Authority (Amendment) Ordinance, 1922;

(d) The use of land;

(e) Any purpose provided in Section 7 of the Principal Ordinance;

(f) Education;

(g) Markets and market dues;

(h) Agriculture and live-stock.

(2) Any such resolution may require such inhabitants to do or to abstain from doing any act therein specified.

Special power
of Council.

7. (1) A Local Native Council may, before the first day of December in each year, make and pass a resolution for the imposition of a rate, to be levied on and collected from the native inhabitants of the area during the ensuing year.

(2) Such rate shall be known as the Local Native Rate, and shall be of such amount and paid in such manner as may be prescribed by such resolution.

(3) Payment of such rate which is made otherwise than by legal tender may be so converted by such Local Native Council.

Resolutions of
Council to be
submitted to
Governor-in-
Council.

8. (1) Every resolution passed under Sections 6 and 7 shall be submitted to the Governor-in-Council together with a copy of the minutes relating thereto.

(2) When any such resolution has been approved by the Governor-in-Council, any native affected thereby who shall refuse, neglect or fail to comply therewith shall be guilty of an offence and shall on conviction before a Magistrate or before a Native Tribunal having jurisdiction over such native be liable to a fine not exceeding Shs. 150 and in default of payment to imprisonment of either description for a term not exceeding two months.

(3) Such imprisonment or fine shall not operate as a satisfaction or extinguishment of any Local Native Rate or other monies payable under this Ordinance.

(4) It shall be the duty of the District Commissioner to notify each Headman of the approval of the Governor to any resolution of the Local Native Council affecting the natives living within the local limits of the jurisdiction of such Headman, and such Headman shall thereupon take steps to make such resolution and the approval thereof known to such natives.

Council's
Fund.

9. A Local Native Council may establish a fund, to be known as the Local Native Fund, which shall consist of

(a) All local native rates collected under the provisions of this Ordinance.

No. XIV. *Native Authority (Amendment)*

1924.

(b) With the approval of the Governor, monies subscribed by the native inhabitants of the area (or any part thereof) for their common benefit, and

(c) any other monies which may lawfully be paid into such fund.

10. All monies payable to a Local Native Fund shall be received by the District Commissioner of the area or by any other person authorised by him in that behalf.

Receipt of monies for Council's Fund.

11. The accounts of Local Native Funds shall be kept in such manner as the Governor may prescribe, and shall be subject to audit by the Auditor of the Colony.

Council's Accounts.

12. A Local Native Fund shall be devoted only to such purposes as may be prescribed by any resolution which has been approved by the Governor under Section 8.

Disposal of Council's Funds.

13. An annual statement showing the summary of the receipts and expenditure of every Local Native Fund established under the provisions of this Ordinance shall be laid on the table of the Legislative Council as soon as may be after the close of the accounts of the year.

Council's annual statement of accounts.

14. The Governor-in-Council may make rules for the better carrying into effect of the provisions of this Ordinance.

Power to make Rules.

15. Section 12 of the Principal Ordinance is hereby amended by the deletion of the words "Native Council" wherever they appear therein, and by the substitution therefor of the words "Council of Elders."

Amendment of Section 12 of the Principal Ordinance.

No. XV.

Masters and Servants

1924.

No. 15 OF 1924.

Title. **An Ordinance further to Amend the Law relating to Masters and Servants.**

Date of commencement.

[2ND JULY, 1924.]

Enactment.

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

Short title.

1. This Ordinance may be cited as "The Master and Servants (Amendment) (No. 2) Ordinance, 1924," and shall be read as one with the Master and Servants Ordinance, 1910 (hereinafter referred to as "the Principal Ordinance") and all amendments thereof.

Amendment of Section 18 of the Principal Ordinance.

2. Section 18 of the Principal Ordinance is hereby amended by the deletion of the word "three" and by the substitution therefor of the word "five."

Amendment of Section 41 of the Principal Ordinance.

3. Section 41 of the Principal Ordinance is hereby amended by the deletion of the following words:—

"And every such Magistrate shall have jurisdiction in any such case brought before him against any person being at the time within the area of his jurisdiction, whether the grounds of such case arose within such area or not or whether the person against whom such case is brought has his usual residence or place of abode within such area or not."

No. 16 OF 1924.

An Ordinance to Provide for the Reservation of Certain Roads for Certain Kinds of Traffic.

[2ND JULY, 1924.]

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

1. This Ordinance may be cited as "The Roads Protection Ordinance, 1924."

2. In this Ordinance and in any Rules made thereunder, unless inconsistent with the context:—

"Road Reserve" means a strip of land reserved by Government for the purposes of a public road.

"Public Road" means a road which has been constructed or is being maintained wholly or partly as a trafficable road for the benefit of the public by the expenditure of public funds thereon or on any works connected therewith.

"Traffic" means vehicles using a public road.

3. The Governor may, with the concurrence of the District Road Board or other local authority concerned, by order prescribe that any road reserve or part thereof or any public road or part thereof shall be open to traffic of a particular kind or shall be closed to traffic of a particular kind or shall be closed to all traffic, and the Director of Public Works shall display in such manner and position as may seem to him best to serve the purpose required such road signs or warnings or notices or all of them as should suffice adequately to inform the public that the road reserve or part thereof or the public road or part thereof is closed, or is open only to traffic of certain kinds, or is closed to all traffic as may be prescribed in the order.

4. The Director of Public Works may order the suspension of any or all traffic on any road reserve or part thereof or on any public road or part thereof for any period not exceeding one month and may authorise the placing of such notices or barriers or both as should suffice to convey to the public adequate intimation of such order and may fix times during which any particular kind of traffic may use any such road reserve or public road or part thereof.

5. Entry on a road reserve or part thereof, or a public road or part thereof, with traffic of any type which is shewn by a road sign or warning or notice erected by the Director of Public Works to be prohibited shall be an offence.

6. Any person committing a breach of the provisions of this Ordinance or Rules thereunder shall be liable on conviction to a fine not exceeding fifty pounds or in default of payment to imprisonment not exceeding three months.

7. The Governor-in-Council shall have power to make Rules providing for the better carrying into effect of any of the purposes of this Ordinance.

8. Offences under this Ordinance shall be cognizable to the Police.

Title.

Date of commencement.

Enactment.

Short title.

Interpretation.

Reservation of certain roads for certain kinds of traffic.

O.G. 1132/27.
1133/27.
" 319/28
.. 231029
.. 231129.
.. 36130.
" 355/31. Supp
G. N. 6/24. p. 36
G. N. 24/24. p. 166
" 531/24. p. 431

Temporary suspension of any traffic.

Prohibited entry an offence.

Penalties.

Power to make Rules.

Offences cognizable to Police

Repealed V. Supp. to G. O. P. 55
 of 24.2.1931. P. 7 96
 Ord. No. 2 of 1931. P. 7 96

Title

An Ordinance to Provide for the Management of Education throughout the Colony and Protectorate of Kenya.

Date of commencement.

[2ND JULY, 1924.]

Enactment.

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

Short title.

1. This Ordinance may be cited as "The Education Ordinance, 1924."

CHAPTER I.

Definitions

2. For the purpose of this Ordinance, the following terms shall have the following meaning, if not inconsistent with the context:—

"Colony" shall mean the Colony of Kenya and shall include the Protectorate thereof.

"Director" shall mean the Director of Education or any person lawfully acting in such capacity.

"Department" shall mean the Department of Education of the Colony.

"Central Committee" shall mean the Education Committee appointed to advise on the education of any race in the Colony.

"School Area" shall mean any one of the areas into which the Colony may be divided for the administration of Education.

"Committee" shall mean the Education Committee or Committees constituted for a school area pursuant to the provisions of this Ordinance.

"District Committee" shall mean a body of persons appointed by the Governor to advise a District Commissioner in matters relating to his district.

"The Manager or Managing Body" of any assisted or private school shall mean persons resident within the Colony and financially responsible under this Ordinance for the establishment and maintenance of any school.

"The Local Manager" of any assisted or private school shall mean the person whose name is registered on behalf of the managing body at the office of the Director as that of the person directly responsible for the financial control and maintenance of the school. In a Government school the Headmaster shall be deemed to be the local Manager.

"School" shall mean as the context shall require:—

(a) a place where secular instruction is given to a body of pupils;

(b) a body of pupils under instruction from a teacher;

"Government School" shall mean a school established and maintained or maintained by public funds.

