



COLONY AND PROTECTORATE OF KENYA

ORDINANCES

ENACTED DURING THE YEAR

1941

VOL. XX (NEW SERIES)

1942

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|--------|-----------------------------------------------------------------------------|----------------|----------------------|
| I | Criminal Procedure Code (Amendment) | 28-4-41 | 28-4-41 |
| II | Local Government (Rating) (Amendment) | 28-4-41 | 28-4-41 |
| III | European Officers' Pensions (Amendment) | 28-4-41 | 28-4-41 |
| IV | Non-European Officers' Pensions (War Service) | 28-4-41 | 28-4-41 |
| V | Water (Amendment) | 28-4-41 | 28-4-41 |
| VI | Native Liquor (Amendment) | 28-4-41 | 28-4-41 |
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| IX | Increase of Rent and of Mortgage (Restrictions) (Amendment) | 28-4-41 | 28-4-41 |
| X | Pyrethrum (Amendment) | 28-4-41 | 28-4-41 |
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| XIX | Penal Code (Amendment) | 5-12-41 | 5-12-41 |
| XX | Criminal Procedure Code (Amendment No. 2) | 5-12-41 | 5-12-41 |
| XXI | Credit Trade with Natives (Amendment) | 5-12-41 | 5-12-41 |
| XXII | Savings Bank (Amendment) | 5-12-41 | 1-1-42 |
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| XXXVII | Increase of Rent and of Mortgage Interest (Restrictions) (Amendment No. 2) | 29-12-41 | 29-12-41 |
| XXXVIII | Resident Labourers (Amendment) .. | 29-12-41 | By Notice |
| XXXIX | Crown Lands (Amendment) | 29-12-41 | 29-12-41 |
| XL | Pyrethrum (Amendment No. 2) | 29-12-41 | 29-12-41 |
| XLI | Control of Grass Fires | 29-12-41 | By Notice |
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FORMER ORDINANCES (IN CHRONOLOGICAL ORDER) REPEALED OR AMENDED BY ORDINANCES OF 1941

| Year and No. of Ordinance | Short Title | How Affected | Ordinance of 1941 |
|---------------------------|--------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|
| <i>Revised Edition</i> | | | |
| Cap. 1 | Interpretation and General Clauses | Section 2, new paragraph (3) A | VII |
| " 54 | Dangerous Petroleum Tax | Section 3, amended; section stating duration added; No. 16 of 1940 repealed | XVIII |
| " 140 | Crown Lands | Sections 57B, C, D, E, new; Ninth Schedule, new | XXXIX |
| " 142 | Registration of Titles | Section 2, new definition added; sections 23, 34, 46, 51, 53, amended; section 57, repealed and replaced; section 80, new; new sections <i>re</i> Trusts, added; First and Second Schedules, amended | XXXI |
| " 149 | Forest | Repealed | XXVI |
| " 63 | Vagrancy | Section 2, definition of vagrant amended; section 3, repealed and replaced; sections 10, 11, 14, amended | VII |
| " 76 | Careless Use of Fire Prevention | Repealed | XLJ |
| " 130 | Credit Trade with Natives | Section 3, proviso added | XXI |
| 8 of 1925 | Arms and Ammunition | New provisions <i>re</i> inspection of premises | XXXIII |
| 13 of 1926 | Estate Duty (Consolidation) | Remissions in case of persons killed in war | XXVIII |
| 11 of 1927 | European Officers' Pensions | Section 19 (3), new | III |
| 15 of 1927 | Kenya and Uganda Railway | Section 2, new definition of "firebreak"; section 70, repealed and replaced | XLII |
| 19 of 1928 | Local Government (Municipalities) | Sections 10 (2), 13 (1), amended; 41, repealed and replaced by 41A, B, and C; 74A, new; 94 (5), amended | XIII |
| 20 of 1928 | Local Government (Rating) | Section 52 (6A), new | XLIV |
| 21 of 1928 | Local Government (District Councils) | Section 3 (1), new proviso | II |
| | | Section 57 (2A), new | XLIII |

TABLE SHOWING THE EFFECT OF THE YEAR'S LEGISLATION

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| Year and No. of Ordinance | Short Title | How Affected | Ordinance of 1941 |
|---------------------------|-----------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|
| 35 of 1929 | Water | Section 10A, new | V |
| 36 of 1930 | Native Liquor | Section 2, amended; 25A, new; provisions for prohibition, power to search and arrest, and penalty | VI |
| 53 of 1932 | Non-European Officers' Pensions | War service to count for pension purposes | IV |
| 18 of 1933 | Stock and Produce Theft (Levy of Fines) | Section 18 (4), new | XV |
| 26 of 1935 | Legislative Council | Section 10, amended.. .. . | XXIII |
| 29 of 1936 | Savings Bank.. .. . | Prevention of disqualification and suspension of sections 14 and 16 | XXIX |
| 30 of 1937 | Resident Labourers | Section 5, amended; section 9, repealed and replaced | XXII |
| 34 of 1938 | Pyrethrum | Section 7, repealed and replaced; sections 16, 21, 22, 24, 27, 34, amended | XXXVIII |
| | | Section 2, definition of "pyrethrum grower" repealed and replaced; section 8 (1), repealed and replaced; section 8 (2), amended; section 8 (3) and (5), repealed and replaced; section 8 (9), section 10A, new; section 12, repealed and replaced | N |
| | | Section 2, amended; section 3, repealed and replaced; section 5, amended; section 6, repealed and replaced; section 6A, new; section 8, amended; sections 10, 10A, 12, repealed and replaced; provision re continuance of members of board in office | XI |

TABLE SHOWING THE EFFECT OF THE YEAR'S LEGISLATION

FORMER ORDINANCES (IN CHRONOLOGICAL ORDER) REPEALED OR AMENDED BY ORDINANCES OF 1941

| Year and No. of Ordinance | Short Title | How Affected | Ordinance of 1941 |
|---------------------------|---------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|
| 40 of 1938 | Museums Trustees | Section 4, amended | XVII |
| 33 of 1939 | Matrimonial Causes | Sections 15, 20 (2), 23, 24 (2), 28 (3), 34, 35, amended | XXXIV |
| 34 of 1939 | Penal Code (Amendment) | Bringing into force Consolidated Edition and references thereto | XIX |
| 35 of 1939 | Criminal Procedure Code (Amendment) | Section 3, amended | I |
| 11 of 1940 | Income Tax | Bringing into force Consolidated Edition and references thereto Amendments to rates of tax, etc. till 31st December, following end of war | XX XXXVI |
| 12 of 1940 | Increase of Rent and of Mortgage Interest (Restrictions) | Section 17, new paragraph (e) | IX |
| 15 of 1940 | War Taxation (Customs and Excise Duties) | Sections 2 (1), 8 (1), 16, amended Repealed | XXXVII XXXV |
| 16 of 1940 | Dangerous Petroleum Tax (Amendment) | Repealed | XVIII |
| 23 of 1940 | Patents, Designs, Copyright and Trademarks (Emergency) | Section 4 (1), amended | XII |
| 41 of 1940 | War Risks Insurance | Section 2, definition of "goods" repealed and replaced Section 2, definition of "goods" amended ; section 6 (1), amended | XI XXXII |
| 42 of 1940 | War Loan | Section 6, amended | XVI |



COLONY AND PROTECTORATE OF KENYA

OFFICIAL GAZETTE SUPPLEMENT

Ordinances, 1941

NAIROBI, May 6, 1941

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Colony and Protectorate of Kenya

ORDINANCE No. I of 1941

Assented to in His Majesty's name this twenty-eighth day of April, 1941.

HENRY MOORE,
Governor.

[28TH APRIL, 1941.] Date of assent.

An Ordinance to Amend the Criminal Procedure Code (Amendment) Ordinance, 1939

~~28th April, 1941~~

Date of commencement.

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

1. This Ordinance may be cited as the Criminal Procedure Code (Amendment) Ordinance, 1941, and shall be read as one with the Criminal Procedure Code (Amendment) Ordinance, 1939, hereinafter referred to as the Principal Ordinance.

Short title.

No. 35 of 1939.

2. Section 3 of the Principal Ordinance is hereby amended by substituting the word "three" for the word "two" which appears in the eighth line thereof.

Amendment of section 3 of the Principal Ordinance.

ORDINANCE No. II of 1941

Assented to in His Majesty's name this twenty-eighth day of April, 1941.

HENRY MOORE,
Governor.

[28TH APRIL, 1941.] Date of assent.

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

28th April, 1941

Date of commencement.

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

1. This Ordinance may be cited as the Local Government (Rating) (Amendment) Ordinance, 1941, and shall be read as one with the Local Government (Rating) Ordinance, 1928, hereinafter referred to as the Principal Ordinance. Short title.
No. 20 of 1928.

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

“Provided that where under paragraph (b) of section 29 the provisions of this Ordinance have been declared to apply to the whole or to any part of a Grade “A” Township and such township or part thereof is subsequently declared under the provisions of section 11 of the Local Government (Municipalities) Ordinance, 1928, to be a municipality, it shall not be necessary for a further valuation to be made until the expiration of 5 years from the date when the last valuation was made in respect of such township or part thereof to which this Ordinance was applied, or such longer period as the Governor may approve.” No. 19 of 1928.

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ORDINANCE No. III of 1941

Assented to in His Majesty's name this twenty-eighth day of April, 1941.

HENRY MOORE,
Governor.

[28TH APRIL, 1941.] Date of assent.

An Ordinance to Amend the European Officers' Pensions Ordinance, 1927

28th April, 1941

Date of commencement.

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

1. This Ordinance may be cited as the *European Officers' Pensions (Amendment) Ordinance, 1941*, and shall be read as one with the European Officers' Pensions Ordinance, 1927, hereinafter referred to as the Principal Ordinance.

Short title.

No. 11 of 1927

2. Section 19 of the Principal Ordinance is hereby amended by adding thereto, immediately after sub-section (2) thereof, the following new sub-section:—

Amendment of section 19 of the Principal Ordinance.