An "Assisted School" shall mean a school whose establishment or maintenance or both is assisted by public funds.

A "Private School" shall mean a school which receives no assistance from public funds.

"Parent" shall include any person having the actual custody or control of a child.

"Inspector" shall mean any person appointed to be an Inspector of Schools under this Ordinance.

"Accredited Representative" shall mean any person carrying the written authority of the Director to visit and inspect schools.

"Education Officer" means any person duly appointed to assist in carrying out the provisions of this Ordinance.

CHAPTER II.

3. The education of all races in the Colony shall be supervised by the Director with the advice of such Central Committees as the Governor shall appoint to advise upon the education of the various races throughout the Colony.

Appointment
of Central
Committees
for each race

4. (a) For the purpose of this Ordinance the Colony shall be divided into school areas as the Governor shall from time to time direct by proclamation in the Gazette.

Constitution
of Education
Committees for
each area.

For every school area there shall be constituted a Committee or Committees appointed by the Governor, and such Committees shall hold office for two years.

(b) every such Committee shall consist, as the Governor may determine of six, nine or twelve members. Representatives of natives shall be nominated, for consideration of the Governor, by local Native Councils, where such exist; representatives of Europeans by District Committees or Municipal Councils as the case may be and representatives of other non-natives by such representative public bodies as the Governor may approve. Two members of each Committee shall be nominated by the Governor except in the case of Native Committees when half the members shall be nominated by the Governor. The Governor may further add to a Committee any person or representative of any person who has endowed or erected a school, recognised by the Director, in that area.

Qualifications and disqualifications of Members.

5. (1) Subject to the provisions of this section every person of full age, of either sex, shall be qualified to be appointed a member of the Committee of the school area in which he resides except:—

(a) a person convicted at any time of an offence for which rigorous imprisonment has been imposed as a punishment or who shall have been convicted within five years of an offence involving moral turpitude unless he shall have obtained a full pardon.

(b) a person of unsound mind declared as such by a competent authority.

(c) an undischarged bankrupt.

(2) Any member who shall cease to possess the qualifications or become disqualified as aforesaid or who shall without reasonable cause absent himself from two consecutive ordinary meetings of the Committee without leave of the Chairman shall *ipso facto* vacate his office and the Chairman shall at the next meeting of the Committee held after such disqualifications shall have come to his notice declare a vacancy to have occurred and such vacancy shall be filled by the Governor.

Chairman of Committee.

6. The Senior Administrative Officer, or such other person as the Governor may appoint residing within the district, shall be Chairman of the Committee and shall have a deliberative, as well as a casting vote. Each Committee shall appoint its own Secretary who may or may not be a member of the Committee appointed under Section 4.

Quorum of Committees.

7. Every Committee shall decide what number of members shall constitute a quorum at the meetings of such Committee, provided that in no case shall such quorum be less than three

Minutes of Meetings and Duties of Secretary

8. The minutes of the proceedings of every meeting of a Committee shall be regularly kept by the Secretary in a book set apart for the purpose, and such minutes shall be submitted for confirmation at the next subsequent meeting and if confirmed, or amended with the consent of the meeting, shall be signed by the person presiding thereat.

The Secretary shall be responsible for seeing that the decisions and recommendations of the Committee are conveyed to the proper quarter.

9. (1) Ordinary meetings of Committees shall be convened by the Chairman at intervals, not exceeding 3 months. Meetings of Committees.

(2) Special meetings of a Committee may be convened by the Chairman at any time and shall be so convened upon a requisition in writing signed by two members thereof.

10. A Committee may submit to the Director recommendations concerning the care of the buildings of any school under its supervision and the premises necessary thereto (including boarding houses and teachers' dwellings and furniture and equipment) being the property of Government, and may, subject to any general or special instructions from the Director, grant or refuse the use of any such buildings or premises for any purpose other than school purposes outside school hours, provided that any such power or duty conferred upon a Committee under this section may be assigned by such Committee in the case of any particular school to the principal teacher of such school. Powers and duties as to use and care of school buildings.

11. A Committee may carry out all such functions as may be from time to time delegated to it by the department in connection with the erection or purchase, lease or other acquisition of such buildings, teachers' dwellings, boarding houses or of other premises accessory to a school within its area and in connection with the acquisition of sites thereof and may make recommendations with regard to these matters. Duties of Committee in connection with school premises.

12. A Committee shall subject to the approval of the Director make recommendations for the necessary provision for school accommodation for all children within its area and shall advise the Department concerning the issue of licences for private schools. Advice by Committee as to provision of schools in district.

13. A Committee shall have power to receive donations and subscriptions and to hold and dispose of same for purposes connected with education subject to the approval of the Director. Committee to collect local contributions in support of education.

14. A Committee shall have power to examine and decide all applications for admission or re-admission of pupils to all Government schools, established or maintained within its area under this Ordinance. Powers of Committees in regard to Govt. Schools.

15. A Committee shall submit to the Director, from time to time, recommendations as to the rates of all boarding and tuition fees for schools in its area and shall submit recommendations with regard to the fees charged at all assisted schools. Committee to submit rate of boarding and tuition fees for approval of Director.

Committee to investigate complaints, etc.

16. It shall be the duty of a Committee (if required by the Director) to consider any complaints as to the relations of teachers and parents or any matters affecting the general welfare of any school under its supervision and make recommendations to the Director.

Committee to consider reports of Head Teachers and Inspectors

17. A Committee shall consider reports of principal teachers, managers, managing bodies, inspectors, or other officers appointed under this Ordinance, in respect of Government, assisted and private schools and also any recommendations made by these officers and shall be authorised to make suggestions to the Director provided always that the Committee shall have no power to interfere or to give orders to such principal, manager, or managing bodies who shall be responsible to the Director.

Committee to satisfy itself curriculum is being carried out.

18. A Committee shall satisfy itself that the curriculum of any Government or assisted school, as laid down by the Director is being carried out in every school in its area, and any member of such Committee shall have the right to enter any such school, provided that he does not interfere unduly with the work or discipline therein.

Keeping of Registers and Accounts.

19. A Committee shall keep such records, statistics, registers, and accounts, as may be prescribed by Rules, and shall prepare and submit to the department such returns and reports as may be from time to time required by the department, and in particular a Committee shall transmit to the department as soon as may be after the end of any financial year, statements made up to the end of such year, in the form prescribed by Rules shewing receipts and expenditure of any money collected by such Committee under Section 13.

Medical Inspection of all Government Schools.

20. At all Government assisted and private schools, governed by this Ordinance, a compulsory medical inspection of all children attending at such schools, may be held by a duly appointed Medical Officer whenever ordered by the Director, and a record of such medical inspection shall be kept by the principal, manager, or managing body in such manner and in such form as shall from time to time be prescribed by the Director.

CHAPTER III.

Registration of Schools and furnishing Returns of Teachers and Attendance of Pupils.

21. (1) It shall be the duty of the local manager of every assisted or private school in the Colony:—

(a) to satisfy the Director that the school is properly conducted and is provided with a curriculum in conformity with the regulations of the department or follows a course approved by the Director and is or will be conducted in compliance with this Ordinance, and to obtain a licence from the Director for the conduct of the same.

(b) to register such school at the office of the department

(c) to keep a register of teachers employed thereat, showing the qualifications of such teachers.

(2) It shall be the duty of every principal teacher to keep a register of enrolment and a register of daily attendance of pupils and to furnish to the department at such times and for such periods as the Director may require, correct returns in the form prescribed by Rules, of the entries in any register kept as aforesaid.

(3) Any such manager or principal teacher as aforesaid who shall fail to comply with any of the requirements of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding £5.

22. (1) The Director or any officer specially authorised by him may from time to time visit such school as is in this chapter described and if it appears to him that such school is conducted in a manner which is calculated to be detrimental to the physical, mental or moral welfare of the pupils attending thereat he may, in the case of assisted schools, order the grant to be withheld or reduced or he may in the case of any school order the premises on which such school is situate to be closed for school purposes; or he may give notice to the manager ordering such alteration in the structure of the premises or the conduct of the school, or otherwise as may appear expedient to be made within a time fixed by such notice and if the same be not made to the satisfaction of the Director he may order the grant to be withheld or reduced or the premises to be closed, provided that the manager may appeal within seven days to the Governor-in-Council against any such order to close a school.

Visiting of private or other schools by Director and Sanitary or other inspection thereof.

Pending the decision of the Governor in Council the school may remain open unless the Director is satisfied that it is necessary for the physical, moral or mental welfare of the pupils attending thereat that it should be closed forthwith.

(2) Any person who

(a) shall obstruct or hinder the Director, any Inspector, or other person in the lawful exercise of the powers conferred by this section or

(b) shall continue to conduct the school without having carried out within the time prescribed as aforesaid the requirements as aforesaid or

(c) shall without permission of the Director use for the purposes of a school within the meaning of this Ordinance any premises ordered to be closed under the powers conferred by this section,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding £50.

(3) The Director or any accredited representative may at any reasonable time without notice, visit and inspect any school in the Colony, and such of its records as are required by the department, provided that in case of Purdah schools the inspection shall be carried out by a lady duly authorised.

Inspection without notice. Inspection of Purdah Schools.

CHAPTER IV.

Teacher to hold a certificate or licence

23. (a) In Government Schools.—No person except under special circumstances, to be decided by the Director, shall be appointed as teacher to any Government school, who does not hold a certificate of competency or a licence to teach issued or recognised by the department as set forth in the Schedule nor shall any person be appointed to teach at any school, other than that for which he may be qualified by such certificate except with the approval of the Director, and every licence to teach or certificate issued under the provisions of this section shall be signed by the Director.

(b) In Private or Assisted Schools.—The qualifications of teachers in private or assisted schools shall be as required for Government schools, except where exemption is granted by the Director upon the recommendation of the Manager.

(c) Teachers already appointed who do not hold a Certificate.—In the case of teachers who may be serving in the department at the time of the passing of this Ordinance, but who do not hold a certificate of ability to teach, five years' approved experience of teaching shall be regarded as equivalent to the possession of a certificate. All teachers appointed after the date of this Ordinance with less than five years approved experience shall be required to obtain a certificate or diploma before their appointments are confirmed or they are placed on the list of recognised teachers.

List of Recognized Teachers to be kept

24. A list of teachers recognised by the department shall be kept in the office of the Director and shall be available for inspection by the public.

Appointment of Teachers in Assisted Schools.

25. The appointment of teachers in assisted schools shall be made subject to the approval of the Director. An assisted school may be required to dismiss any teacher upon the order of the Director approved by the Governor and on due notice being given and refusal to comply with such order shall entitle the Director to withhold the annual grant payable to the school in respect of that teacher.

CHAPTER V.

School Fees.

26. Such fees as may be prescribed by regulation shall be payable in any Government schools, provided that the Governor may at any time and for such period as he shall think fit by order determine that no fees be payable in any one or more of such schools, or by any particular pupil in attendance thereat.

School fees, when payable.

27. All school fees for tuition or board or for both shall, as approved by the Director, be payable monthly or termly in advance to heads of schools and any person not so paying shall within fourteen days of the commencement of the month or of the opening of the school be notified in writing by the head of the school that such fees are due.

- 28.** If such fees are not paid within one month after such notice is duly given, the Director may institute legal proceedings in his own name against the person in default for the recovery thereof. Procedure in event of non payment.
- 29.** All school fees whether paid to heads of schools or recovered as in the last preceding section shall be accounted for and paid into the general revenue of the Colony. School fees to be paid into General Revenue.
- 30.** Sections 27 to 29 both inclusive shall apply to Government schools only. Applications of Sections 27 to 29
- 31.** When any proceedings under this Ordinance are brought in the name of the Director it shall be lawful for the Director to appoint any person to conduct the proceedings in Court. Delegation of Authority by the Director.

CHAPTER VI.

- 32.** All monies necessary for establishing or maintaining the department or any Government schools in accordance with this Ordinance or for making grants-in-aid under this Ordinance or for providing scholarships or for payment of salaries of officers of the department or teachers in such schools, shall be such as are voted from time to time by the legislature out of the general revenue of the Colony. Provided that the Government may, on the desire of a majority of any particular race resident in any area expressed through the District Committee or, where a District Committee does not exist, any Committee appointed by the Governor, levy a rate on members of that race resident in that area for the purpose of education. This rate shall be expended entirely upon education in that area and shall be subject to regulations made by the Governor under this Ordinance with the consent of the Legislative Council. Financial.

CHAPTER VII.

- 33.** (1) If the Governor is satisfied of a general demand for compulsory education amongst any community in any area and that ample school accommodation exists in such area to meet its educational requirements and if he is further satisfied of the necessity for providing such compulsory education, he may with the advice of the Executive Council prescribe by proclamation that compulsory education shall be introduced into such area and thereafter it shall be the duty of the parent of every child in that area to secure the regular attendance of his child at some school or otherwise to provide efficient instruction for his child, in accordance with the education applicable to such child prescribed by any rule made under this Ordinance, and if any parent fails to perform this duty without reasonable excuse an Education Officer or other authorised person shall make a complaint against the parent before a Magistrate for such failure. Compulsory Education.

(2) On a complaint made by an Education Officer or other authorised person the Magistrate shall summon the parent to appear before him and if the parent does not appear or appears and does not satisfy the Magistrate

(a) that the child is in regular attendance at some school, or

(b) that the parent is otherwise providing efficient instruction for the child in accordance with the education applicable to such child prescribed by any rule made under this Ordinance, or

(c) that the supposed child is under six or over fourteen years of age, or

(d) that the parent has reasonable excuse for failing to perform his aforesaid duty, the Magistrate may impose a penalty not exceeding twenty shillings for a first offence and for a second or any subsequent offence a penalty not exceeding forty shillings: Provided that a complaint under this section with respect to the same child shall not be repeated at any less interval than four weeks.

(3) If the Magistrate, after hearing the parent and such evidence as he may produce, is satisfied that the non-attendance or irregular attendance of the child at school was due to the truancy of the child and that the parent employed all reasonable means of securing the regular attendance of the child and had reasonable grounds for believing that the child was duly attending school, the Magistrate shall not proceed to a conviction.

(4) A child's attendance at school shall not be deemed regular for the purpose of this section unless the number of the child's attendances at school during the calendar month preceding that in which the complaint is made attains the following percentage of the total number of morning and afternoon meetings of the school prescribed by the rules under this ordinance, that is to say:—

(a) in the case of a child whose place of residence is one mile or less from the school, 75 per centum;

(b) in the case of a child whose place of residence is more than one mile but not more than two miles, 60 per centum;

(c) in the case of a child whose place of residence is more than two miles but not more than three miles, 50 per centum,

the distance being calculated by the nearest road or path.

(5) If the parent claims that he is providing efficient instruction for his child in accordance with the education applicable to such child prescribed by any rule made under this Ordinance otherwise than at a school, the Magistrate may, for the purpose of ascertaining the validity of the claim, examine the child or require the Inspector of Schools to examine the child and report whether the child's knowledge of the subjects of education prescribed by rule under this Ordinance is, in his opinion, equal to that of an average child of the same age in regular attendance at a school.

(6) For the purpose of this section a parent shall be deemed to have given a reasonable excuse for his child's non-attendance or irregular attendance at school when he has proved to the satisfaction of the Magistrate, either

(a) that there is not within three miles of the place of residence of the child measured by the nearest road or path any school which the child can attend, or

(b) that the absence of the child from school was due to sickness or other unavoidable cause.

34. In any proceedings before a Magistrate for an order or penalty under this Ordinance the following provisions shall have effect:—

Regulations
as to legal
proceedings.

(a) the Magistrate may require by summons the parent of a child to produce the child before him and any parent failing to comply with such a summons, without reasonable excuse to the satisfaction of the Magistrate shall be liable on summary conviction to a penalty not exceeding £5;

(b) a certificate purporting to be under the hand of the head teacher of a school stating that a child is or is not attending that school or stating the particulars of the attendance of a child at that school or that to his knowledge the child is or has been ill, shall be evidence of the facts stated in the certificate;

(c) where a child appears to the Magistrate to be of an age between six and fourteen years it shall lie on the defendant to prove that the child is not of that age;

(d) the parent of any child or any member of the child's family, or any other person authorised by the parent in that behalf, may represent the child during all the stages of the proceedings;

(e) in any such proceedings relating to a child the Magistrate shall sit either in a different room from that in which the ordinary sittings of the Court are held or on different days or at different times from those at which the ordinary sittings are held, and no persons other than the officers of the Court, the Inspector of Schools, Education Officers, and the parties to the case, their solicitors and counsel, and other persons directly concerned in the case shall, except by leave of the Magistrate, be allowed to attend;

(f) No Education Officer or other authorised person and no child shall be required to pay any fee for any process in any such proceedings relating to a child;

(g) where a child is charged with an offence the parent of the child may be required by summons to attend at the Court before which the case is heard during all the stages of the proceedings.