“(3) If a European officer proceeding by a route approved by the Governor to or from the Colony at the commencement or termination of his service therein, or of a period of leave therefrom, dies as the result of damage to the vessel, aircraft or vehicle in which he is travelling, or of any act of violence directed against such vessel, aircraft or vehicle, and the Governor is satisfied that such damage or act is attributable to circumstances arising out of war in which His Majesty may be engaged, such officer shall be deemed, for the purposes of this section, to have died in the circumstances described in sub-section (1) of this section.”

ORDINANCE No. IV of 1941

Assented to in His Majesty's name this twenty-eighth day of April, 1941.

HENRY MOORE,
Governor.

[28TH APRIL, 1941.] Date of assent.

An Ordinance to Amend the Non-European Officers' Pensions Ordinance, 1932

28th April, 1941

Date of commencement.

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

1. This Ordinance may be cited as the Non-European Officers' Pensions (War Service) Ordinance, 1941, and shall be read as one with the Non-European Officers' Pensions Ordinance, 1932, hereinafter referred to as the Principal Ordinance.

Short title.

No. 53 of 1932.

2. Where a non-European officer shall have served with His Majesty's Forces in time of war, with the approval of the Governor of the territory in the service of which he was last employed before so serving or of the Secretary of State, the following provisions shall have effect:—

War service to count for pension purposes.

- (1) during the period of such service in His Majesty's Forces, including any period after the termination of the war (in this section referred to as "military service"), he shall be deemed, for the purposes of the Principal Ordinance, to have been on leave on full salary from the public service in which he was last employed, and to have held the substantive office last held by him in that service, prior to military service;
- (2) during any period between his leaving the public service for the purpose of serving in His Majesty's Forces and the date of his commencing military service, he shall, for the purposes of the Principal Ordinance, be deemed to be on leave without pay, not granted on grounds of public policy, from the public service in which he was last employed and to have held the substantive office last held by him in that service, prior to military service; and during any period between the termination of his military service and the date of his re-entering the public service he shall, for the said purposes, be deemed to be on leave as aforesaid from the service, and to have held the substantive office, in which he is re-employed:

Provided that—

- (a) this section shall not apply when either period mentioned in paragraph (2) of this

section exceeds three months, or such longer period as the Governor, with the approval of the Secretary of State, may in any special case determine; or if the officer fails, after serving with His Majesty's Forces, to re-enter the public service otherwise than in circumstances in which he would be permitted, under the law applicable to the public service in which he is last employed prior to military service, to retire on pension or gratuity, such circumstances arising not later than the expiration of three months, or such longer period as may be determined as aforesaid after the termination of his military service;

- (b) if during any period mentioned in paragraph (1) of this section the officer shall have qualified for pension, or received emoluments in lieu of pension rights, actually in respect of military service, paragraph (1) of this section shall, as respects that period, have effect as if the words "leave without salary not granted on grounds of public policy" were substituted for the words "leave on full salary";
- (c) if during his military service the officer shall be injured or killed he shall not, for the purposes of section 18 of the Principal Ordinance and Regulation 10 of the Regulations contained in the Schedule to the Principal Ordinance, be deemed to have been injured or killed in the discharge of his duty;
- (d) the provisions of this section which require that the officer shall be deemed to have held a specified office and to have been on leave from a specified service shall not apply in respect of any period during which he shall actually have held any other substantive office and have been on leave from any public service;
- (e) save where in any particular case the Governor otherwise directs, this section shall not apply where the office in the public service last held by the officer prior to military service was not a pensionable office.

ORDINANCE No. V of 1941

Assented to in His Majesty's name this twenty-eighth day
of April, 1941.

HENRY MOORE,
Governor.

[28TH APRIL, 1941.] Date of assent.

An Ordinance to Amend the Water Ordinance, 1929

28th April, 1941

Date of
commencement.

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

1. This Ordinance may be cited as the Water (Amendment) Ordinance, 1941, and shall be read as one with the Water Ordinance, 1929, hereinafter referred to as the Principal Ordinance.

Short title.
No. 35 of 1929.

2. The Principal Ordinance is hereby amended by the insertion therein of the following section immediately after section 10 thereof:—

Insertion of new
section 10A in
the Principal
Ordinance.

“10A. It shall not be lawful for any person to drain, obstruct or otherwise interfere with any swamp, which is a body of water, without first having obtained the licence or sanction of the Water Board.”

Drainage of
swamps.

ORDINANCE No. VI of 1941

Assented to in His Majesty's name this twenty-eighth day of April, 1941.

HENRY MOORE,
Governor.

[28TH APRIL, 1941.] Date of assent.

An Ordinance to Amend the Native Liquor Ordinance, 1930

28th April, 1941

Date of commencement.

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

1. This Ordinance may be cited as the Native Liquor (Amendment) Ordinance, 1941, and shall be read as one with the Native Liquor Ordinance, 1930, hereinafter referred to as the Principal Ordinance.

Short title.

No. 36 of 1930.

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

Amendment of section 2 of the Principal Ordinance.

(a) by deleting therefrom the words and comma "Nubian gin," which appear in paragraph (a) of the definition of "native intoxicating liquor";

(b) by substituting a comma for the semi-colon which appears at the end of the definition of "native intoxicating liquor";

(c) by inserting at the end of the definition of "native intoxicating liquor" the following words: "but does not include native spirituous liquor;" and

(d) by inserting, immediately after the definition of "native intoxicating liquor", the following new definition:—

"'native spirituous liquor' means Nubian gin and all other liquors such as are prepared or manufactured by natives by any process of distillation;"

3. The Principal Ordinance is hereby amended by inserting therein immediately after section 25 thereof the following new section:—

Amendment of the Principal Ordinance.

"25A. (1) Where native intoxicating liquor or native spirituous liquor is found on any premises the following persons shall be deemed to be in possession thereof, that is to say—

Presumption of guilt where liquor is found on premises in occupation of several persons.

(a) the landlord; and

(b) every person occupying any room, or having access to any part of the premises, in which such liquor is found,

unless such landlord or person, as the case may be, proves to the satisfaction of the court that such liquor was on such premises or in such room or part of the premises without his knowledge.

(2) For the purpose of this section 'landlord' means the person in receipt of any rents or profits from such premises, either on his own account or on account of some other person, who is in residence thereon at the time when such liquor is found.

(3) The provisions of this section shall apply only to such areas as the Governor in Council may by notice in the Gazette appoint."

*Applied to The
Whole Colony
S.N. 483/2, 164*

Prohibition.

4. (1) No person shall be in possession of, manufacture, consume, sell or supply any native spirituous liquor in any area in the Colony, irrespective of whether or not the Principal Ordinance has been applied to such area in accordance with the provisions of section 3 thereof.

(2) No person shall, without lawful excuse, be in possession of any implement, apparatus or utensil designed or adapted for the distillation of native spirituous liquor.

Power to search
and arrest.

5. Any magistrate, justice of the peace, or police officer of or above the rank of assistant inspector, and any other police officer or tribal police officer having written authority from a magistrate, a justice of the peace, or an officer in charge of a police station, or any other person having written authority from a magistrate, may, at any time, enter into or upon any premises or place wherein or whereon there may be reasonable suspicion that any native spirituous liquor is being manufactured or unlawfully stored, sold, supplied or consumed, and in the event of such entry being obstructed or refused, break into such premises or place in order to search the same, and may arrest any person and take into custody all such persons as may be found therein who may be apparently concerned in such manufacture or unlawful storing, sale, supply or consumption of native spirituous liquor, and also may take possession of all liquor and any implement, apparatus or utensils used for distilling or found thereon:

1941

Native Liquor

No. VI

Provided that any person so arrested or taken into custody as aforesaid shall, so soon as may be reasonably possible, be taken before a magistrate or be admitted to bail.

6. Any person who contravenes any of the provisions of this Ordinance shall be guilty of an offence and shall, on conviction before a subordinate court of the first or second class, be liable to a fine not exceeding £100 or to imprisonment for a term not exceeding one year, or to both such fine and such imprisonment. Where any person has been convicted of an offence under this Ordinance, the court may order the confiscation and destruction of all liquor or any implement, apparatus or utensils used in connexion with the commission of such offence. Penalty.

ORDINANCE No. VII of 1941

Assented to in His Majesty's name this twenty-eighth day
of April, 1941.

HENRY MOORE,
Governor.

[28TH APRIL, 1941.] Date of assent.

An Ordinance to Amend the Vagrancy Ordinance *28th April, 1941*

Date of
commencement.

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

1. This Ordinance may be cited as the Vagrancy (Amendment) Ordinance, 1941, and shall be read as one with the Vagrancy Ordinance, hereinafter referred to as the Principal Ordinance. Short title.
Cap. 63.
2. The definition of "vagrant" in section 2 of the Principal Ordinance is hereby amended—
 - (i) by inserting therein the words "employment or" between the word "has" and the word "visible" in paragraph (b) thereof; and
 - (ii) by deleting therefrom the words "and not having any visible" in paragraph (c) thereof and by substituting therefor the words "being unable to show that he has employment or visible and sufficient".Amendment
of the
definition of
"vagrant".
3. Section 3 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

"3. Any police officer may arrest without warrant any person who is apparently a vagrant or who he has reasonable grounds to believe has committed an offence under this Ordinance, and shall take such person before a magistrate as soon as possible."

Repeal and
replacement of
of section 3 of
the Principal
Ordinance.
Police may
arrest without
warrant for
offences under
the Ordinance.
4. Section 10 of the Principal Ordinance is hereby amended—
 - (i) by substituting a semi-colon for the full stop at the end of sub-section (1) thereof and by adding immediately after such semi-colon the words "and the magistrate may order him to be again repatriated, and he shall be repatriated accordingly."; andAmendment
of section 10 of
the Principal
Ordinance.

- (ii) by substituting a semi-colon for the full stop at the end of sub-section (3) thereof and by adding the words "and the magistrate may order him to be returned again to the area (if any) reserved for the use of his tribe or sub-tribe, and he shall be returned accordingly."

Amendment
of section 11 of
the Principal
Ordinance.

5. Section 11 of the Principal Ordinance is hereby amended by substituting a semi-colon for the full stop at the end of sub-section (3) thereof and by adding immediately after such semi-colon the words "and the magistrate may again order him to be returned to such area, and he shall be returned accordingly."

Amendment
of section 14 of
the Principal
Ordinance.

6. Section 14 of the Principal Ordinance is hereby amended—

- (i) by inserting the words "or upon any premises without the consent of the owner or occupier" between the word "about" and the word "be" in the fourth line of sub-section (1) thereof;
- (ii) by inserting the words "or upon any premises without the consent of the owner or occupier" between the word "employment," and the word "having" in the second line of sub-section (2) thereof;
- (iii) by substituting a comma for the semi-colon at the end of the third line of sub-section (2) thereof and by adding immediately after such comma the words "and on conviction shall be liable to imprisonment for a term not exceeding six months:"; and
- (iv) by substituting the word "be" for the word "by" in the fourth line of sub-section (2) thereof.

ORDINANCE No. VIII of 1941

Assented to in His Majesty's name this twenty-eighth day
of April, 1941.

HENRY MOORE,
Governor.

[28TH APRIL, 1941.] Date of assent.

An Ordinance to Amend the Interpretation and General Clauses Ordinance

28th April, 1941

Date of
commencement.

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

1. This Ordinance may be cited as the Interpretation and General Clauses (Amendment) Ordinance, 1941, and shall be read as one with the Interpretation and General Clauses Ordinance (Chapter 1 of the Revised Edition), hereinafter referred to as the Principal Ordinance.

Short title

Cap. 1.

2. Section 2 of the Principal Ordinance is hereby amended by the insertion therein between paragraphs (3) and (4) thereof of the following new paragraph:—

Amendment of
section 2 of
the Principal
Ordinance.

“(3)A “cognizable to the Police” used with reference to an offence shall mean that any police officer may arrest without warrant any person whom he suspects upon reasonable grounds of having committed that offence.”

ORDINANCE No. IX of 1941

Assented to in His Majesty's name this twenty-eighth day
of April, 1941.

HENRY MOORE,
Governor.

[28TH APRIL, 1941.] Date of assent.

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

28th April, 1941

Date of
commencement.

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

1. This Ordinance may be cited as the Increase of Rent and of Mortgage Interest (Restrictions) (Amendment) Ordinance, 1941, and shall be read as one with the Increase of Rent and of Mortgage Interest (Restrictions) Ordinance, 1940, hereinafter referred to as the Principal Ordinance.

Short
title.

No. 12 of 1940.

2. Section 17 of the Principal Ordinance is hereby amended by substituting a semi-colon for the full stop which appears at the end thereof and by inserting immediately after such semi-colon the following new paragraph:—

Amendment of
section 17 of
the Principal
Ordinance.

“(e) the following definition shall be substituted for the definition of “prescribed date” contained in section 2 of this Ordinance:—

‘prescribed date’ means such date as the Governor in Council may by Proclamation under section 17 of this Ordinance appoint.”

ORDINANCE No. X of 1941

HENRY MOORE,

Governor.

Assented to in His Majesty's name this twenty-eighth day of April, 1941.

[28TH APRIL, 1941.] Date of assent.

An Ordinance to Amend the Pyrethrum Ordinance, 1938

28th April, 1941

Date of commencement.

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

1. This Ordinance may be cited as the Pyrethrum (Amendment) Ordinance, 1941, and shall be read as one with the Pyrethrum Ordinance, 1938, hereinafter referred to as the Principal Ordinance. Short title.
No. 34 of 1938.
2. Section 2 of the Principal Ordinance is hereby amended by deleting therefrom the definition of "pyrethrum grower" and substituting therefor the following definition:—

" 'pyrethrum grower' means a person who has been licensed under the provisions of this Ordinance to grow pyrethrum for sale and includes the duly authorized agent of such person; "

Amendment of section 2 of the Principal Ordinance.
3. Section 8 of the Principal Ordinance is hereby amended— Amendment of section 8 of the Principal Ordinance.
 - (a) by deleting therefrom sub-section (1) thereof and substituting therefor the following sub-section:—

"(1) No person shall grow pyrethrum for sale on any land unless and until he is in possession of a licence issued to him for such purpose by the Director in respect of such land. ";
 - (b) by deleting therefrom the words "other than an application for a licence mentioned in sub-section (3) of this section" which appear in the first and the second lines of sub-section (2) thereof;
 - (c) by deleting therefrom sub-section (3) thereof and substituting therefor the following sub-section:—

"(3) When the ownership or possession of any land, in respect of which a licence has been

issued under the provisions of this section, is transferred during the validity of the licence by the person to whom the licence was issued to any other person, the Director may, by a written endorsement on such licence, transfer such licence from the person to whom it was issued to such other person. In any such case the Director shall give notice to the Commissioner of Inland Revenue of the name of the transferor, the name of the transferee, the number of the licence and the date of the endorsement.”;

(d) by deleting therefrom sub-section (5) thereof and substituting therefor the following sub-section:—

“(5) Every licence issued by the Director shall specify either—

Replaced by Ord. 40/41

- (a) ~~the acreage of land which the licensee is authorized to plant with pyrethrum; or~~
- (b) the maximum quantity of pyrethrum which the licensee may deliver to the agency during the year to which the licence relates:

Provided that in the case of any pyrethrum grower (or his successor in title) who was registered under section 4 of the Sale of Pyrethrum Ordinance, 1935, such maximum quantity of pyrethrum shall not be less than the greatest quantity produced by such pyrethrum grower in any one of the years 1936/37, 1937/38, or 1938/39.”;

No. 23 of 1935.

and

(e) by inserting therein, immediately after sub-section (8) thereof, the following new sub-section:—

“(9) No pyrethrum grower shall plant any land with pyrethrum except the acreage of land specified in his licence or shall offer for sale pyrethrum in excess of the maximum quantity specified in his licence, as the case may be.”

Deleted by Ord. 40/41

1941

Pyrethrum

No. X

4. The Principal Ordinance is hereby amended by inserting therein, immediately after section 10 thereof, the following new section:—

Insertion of section 10A in the Principal Ordinance.

"10A. No pyrethrum grower shall deliver to the agency pyrethrum in excess of the maximum quantity which he is permitted to grow or to deliver to the agency for sale by virtue of his licence, unless he is in possession of a permit issued to him by the Director authorizing him to do so."

Maximum quantity of pyrethrum that may be offered to agency

5. Section 12 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

Repeal and replacement of section 12 of the Principal Ordinance.

"12. Subject to the provisions of any rules made under this Ordinance, the agency shall accept all pyrethrum offered to it by any grower, provided the pyrethrum so offered is suitable for the preparation of an insecticide of good quality and that the quantity offered does not exceed the quantity which the pyrethrum grower has produced on the acreage of land which he was authorized under the terms of his licence to plant with pyrethrum, or the maximum quantity of pyrethrum which the pyrethrum grower was authorized to deliver to the agency under the terms of his licence or under the terms of a permit issued to him under section 10A of this Ordinance, as the case may be."

Agency to accept pyrethrum offered.

ORDINANCE No. XI of 1941

Assented to in His Majesty's name this twenty eighth day of April, 1941.

HENRY MOORE,
Governor.

[28TH APRIL, 1941.] Date of assent.

An Ordinance to Amend the War Risks Insurance Ordinance, 1940

1st January, 1941

Date of commencement.

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

1. This Ordinance may be cited as the War Risks Insurance (Amendment) Ordinance, 1941, and shall be read as one with the War Risks Insurance Ordinance, 1940, hereinafter referred to as the Principal Ordinance, and shall be deemed to have come into operation from the first day of January, 1941.

Short title and commencement.

No. 41 of 1940.

2. Section 2 of the Principal Ordinance is hereby amended by deleting therefrom the definition of "goods" contained therein, and substituting therefor the following definition:—

Amendment of section 2 of the Principal Ordinance.

“‘goods’ means all chattels personal, other than things in action, money and goods specified in the Schedule to this Ordinance, and, in relation to a seller or supplier of goods of any description produced by such seller or supplier, means both goods of that description and goods used as material from which goods of that description are produced or as ingredients or component parts of goods of that description;”.



COLONY AND PROTECTORATE OF KENYA

OFFICIAL GAZETTE SUPPLEMENT

Ordinances, 1941

NAIROBI, July 8, 1941

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ORDINANCE No. XII of 1941

Assented to in His Majesty's name this third day of July, 1941.

G. M. RENNIE,
Governor's Deputy.

[3RD JULY, 1941.] Date of assent.

An Ordinance to Amend the Patents, Designs, Copyright and Trade Marks (Emergency) Ordinance, 1940.

3rd July, 1941

Date of commencement.

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

1. This Ordinance may be cited as the Patents, Designs, Copyright and Trade Marks (Emergency) (Amendment) Ordinance, 1941, and shall be read as one with the Patents, Designs, Copyright and Trade Marks (Emergency) Ordinance, 1940, hereinafter referred to as the Principal Ordinance.

Short title.

No. 23 of 1940.

2. Sub-section (1) of section 4 of the Principal Ordinance is hereby amended by inserting therein between the word "Act" and the word "shall" which appear in the second line thereof the words following:—

Amendment of Section 4(1) of the Principal Ordinance.

"with respect to a registered design or a copyright, or a patent registered under the Registration of Patents Ordinance, 1933".

No. 58 of 1933.

ORDINANCE No. XIII of 1941

Assented to in His Majesty's name this third day of
July, 1941.

G. M. RENNIE,
Governor's Deputy.

[3RD JULY, 1941.] Date of assent.

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

3rd July, 1941

Date of
commencement.