Forgery of
certificate.

35. Any person who forges or counterfeits any certificate which is by this Ordinance made evidence of any matter, or gives or signs any such certificate which is to his knowledge untrue in any material particular, or knowing any such certificate to be forged, counterfeit or untrue, makes use thereof, shall be liable on summary conviction to imprisonment, of either kind, for any period not exceeding three months.

Any Magistrate holding a subordinate court of the 1st, 2nd or 3rd class shall have jurisdiction in any case under this chapter irrespective of the race of the child or his parent or of any other offender.

CHAPTER VIII.

Power of
Governor-in-
Council to
make Rules

36. The Governor-in-Council may from time to time make, alter, or rescind Rules not inconsistent with the provisions of this Ordinance;

(a) prescribing the ages of admission to and subjects of instruction to be given in any Government or assisted schools.

(b) prescribing the manner and form of registration and classification of schools and the manner in which such registers as are mentioned in Section 21 shall be kept and the form of any such register.

(c) prescribing the standards of education.

(d) prescribing the manner of payment of school fees and the recovery and accounting thereof.

(e) prescribing conditions of any examinations held by the department and the fees payable for any examination held by or under the supervision of the department.

(f) prescribing the methods of maintaining discipline in matters affecting the conduct of a school.

(g) prescribing the manner in which records, statistics and registers of Committees shall be kept and returns and reports shall be made to the department.

(h) prescribing for the termination of the period of office of members of a Committee, otherwise than by dissolution and the continuance in office of the outgoing Committee pending the constitution of a new Committee, and generally the procedure to be adopted at meetings of Committees.

(i) prescribing the conditions for grants-in-aid to any Government or assisted school, whether European, Indian, Arab or Native.

- (j) safeguarding the health of children and regulating the sanitation of schools.
- (k) prescribing the method of collection and disposal of rates.
- (l) prescribing the duties of Education Officers.
- (m) generally for better carrying out the objects and purposes of this Ordinance.

SCHEDULE.

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- Board of Education Certificate, Whitehall.
- Scottish Education Department Certificate.
- Irish Education Department Certificate.
- Diploma in Teaching of any recognised University in Great Britain, the Dominions or India.
- *Certificate (not lower than Second Class) of ability to teach awarded by any Board of Education or educational authority in Great Britain, the Dominions or India, or by any other institution approved by the Director.
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No. XVIII. Master and Servants (Amendment) (No. 3) 1924.

No. 18 of 1924.

Title. **An Ordinance to Revive certain Provisions of the Master and Servants (Amendment) Ordinances, 1918 and 1919.**

Date of commencement. [26TH SEPTEMBER, 1924.]

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

Short title. **1.** This Ordinance may be cited as "The Master and Servants (Amendment) (No. 3) Ordinance, 1924."

Sub-section 2 (3) of the Master and Servants (Amendment) Ordinance, 1918, revived. **2.** Sub-section (3) of Section 2 of the Master and Servants (Amendment) Ordinance, 1918, is hereby revived and shall be deemed to have been in force from the date of its enactment notwithstanding the repeal thereof by the Master and Servants (Amendment) Ordinance, 1924, which has been disallowed by His Majesty the King.

Saving of certain contracts under disallowed Ordinance. **3.** All "30 days contracts" entered into under Section 17 of the Master and Servants (Amendment) Ordinance, 1924, shall be given effect to as "30 days contracts" entered into under Sub-section (3) of Section 2 of the Master and Servants (Amendment) Ordinance, 1918.

Sub-section 3 (6) (a) of the Master and Servants (Amendment) Ordinance, 1919, revived. **4.** Sub-section (6) (a) of Section 3 of the Master and Servants (Amendment) Ordinance, 1919, is hereby revived and shall be deemed to have been in force from the date of its enactment notwithstanding the repeal thereof by the Master and Servants (Amendment) Ordinance, 1924, which has been disallowed by His Majesty as aforesaid.

No. 19 OF 1924.

An Ordinance to Revive the Resident Natives Ordinance, 1918. Title.

[26TH SEPTEMBER, 1924.]

Date of commencement

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

1. This Ordinance may be cited as "The Resident Natives Ordinance, 1924." Short title.

2. The Resident Natives Ordinance, 1918, is hereby revived and shall be deemed to have been continuously in force notwithstanding the repeal thereof by the Master and Servants (Amendment) Ordinance, 1924, which has been disallowed by His Majesty the King. Resident Natives Ordinance, 1918, revived.

3. All contracts of service entered into under Sub-section (2) of Section 4 of the Master and Servants (Amendment) Ordinance, 1924, shall be given effect to as agreements made under Sub-section (2) of Section 16 of the Resident Natives Ordinance, 1918. Saving of certain contracts under disallowed Ordinance.

Repealed by ord. 5/1925.

No. XX.

Divorce (Amendment)

1924.

No. 20 OF 1924.

Title. **An Ordinance to Amend the Divorce Ordinance, 1904.**

Date of commencement.

[30TH SEPTEMBER, 1924.]

Enactment.

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

Short title.

1. This Ordinance may be cited as "The Divorce (Amendment) Ordinance, 1924," and shall be read as one with "The Divorce Ordinance, 1904," hereinafter referred to as "the Principal Ordinance."

Repeal and re-enactment of Section 2 of the Principal Ordinance.

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

"2. Nothing hereinafter contained shall authorise:—

(1) the making of any decree of dissolution of marriage unless the petitioner is domiciled in the Colony or Protectorate at the time when the petition is presented;

(2) the grant of any other relief under this Ordinance, unless one of the parties to the suit has, at the time when the petition is presented, his or her usual residence in the Colony or Protectorate or unless the marriage was solemnized in the Colony or Protectorate."

Amendment of Section 3 of the Principal Ordinance.

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

(a) by the deletion of the definition of "Africa."

(b) by the insertion of the following definition:—

"Marriage" means the union of one man and one woman for life to the exclusion of all others. Provided that such union may be dissolved in accordance with the provisions of this Ordinance."

Amendment and re-enactment of Sub-section (2) of Section 5 of the Principal Ordinance.

4. Sub-section (2) of Section 5 of the Principal Ordinance is hereby repealed and the following sub-section is substituted therefor:—

"(2) A wife may apply by petition to the Court for the dissolution of her marriage on the ground that since the solemnization thereof and since the passing of this Ordinance her husband has been guilty of adultery or of rape or of sodomy or of bestiality."

Provided that nothing in this section shall take away any right which may be possessed by a wife immediately before the passing of this Ordinance.

No. 21 OF 1924.

Title.

An Ordinance to Amend the Estate Duty Ordinance, 1918.

Date of commencement

[30TH SEPTEMBER, 1924.]

Enactment.

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

Short Title

1. This Ordinance may be cited as "The Estate Duty (Amendment) Ordinance, 1924."

Amendment of Section 12 (2) of the Estate Duty Ordinance 1918.

2. Sub-section (2) of Section 12 of the Estate Duty Ordinance, 1918, is amended by the insertion of the word "not" after the words "under a disposition" in the third line of the sub-section.

Further Amendment of Section 12 (2) of the Estate Duty Ordinance, 1918.

3. Sub-section (2) of Section 12 of the Estate Duty Ordinance, 1918, is further amended by deleting the words "twelve months" and substituting therefor the words "three years."*Repealed by ord. 13/1926.*

No. XX.

Divorce (Amendment)

1924.

5. Sub-section 1 (a) of Section 13 of the Principal Ordinance is hereby amended by the deletion of the words "the respondent" and the substitution therefor of the words "either party."

Amendment of
Sub-section
1 (a) of Section
13 of the
Principal
Ordinance.

6. Section 21 of the Principal Ordinance is hereby amended by the insertion of the following sub-section:—

Amendment of
Section 21 of
Principal
Ordinance.