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

1. This Ordinance may be cited as the Local Government (Municipalities) (Amendment) Ordinance, 1941, and shall be read as one with the Local Government (Municipalities) Ordinance, 1928, hereinafter referred to as the Principal Ordinance. Short title.
No. 19 of 1928.
2. Sub-section (2) of section 10 of the Principal Ordinance is hereby amended by deleting therefrom the word "annually" which appears in the third line thereof and substituting therefor the words "for a period of three years". Amendment of
section 10(2) of
the Principal
Ordinance.
3. Sub-section (1) of section 13 of the Principal Ordinance is hereby amended by inserting therein between the word "Governor" and the full stop which appear in the eighth line thereof the words "for a period not exceeding three years". Amendment of
section 13(1) of
the Principal
Ordinance.
4. Section 41 of the Principal Ordinance is hereby repealed and the following sections are substituted therefor:— Repeal and
replacement of
section 41 of
the Principal
Ordinance.

"41. (1) If a member of a Council has any pecuniary interest, direct or indirect, in any contract or proposed contract or other matter, and is present at a meeting of the Council or of any committee thereof at which the contract or other matter is the subject of consideration, he shall at the meeting, as soon as possible after the commencement thereof, disclose the fact, and shall not take part in the consideration or discussion of, or vote on any question with respect to, the contract or other matter: Disability of
councillors for
voting on
account of
interest in
contracts, etc.

Provided that this section shall not apply to an interest in a contract or other matter which a member may have as a ratepayer or inhabitant of the area under the jurisdiction of the Council, or as an ordinary consumer of water, or to an interest in any matter relating to the terms on which the right to participate in any service, including the supply of goods, is offered to the public.

(2) For the purposes of this section a person shall (subject as hereafter in this sub-section provided) be treated as having indirectly a pecuniary interest in a contract or other matter, if—

- (a) he or any nominee of his is a member of a company or other body with which the contract is made or is proposed to be made or which has a direct pecuniary interest in the other matter under consideration; or
- (b) he is a partner, or is in the employment, of a person with whom the contract is made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration:

Provided that—

- (i) this sub-section shall not apply to membership of, or employment under, any public body;
- (ii) a member of a company or other body shall not, by reason only of his membership, be treated as being so interested if he has no beneficial interest in any shares or stock of that company or other body.

(3) In the case of married persons living together the interest of one spouse shall, if known to the other, be deemed for the purposes of this section to be also an interest of that other spouse.

(4) A general notice given in writing to the Town Clerk by a member of the Council to the effect that he or his spouse is a member or in the employment of a specified company or other body, or that he or his spouse is a partner or in the employment of a specified person, shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of his interest in any contract,

proposed contract, or other matter relating to that company or other body or to that person which may be the subject of consideration after the date of the notice.

(5) The Town Clerk shall record in a book to be kept for the purpose particulars of any disclosure made under sub-section (1) of this section, and of any notice given under sub-section (4) thereof, and the book shall be open at all reasonable hours to the inspection of any member of the Council.

(6) If any person fails to comply with the provisions of sub-section (1) of this section, he shall for each offence be liable on conviction to a fine not exceeding fifty pounds, unless he proves that he did not know that a contract, proposed contract, or other matter in which he had a pecuniary interest was the subject of consideration at the meeting.

(7) Any person convicted of an offence against this section shall *ipso facto* become disqualified from continuing to be a councillor and shall account to the Council for any profit which may accrue to him of such contract or matter.

(8) Any councillor disqualified under the provisions of sub-section (7) of this section shall not be capable, for a period of three years, of being elected or nominated a councillor for any municipality.

(9) A prosecution for an offence under this section shall not be instituted except by or on behalf of the Attorney General.

(10) The Governor may, subject to such conditions as he may think fit to impose, remove any disability imposed by this section in any case in which the number of members of the Council so disabled at any one time would be so great a proportion of the whole as to impede the transaction of business, or in any other case in which it appears to the Governor that it is in the interests of the inhabitants of the area under the jurisdiction of the Council that the disability should be removed.

(11) A Council may by standing orders provide for the exclusion of a member of the Council from a meeting of the Council or of any committee thereof whilst any contract, proposed contract or other matter in which he has such an interest as aforesaid is under consideration.

41A. No councillor shall by himself or his partner or agent act as an advocate against the Council.

41B. No councillor shall by himself or his partner or agent act as an advocate or representative of any other person—

(a) before any Valuation Court appointed by the Council under the Local Government (Rating) Ordinance, 1928, or

(b) before any committee of the Council appointed to consider or deal with applications for any licence or certificate which the Council has power to grant or issue.

41C. No councillor or his partner or his employer or employee, or any company of which a councillor is a director shall act for the Council for reward as an auditor.”

No. 20 of 1928.

Amendment of the Principal Ordinance.

5. The Principal Ordinance is hereby amended by inserting therein, immediately after section 74 thereof, the following new section:—

Power to demand monetary deposits from applicants for permits.

“74A. (1) Where the Council is empowered to make by-laws prohibiting, restricting or regulating the doing of any act and such by-laws require any person to obtain a permit from a specified authority before the doing of such act, such by-laws may provide for a deposit of such sum, or the execution of a bond with or without sureties in such sum, as may be prescribed in such by-laws, such sum to be refunded or such bond to be void, as the case may be, if the person to whom such permit is granted complies with all the conditions of such permit.

(2) The provisions of the preceding sub-section shall not apply where the Council may, under section 77 of this Ordinance, impose duties or fees.”

Amendment of section 94(5) of the Principal Ordinance.

6. Sub-section (5) of section 94 of the Principal Ordinance is hereby amended by inserting therein between the word “Gazette” and the full stop which appear in the seventh line thereof the words “if in the opinion of the Standing Committee such publication is necessary”.

An Ordinance to Impose a Tax on Excess Profits

ARRANGEMENT OF SECTIONS

- Section 1—Short title.
- ” 2—Interpretation.
- ” 3—Charge of excess profits tax.
- ” 4—Profits chargeable.
- ” 5—Accounting periods and chargeable accounting periods.
- ” 6—Computation of profits.
- (8) Special deduction in the case of agriculture or mining.
- (9) Contribution to War Funds.
- (10) Exceptional depreciation.
- (11) Profit on long-term contracts.
- (12) Directors' remuneration.
- (13) Artificial transactions.
- Unnecessary expenses.
- (14) Spreading of certain expenses.
- (15) Interest on certain borrowed money.
- ” 7—Computation of losses.
- ” 8—Computation of average capital.
- (4) Borrowed money and debts.
- (6) Investments.
- (7) Profits or losses accrued.
- (8) Unproductive assets.
- ” 9—Standard profits.
- (2) Minimum standard.
- (3) Standard based on profits.
- (7) Increases or decreases in capital.
- (8) Special standards.
- ” 10—Successions and amalgamations.
- (2) Partnerships.
- (3) Change after 1st January, 1940.
- (4) Businesses amalgamated.
- (5) Businesses divided.
- (6) Changes on or before 1st January, 1940.
- (7) Modifications to capital and profits.
- ” 11—Inter-connected companies.
- (3) Principal and subsidiary companies—provisions as to aggregation.
- (4) Definitions.
- ” 12—Relief in respect of double excess profits tax.
- ” 13—Relation of excess profits tax to income tax.
- ” 14—Relief in respect of deficiencies of profits.
- ” 15—Power to remit tax.
- ” 16—Assessment and collection.
- ” 17—Adaptation of certain provisions of the Income Tax Ordinance, 1940.
- ” 18—Board of Referees.
- ” 19—Rule-making powers.
- ” 20—Penalties.
- ” 21—Disposal of excess profits tax.
- ” 22—Duration of Ordinance.

Amended by Ord. 41/46

34

*15/47
34/50*

ORDINANCE No. XIV of 1941

Assented to in His Majesty's name this third day of July, 1941.

G. M. RENNIE,
Governor's Deputy.

Date of assent.

[3RD JULY, 1941.]

An Ordinance to Impose a Tax on Excess Profits

3rd July, 1941

Date of commencement.

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

Short title.

1. This Ordinance may be cited as the Excess Profits Tax Ordinance, 1941.

Interpretation.

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

“Board of Referees” means the board of referees to be appointed by the Governor in Council under section 18 of this Ordinance;

“business” means every trade, business, profession or vocation for whatever period of time such trade, business, profession or vocation may have been carried on or exercised;

No. 11 of 1940. “Commissioner” has the meaning assigned to it in the Income Tax Ordinance, 1940;

No. 28 of 1933. “company” means a company within the meaning of the Companies Ordinance, 1933;

“director” has the same meaning as in section 145 of the Companies Ordinance, 1933, except that it includes any person who—

(a) is the manager of the company or otherwise concerned in the management of the business; and

(b) is remunerated out of the funds of the business; and

(c) is the beneficial owner of not less than twenty per cent of the ordinary share capital of the company;

Net Amount means → “ordinary share capital” means all the issued share capital (by whatever name called) of the company, other than capital the holders whereof have a right to a dividend of a fixed rate or a rate fluctuating in accordance with the rate of income tax, but have no other right to share in the profits of the company;

Added by Ord. 15/47 p. 87 para. 2.

“statutory percentage” means—

(a) in the case of the business of mining—

(i) if the business is carried on by a body corporate, other than a company the directors whereof have a controlling interest therein, seventeen and one-half per cent;

(ii) if the business is carried on by a partnership of which one or more of the partners is a body corporate which is not a company the directors whereof have a controlling interest therein, such a rate per cent as is equivalent to seventeen and one-half per cent on so much of the average amount of the capital employed in the business in the chargeable accounting period as represents the share of any such body corporate, and twenty per cent on the remainder of that amount; and

(iii) in any case to which neither of the foregoing subparagraphs of this paragraph applies, twenty per cent;

(b) in the case of all businesses, other than the business of mining—

(i) if the business is carried on by a body corporate, other than a company the directors whereof have a controlling interest therein, twelve and one-half per cent;

(ii) if the business is carried on by a partnership of which one or more of the partners is a body corporate which is not a company the directors whereof have a controlling interest therein, such a rate per cent as is equivalent to twelve and one-half per cent on so much of the average amount of the capital employed in the business in the chargeable accounting period as represents the share of any such body corporate, and fifteen per cent on the remainder of that amount; and

(iii) in any case to which neither of the foregoing subparagraphs of this paragraph applies, fifteen per cent.

3. Where the profits arising in any chargeable accounting period from any business to which this Ordinance applies exceed the standard profits, there shall, subject to the pro-

“the original business” - included by ord. 15/47 p 89

para 2
Charge of
excess profits
tax.

visions of this Ordinance, be charged on the excess a tax (to be called the Excess Profits Tax) equal to three-fifths of the excess:

Provided that the excess profits tax charged upon a person not resident in the Colony in respect of a business carried on by him in the Colony shall not exceed the amount with which he would be charged if he were resident in the Colony; and where under any law in force in the Tanganyika Territory, the Uganda Protectorate, or the Zanzibar Protectorate he is charged with excess profits tax on any business carried on by him in any of the said territories there shall be calculated—

- (a) the amount of excess profits tax which would have been charged upon him if he were resident in the Colony;
- (b) the amount of excess profits tax which would have been charged upon him if he were not resident in the Colony;
- (c) the aggregate amount of excess profits tax which would, but for this proviso, be charged upon him in the Colony and in the said territories if the provisions of this Ordinance were in force in all those territories,

and the amount of excess profits tax to be charged upon him under this Ordinance shall be the amount which results from multiplying the amount of excess profits tax arrived at under paragraph (a) by the amount arrived at under paragraph (b) and dividing the product thereof by the amount arrived at under paragraph (c) of this proviso.

Where the amount so computed is found to be incorrect (whether by reason of any subsequent deficiency of profits or for any other reason) the amount so computed shall be recalculated and the excess profits tax varied accordingly.

Profits
chargeable.

No. 11 of 1940.

4. (1) The profits chargeable with excess profits tax shall be all profits derived by any person from any business chargeable with income tax under the Income Tax Ordinance, 1940.

(2) Income derived from investments shall not be chargeable with excess profits tax unless the business carried on normally includes the making of or dealing in investments.

(3) All businesses to which this Ordinance applies carried on by the same person shall be treated as one business:

Provided that where any person who carries on one or more such businesses under the terms of a lease entered into with the Custodian of Enemy Property for the Tanganyika Territory also carries on another such business which is not so leased, then, notwithstanding anything to the contrary contained in this Ordinance, the following provisions shall apply:—

- (a) All such businesses so leased by the same person shall be treated as one separate business for all purposes of this Ordinance;
- (b) the standard profits of such separate business shall be the amount computed in accordance with the provisions of paragraph (b) of sub-section (1) of section 9 of this Ordinance; and
- (c) for the purposes of this sub-section the expression "person" shall include a group of companies where an application is made by a group of companies under the provisions of sub-section (3) of section 11 of this Ordinance. *Provis added by Ord. 4/45*

5. (1) For the purpose of this Ordinance, the accounting periods of a business shall be determined as follows:—

Accounting periods and chargeable accounting periods.

- (a) in a case where the accounts of the business are made up for successive periods of twelve months, each of those periods shall be an accounting period;
- (b) in a case where the accounts of the business have been made up as aforesaid but have ceased to be so made up, the accounting periods from the end of the last period of twelve months for which they were so made up shall be such period, not exceeding twelve months, as the Commissioner may determine;
- (c) in any other case, the accounting period of a business shall be such period, not exceeding twelve months, as the Commissioner may determine.

(2) Any accounting period beginning on or after the first day of July, 1940, shall be a chargeable accounting period, and, where any accounting period began before the first day of July, 1940, and ended after that date, so much of such accounting period as falls after the thirtieth day of June, 1940, shall be a chargeable accounting period. *by 1/45*

(3) Where a standard period or chargeable accounting period is not an accounting period, the profits or losses of the

business for any accounting periods wholly or partly included within the standard period or chargeable accounting period shall be computed separately, and such division and apportionment of those profits or losses and such aggregation of those profits or losses, or any apportioned part thereof, shall be made as appears necessary to arrive at the profits arising in the standard period or chargeable accounting period; and any such apportionment shall be made in proportion to the number of months or fractions of months in the respective periods, unless the Commissioner, having regard to any special circumstances, otherwise directs.

Computation of profits.

No. 11 of 1940.

6. The profits arising from a business in the standard period or in any chargeable accounting period shall be separately computed and shall be so computed in accordance with the provisions of the Income Tax Ordinance, 1940, for the ascertainment of total income from such business and shall be subject to the adjustments set out in the following sub-sections:—

(1) The profits shall be taken to be the actual profits arising in the accounting period, and the principles of computing profits by reference to any other period shall not be followed.

No. 11 of 1940.

(2) The amount of any debenture interest which would have been allowed as a deduction in computing profits but for the express provision contained in paragraph (d) of section 14 of the Income Tax Ordinance, 1940, shall be deducted.

(3) No deduction shall be allowed in respect of any excess profits tax paid or charged.

No. 11 of 1940.

(4) No deduction shall be allowed under the following provisions of the Income Tax Ordinance, 1940—

- (i) sub-paragraphs (ii) and (iv) of the proviso to paragraph (c) of sub-section (1) of section 13 thereof, or of
- (ii) paragraphs (l) and (m) of sub-section (1) of section 13 thereof.

(5) Sub-section (5) of section 7 thereof shall not apply.

(6) Where a business is carried on by a partnership the business shall, for the purpose of this Ordinance, be deemed to be carried on by a person not resident in the Colony.

(7) Where applicable, an election under paragraph (i) of sub-section (1) of section 13 or under section 15 of the Income

Tax Ordinance, 1940, shall be made by the person carrying on the business when rendering his first return for the purposes of this Ordinance.

No. 11 of 1940.

(8) Where a person carries on a business of agriculture or of mining, or of a co-operative society as defined in section 2 of the Co-operative Societies (Registration) Ordinance, 1931, the Board of Referees may, upon application being made to them in writing, authorize a deduction of such an amount as they may think fit on account of any expenditure incurred or to be incurred by the person carrying on the business in developing, improving or extending such business, and which would not otherwise be allowed as a deduction under the provisions of this Ordinance; and such deduction shall be taken into account by the Commissioner in computing the total excess profits tax to be paid in respect of such business:

Special deduction in case of agriculture and mining. No. 24 of 1931

Provided that the amount so authorized shall not exceed the total of the excess profits of the business for all chargeable accounting periods.

The deduction authorized under the provisions of this sub-section shall be provisional only and, when the total excess profits of the business for all chargeable accounting periods have been ascertained, the amount of the deduction shall be adjusted so as to accord with the provisions of this sub-section.

For the purposes of this sub-section a business of agriculture or a business of mining or a business of a co-operative society as defined in section 2 of the Co-operative Societies (Registration) Ordinance, 1931, shall be treated as a separate business.

No. 24 of 1931

(9) Any sum contributed prior to the first day of July, 1941, to the Kenya Central War Fund, the Kenya War Welfare Fund, or such other war funds as may be approved by the Commissioner, shall be deducted in computing the profits of a chargeable accounting period.

Contributions to war funds.

(10) (a) Where any buildings, roads, plant or machinery have, after the first day of September, 1939, been provided for the purpose of the business by the person carrying on the business, then, if either—

Exceptional depreciation.

(i) on such date as the Governor in Council may determine, the buildings, roads, plant or machinery have,

wholly or partially, become obsolete or ceased to be required and the value thereof is less than the net cost thereof; or

- (ii) the buildings, roads, plant or machinery are sold before the said date at a price which is less than the net cost thereof,

and, in either case, the deficiency is wholly or mainly ascribable to conditions prevailing as a consequence of the present war, there shall be allowed in respect of each accounting period which constitutes or includes a chargeable accounting period such proportion of the deficiency as is properly attributable to that accounting period, less the amount of any allowances for wear and tear or depreciation already made for that period in respect of the buildings, roads, plant or machinery otherwise than under this paragraph, and if any buildings, roads, plant or machinery provided as aforesaid are replaced, no deduction other than that made under this paragraph shall be made in respect of the amount expended in the replacement thereof.

(b) Pending an ascertainment whether any deduction falls to be made under paragraph (a) of this sub-section in respect of buildings, roads, plant or machinery, the Commissioner, if he is satisfied that any buildings, roads, plant or machinery provided as aforesaid are of such a character that it is likely that the conditions specified in the said paragraph will be fulfilled in the case thereof, may allow in any accounting period which constitutes or includes a chargeable accounting period such sums as he thinks fit, but any such deduction shall be provisional only, and on the coming of the said date, or, as the case may be, on the previous sale of the buildings, roads, plant or machinery, the amount thereof shall be adjusted so as to accord with the provisions of the said paragraph.

(c) Where a business has been transferred by one person to another, any buildings, roads, plant or machinery provided for the purposes of the business by the person transferring it which were transferred with the business and continue to be used for those purposes after the transfer shall, for the purposes of this sub-section, be deemed to have been provided for the purposes of the business not only by the person transferring the business but also by the person to whom the business is transferred:

Provided that the amount of any allowance granted under this sub-section to the person to whom the business is trans-

ferred shall, if necessary, be so reduced as to secure that the total allowances granted to the said persons in respect of any buildings, roads, plant or machinery affected by the transfer are not greater than the total allowances which would have been granted to the person making the transfer if the transfer had not taken place.

The provisions of this paragraph shall apply in relation to the transfer of part of a business as they apply in relation to the transfer of the whole of a business.

(11) Where the performance of a contract extends beyond the accounting period, there shall (unless the Commissioner, owing to any special circumstances, otherwise directs) be attributed to the accounting period such proportion of the entire profit or loss which has resulted, or which it is estimated will result, from the complete performance of the contract as is properly attributable to the accounting period, having regard to the extent to which the contract was performed therein.

Profits on
long-term
contracts.