"(4) If the respondent shall fail to comply with a decree of the Court for restitution of conjugal rights such respondent shall thereupon be deemed to have been guilty of desertion without reasonable cause, and a suit for judicial separation may be forthwith instituted, and a decree of judicial separation may be pronounced although the period of two years may not have elapsed since the failure to comply with the decree for restitution of conjugal rights."

7. The Indian Divorce Act, 1869, as applied to the Colony and Protectorate is hereby repealed.

Repeal.

Repealed

Op. Ord 1926/3

No. XXII.

Liquor (Amendment)

1924.

No. 22 OF 1924.

An Ordinance further to Amend the Law Relating to the Sale of Wines, Spirits and Malt Liquors.

Title.

[30TH SEPTEMBER, 1924.]

Date of commencement

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

Enactment

1. This Ordinance may be cited as "The Liquor (Amendment) Ordinance, 1924," and shall be read as one with the Liquor Ordinance, 1909, hereinafter referred to as "the Principal Ordinance," and all amendments thereto.

Short title

2. Section 9 of the Principal Ordinance is hereby amended by the addition thereto of the following sub-section:—

Amendment of Section 10 of the Principal Ordinance.

(14) Railway Restaurant Car Liquor Licence.

3. Section 10 of the Principal Ordinance is hereby amended by the addition thereto of the following sub-section:—

(14) (a) A "Railway Restaurant Car Liquor Licence" shall authorise the holder to sell any liquor on a Railway Restaurant Car.

(b) Such licence shall be necessary in respect of each Restaurant Car.

(c) No liquor shall be sold under such licence except to passengers travelling by the train to which such Restaurant Car is attached.

4. The second Schedule to the Principal Ordinance is hereby amended by the addition thereto of the following item:—

Amendment of the second Schedule to the Principal Ordinance.

For 12 months. For 6 months.

15.	Railway Restaurant Car Liquor Licences	Shs. 300	Shs. 180
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5. (1) For the purposes of Sub-section 24 (1) of the Principal Ordinance, as amended by Section 9 of the Liquor (Amendment) Ordinance, 1923, application for a Railway Restaurant Car Liquor Licence shall be made to the District Commissioner, Nairobi.

Application for and granting of licence.

(2) For the purposes of Sub-section 11 (1) of the Principal Ordinance, as repealed and substituted by Section 7 of the Liquor (Amendment) Ordinance, 1923, the Court shall mean the Court for the Licensing Area within which Nairobi is situate.

No. XXIII. Revised Edition of the Laws (Amendment) 1924.

No. 28 OF 1924.

Title **An Ordinance further to Amend the Revised Edition of the Laws Ordinance, 1921.**

Date of commencement [30TH SEPTEMBER, 1924.]

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

Short Title. **1.** This Ordinance may be cited as “The Revised Edition of the Laws (Amendment) Ordinance, 1924,” and shall be read as one with the Revised Edition of the Laws Ordinance, 1921, hereinafter referred to as “the Principal Ordinance” and all amendments thereto.

The year 1923 substituted for the year 1922. **2.** (1) Section 7, Sub-section (2) of the Principal Ordinance, as amended by Section 2 of the Revised Edition of the Laws (Amendment) Ordinance, 1923, is hereby further amended by the substitution of the figures “1923” for the figures “1922.”

(2) Section 9, Sub-section (1) of the Principal Ordinance, as amended by Section 3 of the Revised Edition of the Laws (Amendment) Ordinance, 1923, is hereby further amended by the substitution of the figures “1923” for the figures “1922.”

Additional powers to Commissioners. **3.** The Commissioners shall have the same powers in regard to all local Orders-in-Council, Proclamations, Rules and Regulations as they have in regard to Ordinances under the provisions of the Principal Ordinance.

No. XXIV. Registration of Business Names (Amendment) 1924.

No. 24 OF 1924.

An Ordinance further to Amend the Registration of Business Names Ordinance, 1918.

[30TH SEPTEMBER, 1924.] Date of commencement.

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

1. This Ordinance may be cited as "The Registration of Business Names (Amendment) Ordinance, 1924," and shall be read as one with "The Registration of Business Names Ordinance, 1918" (hereinafter referred to as "the Principal Ordinance") and all amendments thereof. Short Title.

2. Section 5 (1) of the Principal Ordinance is hereby amended by the addition thereto of the following clauses:— Amendment of Section 5 of the Principal Ordinance

(i) Where the registration to be effected is that of a firm, the age of each partner thereof;

(j) Where the registration to be effected is that of an individual, the age of such individual.

Provided that where any such partner or individual is of or over the age of 21 years it shall be sufficient for him to state his age as 'full age'.

No. XXV. *Supplementary Appropriation (Railway)* 1924

No. 25 of 1924.

Title. **An Ordinance to Supply a further Sum of Money for the Service of the Period from January 1st, 1925 to 31st December, 1925.**

Date of commencement.

[30TH SEPTEMBER, 1924.]

Enactment.

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

Short title

1. This Ordinance may be cited as "The Supplementary Appropriation (Railway) Ordinance, 1924."

Public revenue charged

2. The public revenue for the above period and other funds of the Colony and Protectorate of Kenya are hereby charged towards the service of the period of twelve months ending the thirty-first day of December, one thousand nine hundred and twenty-five, with a further sum of two million six hundred and eighty-four thousand three hundred and ninety-six pounds in addition to the sums provided by the Appropriation Ordinance, 1924.

Application of money granted.

3. The money granted by this Ordinance shall be applied to the purposes and services expressed in the Schedule annexed hereto.

Treasurer's authority for payment.

4. The Treasurer of the Colony and Protectorate of Kenya is hereby authorised and required, from time to time, upon warrant or order of the Governor, to pay out of the revenue and other funds of the Colony and Protectorate, for the several services specified in the Schedule, the said sum of two million six hundred and eighty-four thousand three hundred and ninety-six pounds which will come in course of payment during the period of twelve months ending on the thirty-first day of December, one thousand nine hundred and twenty-five.

SCHEDULE.

<i>Heads of Expenditure.</i>	<i>Amounts.</i>
	£
Railway and Marine Revenue Services ...	1,803,896
Railway and Marine Renewals, Betterment and Insurance Fund Services ...	880,500
Total ...	<u>2,684,396</u>

Repealed & replaced by
Ord. 19/1926.
.. 25/1927.

No. 26 OF 1924.

An Ordinance to Supply a further Sum of Money for the Service of the Year ended 31st December, 1923.

[30TH SEPTEMBER, 1924.] Date of commencement

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

1. This Ordinance may be cited as "The Supplementary Appropriation Ordinance, 1924." Short Title.

2. The public revenue for the period 1st January to 31st December, 1923, and other funds of the Colony and Protectorate of Kenya are hereby charged towards the service of the period 1st January to 31st December, 1923, with a further sum of five hundred and one thousand, six hundred and eleven pounds, sixteen shillings and one cent, in addition to the sums provided by the Appropriation Ordinance No. 9 of 1923. Public Revenue charged.

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

4. The Treasurer of the Colony and Protectorate of Kenya is hereby given authority for having paid out of the revenue and other funds of the Colony and Protectorate of Kenya, for the several services specified in the Schedule, the said sum of five hundred and one thousand, six hundred and eleven pounds, sixteen shillings and one cent, which have come in course of payment during the period 1st January to 31st December, 1923. Treasurer's authority for payment.

SCHEDULE.

		£	Shs.	Cts.
1.	Public Debt Funded	26	6	17
3.	Pensions and Gratuities	2,800	9	40
5.	Secretariat	771	12	37
8.	Treasury	1,357	12	69
10.	Port and Marine Departments	254	15	52
11.	Audit Department	993	6	31
23.	Land Department	4,008	19	99
25.	Miscellaneous Services	124,905	—	38
26.	Interest	3,866	12	34
27.	Public Works Department	7,251	8	86
29.	Public Works Extraordinary	26,085	19	61
32.	Medical Department—Extraordinary	2,290	6	56
33.	Education—Extraordinary	2,582	17	79
34.	Military—Extraordinary	316,957	—	52
37.	Agricultural Department—Extraordinary	1,243	16	19
38.	Land Department—Extraordinary	548	15	91
39.	Protectorate Share of War Expenses	5,666	15	40
£501,611		16	01	

No. XXVII. *Public Travel and Access Roads (Amendment)* 1924.

No. 27 OF 1924.