(12) (a) In the case of a business carried on in any accounting period which constitutes or includes a chargeable accounting period, by a company the directors whereof have, throughout that accounting period, a controlling interest therein—

Directors'
remuneration

(i) in computing the profits for that accounting period, and

(ii) if the standard profits of the business are computed by reference to the profits of a standard period, also in computing, in relation to any such chargeable accounting period, the profits for the standard period,

no deduction shall be made in respect of directors' remuneration.

In this sub-paragraph the expression "directors' remuneration" does not include the remuneration of any director who is required to devote substantially the whole of his time to the service of the company in a managerial or technical capacity, and is not the beneficial owner of, or able, either directly or through the medium of other companies or by any other indirect means, to control, more than five per cent of the ordinary share capital of the company.

(b) If, in the case of a business carried on by a company in any accounting period which constitutes or includes a chargeable accounting period, the directors of the company—

(i) have, in any part of that accounting period; or

- (ii) had during the whole or any part of any previous accounting period which includes the whole or any part of any chargeable accounting period or the whole or any part of the standard period (if any),

a controlling interest therein, and the case is not one to which paragraph (a) of this sub-section applies, then, except in so far as the Commissioner otherwise directs, no deduction shall be made in respect of directors' remuneration either in computing the profits for the first-mentioned accounting period or in computing, in relation to any chargeable accounting period, wholly or partly included in that accounting period, the profits of the standard period (if any).

Artificial transactions.

(13) (a) No deductions shall be made in respect of any transaction or operation of any nature if and so far as it appears that the transaction or operation has artificially reduced or would artificially reduce the profits.

Unnecessary expenses.

(b) No deduction shall be allowed in respect of expenses in excess of the amount which the Commissioner considers reasonable and necessary, having regard to the requirements of the business, and, in the case of directors' fees or other payments for services, to the actual services rendered by the person concerned.

Any person who is dissatisfied with a decision of the Commissioner under this paragraph may appeal to the Board of Referees.

Spreading of certain expenses.

(14) Where, in respect of any accounting period, a deduction would, apart from the provisions of this sub-section, be allowable in computing profits, and, in the opinion of the Commissioner, the deduction does not represent a sum reasonably and properly attributable to that accounting period, only such part of the deduction shall be allowable as a deduction for that period as appears to the Commissioner to be reasonably and properly attributable to that period, and any balance of the deduction shall be treated as attributable to such other accounting period or periods (whether or not they include, or fall wholly or partly within, the standard period, if any, or any chargeable accounting period) as the Commissioner thinks proper.

New para inserted by Ord. 15/47 p. 90 = (a) (b) (c)

Any person who is dissatisfied with a determination of the Commissioner under this sub-section may appeal to the Board of Referees.

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(15) Where the person carrying on a business is the beneficial owner of any investments, the income from which is not to be taken into account in computing the profits of the business, and a deduction would apart from the provisions of this sub-section fall to be made in respect of interest on borrowed money, the deduction (if any) to be made in respect of that interest shall be computed as if the principal of the borrowed money were reduced by the value of those investments:

Interest on
certain borrowed
money.

Provided that where the person carrying on the business is not a body corporate no such reduction shall be treated as made in the principal of any borrowed money in respect of any investments unless the investments are mortgaged, charged or pledged as security for the repayment of that money and interest thereon.

7. The provisions of this Ordinance which relate to the computation of profits shall also apply to the computation of losses and such provisions shall be construed accordingly.

Computation
of losses.

8. (1) The average amount of the capital employed in a business in the standard period or any chargeable accounting period (so far as it does not consist of money) shall be taken to be—

Computation
of average
capital.

- (a) so far as it consists of assets acquired by purchase on or after the commencement of the business, the price at which those assets were acquired, subject to the deductions hereafter specified;
- (b) so far as it consists of assets being debts due to the person carrying on the business, the nominal amount of those debts, subject to the said deductions;
- (c) so far as it consists of any other assets which have been acquired otherwise than by purchase as aforesaid, the value of the assets when they became assets of the business, subject to the said deductions.

(2) There shall be deducted from the price or value of any such assets any deductions in respect of reduced values of these assets which are authorized under the provisions of Part V of the Income Tax Ordinance, 1940, and for this purpose the Income Tax Ordinance, 1940, shall be deemed to have been in force as from the date of the commencement of the business.

No. 11 of 1940.

(3) Where the price of any asset has been satisfied otherwise than in cash, the then value of the consideration actually given for the asset shall be treated as the price at which the asset was acquired.

Borrowed
money and
debts.

(4) Any borrowed money or debts shall be deducted, including any such sums in respect of accruing liabilities as are allowable as a deduction in computing profits for the purposes of excess profits tax, or would have been so allowable if the period for which the amount of capital is being computed had been a chargeable accounting period, and all the said sums shall be deducted notwithstanding that they have not become payable. Any debts for income tax or excess profits tax in respect of the business shall be deducted:

Provided that any such debt for income tax or excess profits tax shall, for the purposes of this section, be deemed to have become due—

(a) in the case of income tax, on the 31st day of March in the year following the year of assessment for which the tax is assessable;

(b) in the case of excess profits tax, on the first day after the end of the chargeable accounting period in respect of which the excess profits tax is assessable,

notwithstanding that the income tax or excess profits tax may not have been assessed until after those dates respectively.

(5) Where any debt for excess profits tax assessable in respect of any period is to be deducted under this sub-section, the amount thereof shall not be reduced as a result of any relief to be given in respect of a deficiency of profits occurring in any subsequent period, and the amount of any such relief shall be treated as having become an asset of the business on the first day after the end of the chargeable accounting period in which the deficiency occurred.

Investments.

(6) Any investments the income from which is not chargeable under the provisions of this Ordinance, and any moneys not required for the purpose of the business, shall be left out of account, but where any investments in the beneficial ownership of the person carrying on the business are so left out of account, the sum (if any) to be deducted under sub-section (4) of this section in respect of borrowed money shall be computed as if the principal of the borrowed money were reduced by the value of those investments:

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Provided that where the person carrying on the business is not a body corporate, no reduction shall be treated as made in the principal of any borrowed money in respect of any investments unless the investments are mortgaged, charged or pledged as security for the repayment of that money and the interest thereon.

(7) For the purpose of ascertaining the average amount of capital employed in a business during any period, the profits or losses in that period shall, except so far as the contrary is shown, be deemed—

Profits or losses accrued.

- (a) to have accrued at an even rate throughout the period; and
- (b) to have resulted, as they accrued, in a corresponding increase or decrease, as the case may be, in the capital employed in the business.

(8) If—

Unproductive assets.

- (a) the Commissioner is satisfied, as respects any assets of any business the standard profits of which are computed by reference to the profits of a standard period, that during that period or any part thereof those assets were inherently unproductive; and
- (b) an application that this sub-section shall have effect is made by the person carrying on the business,

then, in computing the average amount of the capital employed in the business in the standard period and in all chargeable accounting periods, those assets, and any other assets of the business, shall be treated as not having been assets thereof during any part of the period during which, in the opinion of the Commissioner, they were inherently unproductive:

Provided that, in the case of a business the standard profits of which depend, directly or indirectly, upon a direction of the Board of Referees under paragraph (a) of sub-section (8) of section 9 of this Ordinance, the provisions of this sub-section shall have effect to such extent only as the Commissioner thinks proper.

9. (1) The person carrying on the business may elect that, in relation to any chargeable accounting period, the standard profits of such business shall be such of the following amounts as he may choose, that is to say, either—

Standard profits.

- (a) the minimum amount specified in sub-section (2) of this section, or

(b) the statutory percentage of the average amount of capital employed in the business in the chargeable accounting period, or

(c) the profits of the year ended the thirty-first day of December, 1939,

and in the absence of such an election shall be the amount of the standard profits for a full year computed in accordance with the provisions of sub-sections (3) to (6) of this section:

*Repealed & Substituted
by Ord 15707
1941 para 4*

Provided that where the business is that of a profession the profits of which are dependent mainly on the personal qualifications of the persons by whom the profession is carried on and in which no capital expenditure is required or only capital expenditure of a comparatively small amount, there shall be added to the standard profits for a full year, computed in accordance with the provisions of this section, a sum of two hundred and fifty pounds in respect of each working proprietor in the business:

Provided further that in relation to a chargeable accounting period which is less than twelve months, the standard profits shall be taken to be the amount in question proportionately reduced so as to correspond with the length of the period.

**Minimum
standard.**

(2) The minimum amount referred to in sub-section (1) of this section is one thousand pounds, or, in the case of a business carried on by a single individual, or by a partnership, or by a company the directors whereof have a controlling interest therein, such greater sum as the Board of Referees may, upon application made to them in writing, direct, not exceeding six thousand pounds, as is arrived at by allowing an amount not exceeding one thousand five hundred pounds for each working proprietor in the business.

In this section—

- (a) the expression "working proprietor" means a proprietor who has, during more than one-half of the chargeable accounting period in question, worked full time in the actual management or conduct of the business: provided that the Board of Referees may direct that any proprietor who is serving with His Majesty's Forces or is engaged on any occupation connected with the prosecution of the war shall be deemed to be a working proprietor;
- (b) the expression "proprietor" means, in the case of a business carried on by a partnership, a partner

therein, and, in the case of a company, any director thereof owning more than one-twentieth of the share capital of the company.

(3) If the business was commenced on or before the first day of January, 1937, the standard profits shall be the average profits for twelve months based upon the profits of the three years ended the thirty-first day of December, 1937, 1938, and 1939 respectively. Standard based on profits.

(4) If the business was commenced after the first day of January, 1937, and before the first day of January, 1939, the standard profits shall be the average profits for twelve months based upon the profits of the respective periods which ended on the thirty-first day of December subsequent to the date of commencement, up to and including the thirty-first day of December, 1939.

(5) In determining the average profits for twelve months, any loss which may have been incurred during any period upon which the calculation of such average is based, shall not be taken into account.

(6) (a) Where no profits were made in the business during any of the periods mentioned in sub-sections (3) and (4) of this section, or where profits were made during only one of such periods and such period was less than twelve months; or

(b) where the business was commenced after the first day of January, 1939,

the standard profits shall be the statutory percentage of the average amount of the capital employed in the business in the chargeable accounting period.

(7) Where the standard profits are based upon the profits of a business for any period, that period shall be the standard period, and where the average amount of capital employed in a business in any chargeable accounting period is greater or less than the average amount of capital employed therein in the standard period the standard profits for a full year shall, in relation to that chargeable accounting period, be increased, or, as the case may be, decreased, by the statutory percentage of the increase or decrease in the average amount of the capital employed in the business. Increases or decreases in capital.

(8) (a) If on the application of the person carrying on a business, the Board of Referees are satisfied that, owing to some specific cause peculiar to the business, the computation Special standards.

of the standard profits of such business in accordance with the provisions of this Ordinance would be unfair, they may direct that the standard profits for that business shall be such greater amount as they think just.

(b) Where a business consists mainly or wholly in the ginning of cotton, the Commissioner shall, on the application of the person carrying on the business, for the purpose of computing the standard profits, permit the profits of that business for a year terminating on or before the 30th June in any year to be taken to be the profits for the year ended on the 31st day of December in the year preceding such year.

Successions and amalgamations.

10. (1) As from the date of any change in the persons carrying on a business, the business shall, subject to the provisions of this section, be deemed for the purposes of this Ordinance to have been discontinued, and a new business to have been commenced.

Partnerships.

(2) Where the change took place before the first day of January, 1940, and consisted in the death or retirement of a partner, or the taking in of a partner, the persons carrying on the business after the change may, by notice in writing to the Commissioner, elect that, for the purposes of the provisions of this Ordinance relating to the computation of standard profits, the business shall not be deemed to have been discontinued.

Change after 1st January, 1940.

(3) A business shall not, for the purposes of the provisions of this Ordinance relating to the computation of standard profits, be deemed to be discontinued by reason of any change occurring on or after the first day of January, 1940, in the persons carrying it on, and the standard profits of the business in relation to any chargeable accounting period shall be computed accordingly, and, in particular, in computing the capital employed in the business after the change, no regard shall be had to any consideration given in respect of the transfer of the business or any of the assets thereof on the occasion of the change.

Business amalgamated

(4) Where, on or after the first day of January, 1940, two or more businesses are amalgamated, the resulting business shall be treated for the purposes of the provisions of this Ordinance relating to the computation of standard profits as if—

(a) it had been in existence throughout the period during which there were in existence any of the former businesses;

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- (b) any profits made or losses incurred or capital employed in any of those former businesses had been made, incurred or employed in the resulting business; and
- (c) any assets of any of those former businesses had become assets of the resulting business when they became assets of the former business,

and, in particular, in computing the capital employed in the resulting business, no regard shall be had to any consideration given in respect of the transfer of any of those former businesses or any of the assets thereof on the occasion of the amalgamation.

(5) Where, on or after the first day of January, 1940, part of a business is transferred as a going concern by the person theretofore carrying it on to another person, the part transferred and the part not transferred shall each be deemed for the purposes of the provisions of this Ordinance relating to the computation of standard profits to be a continuation of the original business, and the said provisions, including the provisions of this section relating to amalgamations, shall apply accordingly:

Business
divided.

Provided that, for the purposes aforesaid, such apportionments shall be made of the profits made, and losses incurred, and the capital employed, in the original business and of any assets of the original business, as may appear to the Commissioner, or, on appeal to the Board of Referees, to that Board, to be just.

(6) Notwithstanding anything in the foregoing provisions of this section, where a business which was commenced on or before the first day of January, 1939, or the main part of such business, was transferred before the first day of January, 1940, by the person carrying it on to another person, the Commissioner, if he is satisfied that the business carried on after the transference was not substantially different from the business or part transferred, may, on the application of the person carrying on the business after the transference, treat that person, for the purposes of the provisions of this Ordinance relating to the computation of standard profits, as if he had carried on the transferred business or part of a business as from the date of the commencement of that business:

Changes on
or before
1st January,
1940.

Provided that if the Commissioner refuses an application under this sub-section, the applicant may appeal to the Board of Referees.

Modifications
to capital and
profits.

(7) Where—

- (a) a business is, by virtue of sub-section (2) or sub-section (3) of this section, deemed not to have been discontinued; or
- (b) a business is, by virtue of sub-section (4) of this section, to be treated as if it had been in existence throughout the period during which there was in existence any other business; or
- (c) a business is, by virtue of sub-section (5) of this section, to be treated as a continuation of another business; or
- (d) any person who is carrying on a business after a transfer is treated by virtue of sub-section (6) of this section as having carried on the business as from a date before the transfer,

the provisions of this Ordinance relating to the computation of profits and capital for the purposes of excess profits tax shall, both as respects the standard period and any chargeable accounting period, have effect subject to such modifications, if any, as the Commissioner may think just, and the Commissioner may make such alterations in the periods which would otherwise be the chargeable accounting periods of the business as he thinks proper:

Provided that if the Commissioner makes any such modifications and the person carrying on the business is dissatisfied with the modifications so made, he may appeal to the Board of Referees.

(8) Any consideration which, under sub-section (3) or sub-section (4) of this section, has to be disregarded in computing capital shall also be disregarded in considering, for the purpose of computing the profits of, and the capital employed in any chargeable accounting period, whether any and if so what deductions are to be made in respect of wear and tear and replacement of plant and machinery.

Inter-connected
companies.

11. (1) Where any interest, annuity or other annual payment, or any royalty or rent, is paid by one body corporate to another body corporate, and one of those bodies corporate

is a subsidiary of the other, or both are subsidiaries of a third body corporate, the capital, profits and losses of both bodies corporate shall be computed as if—

- (a) the interest, annuity, annual payment, royalty or rent were not payable;
- (b) any debt in respect of which any such interest is payable did not exist; and
- (c) any asset in respect of which any such royalty or rent is payable were the property of the body corporate paying the royalty or the rent.

(2) Where any debt is owing to any such body corporate by another such body corporate and no interest is payable in respect of the debt, but the circumstances in which the debt came into existence or is allowed to continue to exist are such that the debt represents in substance capital employed in the business of the debtor body corporate, the capital of both bodies corporate shall be computed as if the debt did not exist.

(3) Where more than one member of a group of companies is carrying on business in the Colony, or in the Colony and in the Tanganyika Territory, the Uganda Protectorate and the Zanzibar Protectorate, or in the Colony and in the Tanganyika Territory or the Uganda Protectorate or the Zanzibar Protectorate, and a joint application is made in writing by such group of companies to the Commissioner, the businesses so carried on shall, for the purposes of this Ordinance, be treated as one business carried on by the principal company. Such application shall be irrevocable and shall apply to all the chargeable accounting periods or parts of chargeable accounting periods of all the businesses so carried on by such group of companies and the amount of any excess profits tax with which the principal company may be charged shall be recoverable jointly and severally from the members of such group.

Principal and subsidiary companies provisions as to aggregation.

(4) In this section—

- (a) the expression “a group of companies” means two or more corporate bodies of which—
 - (i) one (in this section referred to as the principal company) is not the subsidiary of any other body corporate; and

(ii) the remainder are subsidiaries of the principal company and are carrying on business in the Colony, the Tanganyika Territory, the Uganda Protectorate or the Zanzibar Protectorate or in all of those territories;

(b) the expression "a subsidiary company" means any member of a group of companies other than the principal company;

(c) a body corporate shall be deemed to be a subsidiary of another body corporate if and so long as not less than nine-tenths of its ordinary share capital is owned by that other body corporate, whether directly or through another body corporate or other bodies corporate, or partly directly and partly through another body corporate or other bodies corporate.

(5) In any case to which sub-section (3) of this section applies, such alteration of the periods which would otherwise be the chargeable accounting periods of any member of a group of companies shall, if necessary, be made as the Commissioner may direct.

Relief in respect of double excess profits tax.

12. (1) If any profits in respect of which excess profits tax is payable under this Ordinance are profits in respect of which excess profits tax is payable also under the law in force in the United Kingdom, or would be so payable if there were no national defence contribution in the United Kingdom, or are profits in respect of which excess profits tax is payable also under the law in force in any part of His Majesty's dominions outside the United Kingdom other than this Colony, the Governor may make arrangements with the Government of the United Kingdom or of that other part of His Majesty's dominions, as the case may be, providing for the giving of relief from double taxation in respect of such profits in accordance with the following principles:—

(a) that there shall be computed the amount of excess profits tax which would be payable in each territory if excess profits tax in the other territory and, where the arrangements are made with the Government of the United Kingdom, national defence contribution in United Kingdom, were disregarded except in computing capital:

(b) that such amount of relief from tax shall be given in each territory as bears to the lower of the two

Repealed and replaced by Ord. 157/07 - p. 91 para 5.

amounts so computed the same proportion as the amount so computed for that territory bears to the sum of the two amounts so computed; and

- (c) that where the amount so computed for either territory is found to have been incorrect (whether by reason of a subsequent deficiency of profits or for any other reason) the amount so computed shall be recalculated and the relief in both territories varied accordingly.

(2) Where any such arrangements are made and the Commissioner is satisfied that any case is one which falls within the arrangements he shall make such adjustment of the excess profits tax payable in the Colony as may be necessary to give effect to the arrangements, and allow any necessary relief accordingly by repayment or otherwise.

(3) Where it appears to the Commissioner that any relief provided for by any such arrangements falls to be recalculated (whether by reason of a subsequent deficiency of profits or otherwise), any adjustment made under sub-section (2) of this section shall be varied accordingly and any necessary further relief given by repayment or otherwise and, where the effect of the recalculation is to show that too much relief has been given, any necessary additional assessments shall be made.

(4) The obligation as to secrecy imposed by the Income Tax Ordinance, 1940, as applied by section 17 of this Ordinance shall not prevent any officer employed in the administration of this Ordinance from disclosing to any authorized officer of a Government with which arrangements have been made under this section such facts as may be necessary to enable effect to be given to the arrangements.