Title.	An Ordinance to Amend the Public Travel and Access Roads Ordinance, 1920.
Date of Commencement.	[31ST DECEMBER, 1924.]
Enactment.	ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof:—
Short title.	1. This Ordinance may be cited as "The Public Travel and Access Roads (Amendment) Ordinance, 1924," and shall be read as one with the Public Travel and Access Roads Ordinance, 1920 (hereinafter called "the Principal Ordinance").
Amendment of Section 2 (2) of the Principal Ordinance.	2. Sub-section 2 (2) of the Principal Ordinance is hereby amended by the deletion of the words "East Africa Protectorate" and by the substitution therefor of the word "Colony."
Further amendment of Section 2 of the Principal Ordinance.	3. Section 2 of the Principal Ordinance is hereby further amended by the addition thereto of the following sub-section:— (3) Unless the context shall otherwise so require, the expression "Colony" shall mean and include the Colony and Protectorate of Kenya.
Amendment of Sub-section 3 (1) of the Principal Ordinance.	4. Sub-section 3 (1) of the Principal Ordinance is hereby amended by the deletion of the word "Protectorate" and by the substitution therefor of the word "Colony."
Amendment of Sub-section 3 (4) of the Principal Ordinance.	5. Sub-section 3 (4) of the Principal Ordinance is hereby amended:— (a) By the insertion of the words "other than an existing member thereof" immediately after the word "person" and (b) By the deletion of the word "Protectorate" wherever appearing therein and by the substitution of the word "Colony."
Amendment of Section 6 of the Principal Ordinance.	6. Section 6 of the Principal Ordinance is hereby amended. (a) By the deletion of the words "and of all decisions of the District Board" and (b) By the deletion of the word "Chief" and by the substitution therefor of the word "Colonial."
Amendment of Section 7 of the Principal Ordinance.	7. Section 7 of the Principal Ordinance is hereby amended by the deletion of the word "Governor" and by the substitution therefor of the words "Head of the Department concerned."

No. XXVII. Public Travel and Access Roads (Amendment) 1924.

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

Amendment of
Section 8 of the
Principal
Ordinance

8. Whenever it is made to appear to the Governor that requirements exist for the establishment, alteration, or cancellation of a line of public travel, or for the conversion of a road of access into a line of public travel, the Governor may, by order published in the Gazette, dedicate a line of public travel which shall be clearly described in such order, and from such date of publication such line of public travel shall be absolutely dedicated to the public as a public road within the meaning of any law now or hereafter in force. Such public road shall be of such width as the Governor shall direct in the order. Before making and publishing such order as aforesaid the Governor shall, where there is a District Road Board, call upon such Board to investigate and report upon the necessity for or desirability of such line of public travel and the best alignment in the general direction required.

9. Sections 9 and 10 of the Principal Ordinance are hereby repealed.

Repeal of
Sections 9 and
10 of the
Principal
Ordinance

10. Section 11 of the Principal Ordinance is hereby amended:—

Amendment of
Section 11 of
the Principal
Ordinance.

(a) By the deletion of the word "any" where it appears immediately before the words "public road" and by the substitution of the word "a";

(b) By the deletion of the word "convenient" and by the substitution therefor of the word "reasonable";

(c) By the insertion of the words "made in duplicate" between the words "shall be" and the words "in the form";

(d) By the deletion of the words "the Schedule" wherever appearing therein and by the substitution therefor of the word and figure "Schedule I";

(e) By the deletion of the word "or" wherever that word appears therein between the words "sketch" and "plan"; and

(f) By the deletion of the word "or" where occurring for the second time and the substitution therefor of the words "which is passable for vehicular traffic or to a."

11. Section 12 of the Principal Ordinance is hereby amended:—

Amendment of
Section 12 of
the Principal
Ordinance.

(a) By the deletion of the words "in the manner prescribed in Sub-section (3) of Section 9 hereof upon the holder or holders" and the substitution therefor of the words "by personal service or by registered post to the last known address of the owner or occupier";

No. XXVII. Public Travel and Access Roads (Amendment) 1924.

(b) By the deletion of the word "constructed" and by the substitution therefor of the word "granted"; and

(c) By the addition thereto of the following proviso:—

Provided that, before the service of such notice, if the Chairman of the District Board shall satisfy himself, in such manner as he may deem necessary, that the applicant has reasonable access to a public road which is passable to vehicular traffic or to a railway station or halt, he shall lay such application, together with his report thereon, before the next meeting of the District Board for consideration. In the event of the District Board confirming such report no such notice shall be served: otherwise, the notice shall be served in the manner prescribed.

Amendment of
Sub-section
13 (1) of the
Principal
Ordinance.

12. Sub-section 13 (1) of the Principal Ordinance is hereby amended:—

(a) By the deletion of the word "interested" and by the substitution therefor of the words "who might be affected thereby" and

(b) By the insertion of the words "in writing in the form prescribed in Schedule II to this Ordinance" after the word "order."

Amendment of
Sub-section
14 (1) of the
Principal
Ordinance.

13. Sub-section 14 (1) of the Principal Ordinance is hereby amended by the deletion of the word "constructed" and by the substitution therefor of the word "granted."

Amendment of
Sub-section
14 (3) of the
Principal
Ordinance.

14. Sub-section 14 (3) of the Principal Ordinance is hereby repealed and the following sub-section substituted therefor:—

14. (3) The applicant shall at all times maintain the said road of access in a good and efficient state of repair to the satisfaction of the District Board, and, for the purpose of such maintenance, the applicant, his servants or his agents shall have leave to enter at all times upon the said road of access. Provided always, that as little damage or inconvenience as possible shall be caused by such entry to the owner or occupier of the land over which the said road of access passes, and that such right of entry shall be subject to such conditions as the District Board may impose in granting the order for constructing the said road of access.

And further provided always, that if any owner or occupier of land over which the said road of access passes shall use such road, then and in such case, he shall pay a proportionate share towards the maintenance of that portion of the road so used by him.

And also further provided always, that if any other person shall regularly use the said road of access it shall be competent for not less than half the number of persons liable at that time for the maintenance of such road as aforesaid to apply to the District Board to call upon such other person by notice to show

No. XXVII. Public Travel and Access Roads (Amendment) 1924.

cause, on a date not less than one month from the date of such notice, why he should not pay a proportionate share towards the maintenance of that portion of the road so used by him, and the District Board shall thereafter make such order as it shall think fit and proper in the circumstances.

The proportionate share aforesaid to be paid shall be fixed by the District Board with due regard both to the extent of road used and the nature and amount of traffic likely to pass thereover.

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

Amendment of Section 15 of the Principal Ordinance.

15. It shall be competent for a District Board for sufficient cause to order the cancellation or alteration of the alignment of a road of access, provided that due notice shall have been previously given to any person who might be affected by such order.

Power of District Board to cancel or alter a road of access.

16. Section 16 of the Principal Ordinance is hereby amended by the deletion of the words "provided that nothing in this section shall prejudice the rights of an applicant for the road of access for all purposes."

Amendment of Section 16 of the Principal Ordinance.

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

Amendment of Section 17 of the Principal Ordinance.

17. (1) An appeal from an order of a District Board shall lie to a Subordinate Court of the First Class.

(2) Every such appeal shall be entered within 30 days of the date of such order.

18. Section 18 of the Principal Ordinance is hereby amended by the insertion of the word "election" immediately before the word "powers."

Amendment of Section 18 of the Principal Ordinance.

19. Section 19 of the Principal Ordinance is hereby repealed and the following section substituted therefor:—

Amendment of Section 19 of the Principal Ordinance.

19. (1) Any person contravening any of the provisions of this Ordinance or refusing or wilfully failing to comply with the lawful order of a District Board shall be guilty of an offence and shall on conviction be liable to a fine not exceeding £50 or to imprisonment of either description for a period not exceeding six months or to both.

(2) No Court shall take cognisance of an offence of refusing or wilfully failing to comply with the lawful order of a District Board except under the complaint of the Chairman of such Board or of any person authorised by him for such purpose.

No. XXVII. *Public Travel and Access Roads (Amendment)* 1924.

Amendment of
Schedule to
the Principal
Ordinance.

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

SCHEDULE I.

FORM OF APPLICATION FOR LEAVE TO CONSTRUCT A
ROAD OF ACCESS.

1. Name of applicant.
Place of abode.
Nationality.
2. Name, situation of land in respect of which such road of access is required: stating Province, District, Land Office Number, and all particulars which may assist in locating same.
3. Name of public road, railway station or halt to which such road of access is required.
4. Name or names of land or lands over which it is proposed to construct such road of access together with the name or names of the respective owner or owners thereof.
5. The means of access (if any) to any public road, railway station or halt at present available for the use of the applicant, and whether use of same is subject to any payment or other terms or conditions.
6. Whether any crops or buildings will be damaged or destroyed by the construction of such road of access.

If so, to what extent?
7. Maximum width between drains of proposed road of access.

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8. Any other facts of which you are aware which may affect the grant.

.....
Applicant.

NOTE:—This application must be submitted in duplicate and must be accompanied by a sketch plan in quadruplicate showing approximately the course and direction of the proposed road of access and the present means of access (if any) to a public road, railway station or halt.

—
SCHEDULE II.
—

FORM OF ORDER GRANTING LEAVE TO CONSTRUCT A ROAD OF ACCESS.
—

It is hereby notified that the.....District Road Board hereby grants the application for a road of access from Farm L.O. No.....submitted by.....on the.....192.....upon the following conditions:—

(1) The alignment of the road to be as shown on the enclosed sketch plan traversing Farms L.O. Nos.....
.....
to the.....road (or railway station or halt).

(2) The width of the road to be not exceeding.....feet.

(3) Compensation to be paid to.....
.....
in respect of.....
at the rate of.....
to the amount of.....

(4) (a) The alignment of the road of access hereby granted in no part traverses an already existing fenced enclosure. (a), (b) or (c) to be used as required.

(b) The alignment of the road of access hereby granted passes through the following already fenced enclosures, namely, L.O. Nos.....but the.....District Road Board makes no order as to the fencing of the said road of access in whole or in part.

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(c) The alignment of the road of access hereby granted passes through the following already fenced enclosures, namely L.O. Nos..... and the..... District Road Board orders that the said road of access shall be fenced in the following manner and to the following extent.....

Here quote specification of type of fencing to be erected and extent and locality of such fencing, including gates (if any)

and apportions the cost of such fencing in the following manner:—

(5) The cost of construction and maintenance of the road of access hereby granted is apportioned in the following manner:—

Here insert other conditions (if any)

(6)

.....
Chairman.

.....District Road Board.

No. 28 OF 1924.

An Ordinance to Apply a Sum of Money for the Service of the Year ending the 31st day of December, 1925.

[31ST DECEMBER, 1924.]

Date of Commencement.

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

Enactment.

1. This Ordinance may be cited as "The Appropriation Ordinance, 1924."

Short title.

2. The Public Revenue for the year 1925, 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 twenty-five, with a sum of two million, one hundred and seventeen thousand, two hundred and twenty-five pounds.

Public Revenue charged.

3. The money granted by this Ordinance shall be applied to the purposes and services expressed in the Schedule annexed hereto.

Application of money granted.

4. The Treasurer of the Colony and Protectorate of Kenya is hereby authorised and required from time to time, upon the warrant or order of the Governor to pay out of the revenue and other funds of the Colony and Protectorate of Kenya, for the several services specified in the Schedule, the said sum of two million, one hundred and seventeen thousand, two hundred and twenty-five pounds which will come in course of payment during the year ending on the thirty-first day of December, one thousand nine hundred and twenty-five.

Treasurer's authority for payment.

SCHEDULE.

DIVISION.	AMOUNT.
HEAD.	£
I. Public Debt Funded	365,000
II. Rent and Interest to H. H. the Sultan of Zanzibar	16,000
III. Pensions and Gratuities	77,252
IV. His Excellency the Governor	12,730
Carried forward	470,982

SCHEDULE.—Contd.

DIVISION.		AMOUNT.
		£
HEAD.	Brought forward ...	470,982
IV.a.	His Excellency the Governor Extraordinary	2,000
V.	Secretariat	14,553
VI.	“Official Gazette” and Printing ...	17,946
VI.a	“Official Gazette” and Printing Extraordinary	300
VII.	Administration	245,945
VIII.	Treasury	19,988
IX.	Customs Department	38,525
X.	Port and Marine	16,338
X a	Port and Marine Extraordinary	1,320
XI.	Audit Department	16,009
XII.	Judicial Department	23,135
XIII.	Registrar General's Department ...	3,439
XIV.	Legal Department	7,706
XV.	Police	118,193
XVI.	Prisons	43,637
XVII.	Medical Departments	134,031
XVII.a	Medical Extraordinary	375
XVIII.	Education Department	82,639
XVIII.a	Education Extraordinary	1,000
XIX.	Military	167,022
XIX.a	Military Extraordinary	900
XX.	Post Office and Telegraphs	136,037
XX.a	Post Office and Telgs. Extraordinary ...	2,000
XXI.	Agricultural Department	92,439
XXII.	Forest Department	29,114
XXIII.	Game Department	19,145
XXIV.	Land Department	37,848
XXIV.a	Land Department Extraordinary	175
XXV.	Miscellaneous Services	59,393
XXVI.	Interest	80,000
XXVII.	Public Works Department	49,503
XXVIII.	Public Works Recurrent	127,510
XXIX.	Public Works Extraordinary	51,573
XXX.	Trade Information and Publicity Bureau	6,500
Total £		2,117,225

No. 29 OF 1924.

An Ordinance to make Provision for Borrowing the sum of £3,500,000 from the Imperial Treasury, and for the Raising, Appropriating, and Applying the Loan, and for the due Repayment of the same. Title.

[31ST DECEMBER, 1924.]

Date of Commencement.

WHEREAS the Imperial Government has expressed itself as being desirous to extend transport facilities in East Africa. Enactment.

And whereas a loan of 3½ million pounds has been granted by the Imperial Government to the Colony of Kenya to be secured jointly and severally on the respective revenues and assets of the Colony of Kenya and the Protectorate of Uganda including such revenue and assets as are directly derived from or administered by the Uganda Railway and to be applied to the aforesaid purpose.

Now therefore be it enacted by the Governor of the Colony of Kenya with the advice and consent of the Legislative Council thereof:—

1. This Ordinance may be cited as "The Imperial Loan Ordinance, 1924." Short title.

2. In this Ordinance, unless the context otherwise requires, Definition of terms

the expression "Treasury" means the Commissioners of His Majesty's Treasury; and Treasury.

the expression "Crown Agents" means the person or persons for the time being acting as Crown Agents for the Colonies in England. Crown Agents.

3. The Governor may borrow from the Treasury a sum of three millions five hundred thousand pounds for the purposes specified in the Schedule hereto. The Governor may borrow £3,500,000.

4. The money to be borrowed under the authority of this Ordinance shall be appropriated and applied to the purposes specified in the Schedule hereto up to the amounts therein allotted to each purpose, and to no other purposes. Provided, however, that the Governor may with the approval of the Secretary of State vary the amounts so allotted without exceeding the aggregate amount to be borrowed. Application of loan.

The Governor may vary the allocation subject to the aggregate of £3,500,000.

Loan to be a charge on general revenue.

5. The principal money to be borrowed under this Ordinance and the interest thereon are hereby charged upon and shall be payable out of the general revenue and assets of the Government of the Colony (in the first place upon and out of the revenue and assets of the Colony directly derived from or administered by the Uganda Railway) with priority over any charges thereon not existing or authorised at the date of the passing of this Ordinance.

Provisions as regards payment of interest and repayment of principal.

6. The following provisions shall have effect as regards payment of interest and repayment of principal.

No interest shall be payable on the sum advanced in respect of the first five years from the 31st day of March, 1924.

Thereafter the sum advanced shall be repaid by thirty-seven annual payments (hereinafter called "annuities") at the rate of six per centum of the amount, and the thirty-seven annual payments so made shall be deemed to include all interest payable on such advance.

The thirty-seven annuity payments of principal and interest combined shall be made from the general revenue of the Colony and in the first place from such portion of the said revenue as may be directly derived from the Uganda Railway such payments being made on the sixth and each succeeding anniversary of the advance.

Remittances to be made through the Crown Agents.

The Governor shall in each year remit to the Crown Agents the sums due in respect of the aforesaid interest or annuities, and shall make this remittance on such date as will enable the Crown Agents to pay over the amount to the Treasury on the date on which it falls due.

Interest payable on interest or annuities overdue.

7. In the event of any payment in respect of an annuity not being made at the date on which it falls due interest on such payment shall be charged and payable at the rate of five per centum per annum until the annuity is paid.

Advances receivable by the Crown Agents.

8. The Crown Agents are hereby authorised to receive the money so borrowed from the Treasury and to give such an acknowledgment on behalf of the Government of the Colony for the same as the Treasury may require and as may not be inconsistent with the terms of this Ordinance.

Conditional power to redeem advances on notice.

9. It shall be lawful for the Governor with the consent of the Treasury at any time after the expiration of five years from the date on which the money shall have been advanced by the Treasury under the provisions of this Ordinance, to repay to the Treasury the amount of such advance then outstanding on giving six months' notice of his intention to do so.

SCHEDULE.

	£
1. Extension of the Uganda Railway into Uganda, and construction of branches in Kavirondo and Uganda	2,200,000
2. Additional Rolling Stock	400,000
3. Capital improvements to existing Railway Lines and to Lake Services, and the pro- vision of additional equipment	500,000
4. Additional Port Development and Equip- ment	400,000
	£3 500,000

No. XXX. East Africa Police (Amendment)

1924.

No. 30 of 1924.

Title. **An Ordinance to Amend the East Africa Police Ordinance, 1911.**

Date of Commencement.

[31ST DECEMBER, 1924.]

Enactment.

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

Short title

1. This Ordinance may be cited as "The East Africa Police (Amendment) Ordinance, 1924," and shall be read as one with the East Africa Police Ordinance, 1911 (hereinafter referred to as "the Principal Ordinance") and all amendments thereof.

Amendment of Sub-section 28 (1) of the Principal Ordinance.

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

"28. (1) (a) Every European Constable shall be enlisted for the first term of his engagement to serve for a tour of not less than twenty months' continuous residential service, beginning from the date of enlistment in the Colony, and for such additional period as shall from time to time be fixed by the Governor, provided that the tour of service and such additional period as may be fixed shall not together exceed thirty-six months.

(b) Any such constable, of good character and approved service who has completed a tour of twenty months' continuous residential service (in this Ordinance referred to as the probationary period) may be placed on the permanent and pensionable establishment in accordance with the Rules from time to time laid down for European officers in the service of the Colony and the Protectorate, and in such event the probationary period shall count towards pensionable service."

Repeal of Sub-section 29 (1) of the Principal Ordinance.

3. Sub-section (1) of Section 29 of the Principal Ordinance, as amended by Clause (i) of Section 2 of the East Africa Police (Amendment) Ordinance, 1912, is hereby repealed.

Amendment of Sub-section 29 (4) of the Principal Ordinance.

4. Sub-section (4) of Section 29 of the Principal Ordinance is hereby amended by the deletion therefrom of the words "Any European Constable upon attaining the age of 50 years and completing the period of service in which he is then engaged and"

5. Section 35 of the Principal Ordinance is hereby repealed, and the following section substituted therefor:—

Amendment
of Section 35
of the
Principal
Ordinance.

“35. (1) Any European Constable may be discharged by the Commissioner at any time:—

(a) Without pension or gratuity:—

(i) If he shall fail to present himself for attestation.

(ii) If the Commissioner shall consider that he is unlikely to become an efficient constable.

(iii) When he has not completed a tour of twenty months' continuous residential service in the Colony and is pronounced by a Medical Officer, designated by the Government to examine him, to be mentally or physically unfit for further service.

(iv) On purchase of discharge, if approved by the Commissioner, at the following rates:—

£30	0	0	during the first	year of service.
£22	10	0	„	second „
£15	0	0	„	third „

and, unless at that time he has completed a tour of twenty months' continuous residential service, he shall also refund the whole or such portion of the cost (if any), as the Commissioner may determine, incurred by the Government in bringing him to the Colony. Provided, however, if at that time he has completed a tour of twenty months' continuous residential service, he shall if so approved by the Commissioner, be entitled to determine his engagement without any liability to purchase his discharge.

(v) When sentenced to be dismissed from the force for misconduct.

(b) With pension or gratuity according to length of service:—

(i) When he has completed a tour of twenty months' continuous residential service in the Colony and is pronounced by a Medical Officer, designated by the Government to examine him to be mentally or physically unfit, not through his own misconduct, for further service.

(ii) On reduction of establishment.

(2) Any Asiatic or African Non-Commissioned Officer or Constable may be discharged by the Commissioner at any time:—

(i) If the Commissioner shall consider that he is unlikely to become an efficient Non-commissioned Officer or Constable.

(ii) When pronounced by a Medical Officer, designated by the Government to examine him, to be mentally or physically unfit for further service.

(iii) On purchase of discharge, if approved by the Commissioner, at the following rates:—

<i>In the case of an</i>				
<i>Asiatic.</i>	<i>African.</i>			
£6 0 0 ...	£4 0 0	during	the first	year of service
£4 10 0 ...	£3 0 0	..	second	..
£3 0 0 ...	£2 0 0	..	third or any subsequent	year of service

and, unless at that time he has completed the term of his engagement, he shall also refund the whole or such portion of the cost (if any), as the Commissioner may determine, incurred by the Government in bringing such Non-Commissioned Officer or Constable to the Colony.

(iv) When sentenced to be dismissed from the force for misconduct.

(v) On reduction of establishment."

Amendment
of Sub-
section 38
(1) of the
Principal
Ordinance.

6. Sub-section (1) of Section 38 of the Principal Ordinance, as amended by Sub-section (1) of Section 2 of the East Africa Police (Amendment) Ordinance, 1913, is hereby repealed, and the following section substituted therefor:—

"38. (1) Sub-Inspectors shall be eligible for pension in accordance with the Rules from time to time laid down for Non-European Officials in the service of the Colony, provided that continuous service under this Ordinance shall be deemed to be permanent service for the purpose of such Rules.

For the purpose of this sub-section the service of a Sub-Inspector shall not be deemed to be continuous service if, after receiving a certificate of discharge, he re-engages at a later date for further service, and in such case service previous to that date of such re-engagement shall not be reckoned towards pension."

Repealed Op. Ord. 1926/3
 No. XXXI. Traders Licensing (Amendment) 1924.

No. 31 OF 1924.

An Ordinance to amend the Traders Licensing Ordinance, 1919. Title.

[31ST DECEMBER, 1924.]

Date of Commencement.

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

Enactment.

1. This Ordinance may be cited as "The Traders Licensing (Amendment) Ordinance, 1924," and shall be read as one with the Traders Licensing Ordinance, 1919, hereinafter referred to as "the Principal Ordinance."

Short title

2. Notwithstanding anything in the Principal Ordinance contained all licences to be taken out on the 1st day of January, 1925, shall be issued and be valid for the half year ending the 30th day of June, 1925, only.

Issue of half-yearly licence.

Provided that unless the Principal Ordinance shall in the meantime have been repealed or amended all persons subject to the provisions thereof shall on the 1st day of July, 1925, take out a licence for the second half year expiring on the 31st day of December, 1925.

3. The fees for half-annual licences shall be at half the rates specified in Schedule I of the Principal Ordinance.

Fees for half-yearly licence.

No. XXXII. Coconut Industry (Amendment)

1924.

No. 32 OF 1924.

Title. **An Ordinance to amend the Coconut Industry Ordinance, 1923.**

Date of Commencement.

[31ST DECEMBER, 1924.]

Enactment.

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

Short title.

1. This Ordinance may be cited as "The Coconut Industry (Amendment) Ordinance, 1924," and shall be read as one with the Coconut Industry Ordinance, 1923, (hereinafter called "the Principal Ordinance").

Amendment of Section 7 of the Principal Ordinance.

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

"Section 7. Any person found so loitering or lurking without lawful excuse on any plantation may be arrested by the owner of the plantation or his agents or servants and may be detained in custody by them.

Provided that he shall with all practicable speed be either handed over to the Police or brought before a Magistrate and shall not be detained without a warrant longer than is necessary."

Repeal of Sections 8, 9 and 10.

3. Sections 8, 9 and 10 of the Principal Ordinance are hereby repealed.

Amendment of Section 16 of the Principal Ordinance.

4. Section 16 of the Principal Ordinance is amended by the deletion of the word "under" and the substitution therefor of the words, "against the provisions of Section 4 and Section 11 of" and the deletion of the words "or any Rules thereunder."