No. 11 of 1940.

(5) This section shall apply in relation to—

- (a) any British Protectorate or protected state; and
 (b) any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty and is being exercised by His Majesty's Government in the United Kingdom or the Government of any Dominion,

as it applies to a part of His Majesty's dominions outside the United Kingdom.

13. The amount of the excess profits tax payable in respect of a business for any chargeable accounting period shall, in computing for the purpose of income tax the profits

Relation of excess profits tax to income tax.

arising from that business, be allowed to be deducted as an expense incurred in that period:

Provided that where, under the provisions of this Ordinance relating to deficiencies of profits, relief is given by way of repayment from excess profits tax chargeable for any chargeable accounting period previous to that in which the deficiency occurs, the amount of the deduction allowed under this section shall not be altered but the amount repayable shall be taken into account in computing the gains or profits of the business for the purposes of income tax as if it were a profit of the business accruing in the chargeable accounting period in which the deficiency occurs.

Relief in respect
of deficiencies
of profits.

14. A deficiency of profits shall be deemed to have occurred in a business in any chargeable accounting period if the profits arising from the business in that period are less than the standard profits, or if a loss is sustained in the business in that period; and the amount of the deficiency occurring in any such period shall be taken to be—

- (a) where profits have been made in the period, the amount by which those profits fall short of the standard profits;
- (b) where a loss has been sustained in the period, the amount of the loss added to the amount of the standard profits.

Where a deficiency of profits occurs in any chargeable accounting period in any business, the profits chargeable with excess profits tax arising from the business shall be deemed to be reduced, and relief shall be granted in accordance with the following provisions:—

- (a) the aggregate amount of the profits so chargeable for the previous chargeable accounting periods shall be deemed to be reduced by the amount of the deficiency, and the amount of excess profits tax payable in respect thereof shall be deemed to be reduced accordingly, and the relief necessary to give effect to the reduction shall be given by repayment or otherwise;
- (b) where the amount of the deficiency exceeds the aggregate amount of the profits so chargeable for the previous chargeable accounting periods, the balance of the deficiency shall be applied in reducing any profits so chargeable for the next subsequent charge-

able accounting period, and, if and so far as it exceeds the amount of those profits, any profits so chargeable for the next subsequent chargeable accounting period, and so on.

15. (1) The Commissioner may remit either wholly or in part any excess profits tax payable under this Ordinance on the ground of poverty or hardship, and, in the case of a business of agriculture, where he is satisfied that the following conditions are fulfilled—

Power to remit tax.

- (a) that by reason of losses incurred in the business or moneys expended on development, debts have been incurred in the business or moneys borrowed for the purpose of the business and that the terms upon which the debts are payable or the moneys are repayable are such that the person carrying on the business has no control or only partial control over the receipts of the business; and
- (b) that the person carrying on the business is unable to provide additional capital for the business either from any source of income or from any assets whether within or without the Colony to the extent necessary to enable him to regain control over the receipts of the business; and
- (c) that any additional capital which he might provide together with the capital employed in the business in the chargeable accounting period in respect of which the tax is charged is less than one half of the fixed capital employed therein.

(2) For the purposes of this section the expression "person" shall mean an individual, all the partners jointly in a partnership, or all the directors jointly of a company whereof they have a controlling interest therein.

(3) Any person who is dissatisfied with a decision of the Commissioner under this section may appeal to the Board of Referees.

16. (1) It shall be the duty of every person chargeable with excess profits tax to give notice, that he is so chargeable, to the Commissioner within two months after the end of the chargeable accounting period in respect of which he is liable to excess profits tax.

Assessment and collection.

Where it appears to the Commissioner that any person who has not given the notice required by this section is

chargeable with excess profit tax, he may proceed to assess such person notwithstanding that the time allowed for the delivery of a return of profits chargeable under this Ordinance has not expired.

(2) Excess profits tax shall be assessed and collected by the Commissioner and shall be due and payable within 40 days after the date of service of the notice of assessment:

Provided that the excess profits tax payable in respect of any chargeable accounting period ended on or before the 30th June, 1941, shall be due and payable within 90 days after the date of the service of the notice of assessment.

(3) The excess profits tax payable in respect of any chargeable accounting period shall be assessed on the person carrying on the business in that period.

(4) Where a body corporate is being wound up, the liquidator of the body corporate shall not distribute any of the assets of the body corporate to the members thereof unless he has made provision for the payment in full of any excess profits tax which may be found payable by the body corporate.

Adaptation of
certain pro-
visions of the
Income Tax
Ordinance,
1940.
No. 11 of 1940.

17. (1) Subject to the express provisions of this Ordinance, the following provisions of the Income Tax Ordinance, 1940, shall apply, *mutatis mutandis*, in so far as they are applicable and with the modifications herein described, to the assessment and collection of excess profits tax and to the hearing of appeals in connexion therewith:—

(a) section 3, which shall be read and construed as if there were substituted for the words “the Tanganyika or the Uganda Ordinance or the Zanzibar Decree” the following—

“the Tanganyika War Revenue (Excess Profits Tax) Ordinance, 1941, the Uganda Excess Profits Tax Ordinance, 1941, or the Zanzibar Excess Profits Tax Decree, 1941”;

(b) section 4;

(c) section 5, sub-section (2);

(d) section 6;

(e) Part VIII, but excluding sub-section (1) of section 42;

(f) Part IX, but excluding sub-section (2) of section 43;

(g) Part X but excluding the commas and words—

“, within the year of assessment or within six years after the expiration thereof,”
which occur in section 56;

ORDINANCE No. XV of 1941

Assented to in His Majesty's name this third day of July, 1941.

G. M. RENNIE,
Governor's Deputy.

[3RD JULY, 1941.] Date of assent.

An Ordinance to Amend the Non-European Officers' Pensions Ordinance, 1932

3rd July, 1941

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

1. This Ordinance may be cited as the Non-European Officers' Pensions (Amendment) (No. 2) Ordinance, 1941, and shall be read as one with the Non-European Officers' Pensions Ordinance, 1932, hereinafter referred to as the Principal Ordinance. Short title.
No. 53 of 1932.
2. Section 18 of the Principal Ordinance is hereby amended by adding thereto, immediately after subsection (3) thereof, the following new subsection:— Amendment
of section 18
of the Principal
Ordinance.
- “(4) If a non-European officer proceeding by a route approved by the Governor to or from the Colony at the commencement or termination of his service therein, or of a period of leave therefrom, dies as the result of damage to the vessel, aircraft or vehicle in which he is travelling, or of any act of violence directed against such vessel, aircraft or vehicle, and the Governor is satisfied that such damage or act is attributable to circumstances arising out of any war in which His Majesty may be engaged, such officer shall be deemed, for the purposes of this section, to have died in the circumstances described in subsection (1) of this section.”

Date of
enactment.

Short title.

No. 53 of 1932.

Amendment
of section 18
of the Principal
Ordinance.

ORDINANCE No. XVI of 1941

Assented to in His Majesty's name this third day of July, 1941.

G. M. RENNIE,
Governor's Deputy.

[3RD JULY, 1941.] Date of assent.

An Ordinance to Amend the War Loan Ordinance, 1940

3rd July, 1941

Date of commencement.

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

1. This Ordinance may be cited as the War Loan (Amendment) Ordinance, 1941, and shall be read as one with the War Loan Ordinance, 1940, hereinafter referred to as the Principal Ordinance.

Short title.

No. 42 of 1940.

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

Amendment of section 6 of the Principal Ordinance.

(a) by deleting therefrom the word "and" which appears at the end of paragraph (h) thereof;

(b) by inserting therein the following new paragraph immediately after paragraph (h) thereof:—

“(i) the manner in which, and the conditions subject to which, bonds of one class may be converted to bonds of another class; and”;

(c) by renumbering paragraph (i) thereof as paragraph (j).

ORDINANCE No. XVII of 1941

Assented to in His Majesty's name this third day of July, 1941.

G. M. RENNIE,
Governor's Deputy.

[3RD JULY, 1941.] Date of Assent.

An Ordinance to Amend the Museums Trustees Ordinance, 1938

3rd July, 1941

Date of commencement.

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

1. This Ordinance may be cited as the Museums Trustees (Amendment) Ordinance, 1941, and shall be read as one with the Museums Trustees Ordinance, 1938, hereinafter referred to as the Principal Ordinance.

Short title.

No. 40 of 1938.

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

Amendment of section 4 of the Principal Ordinance.

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

“(c) One councillor of the Municipal Council of Nairobi to be nominated by such Council:

Provided that, if the councillor nominated by such Council ceases to be a member of such Council, such Council may require such councillor to resign from the Board and may nominate another councillor to be a member of the Board in place of the member so required to resign; and”;

(b) by substituting a colon for the full stop which occurs at the end of sub-section (4) thereof and by adding, immediately after such colon, the following proviso:—

“Provided that a councillor nominated by the Municipal Council of Nairobi may at the request of the Council made at the time of nomination be appointed for a period of one year only;”
and

(c) by adding, at the end thereof, the following sub-section:—

“(12) No person who is a member of the Board shall be appointed as a paid official or servant of the Board, provided that for the purposes of this sub-section the occupation of a house rent-free shall not be deemed to be payment.”

Repealed & substituted by ord. 6/1/17 p. 22.

ORDINANCE No. XVIII of 1941

Assented to in His Majesty's name this eighteenth day
of November, 1941.

HENRY MOORE,
Governor.

[18TH NOVEMBER, 1941] Date of assent.

An Ordinance to Amend the Dangerous Petroleum Tax Ordinance

18th November, 1941

Date of
commencement.

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

1. This Ordinance may be cited as the Dangerous Petroleum Tax (Amendment) Ordinance, 1941, and shall be read as one with the Dangerous Petroleum Tax Ordinance (Chapter 54 of the Revised Edition), hereinafter referred to as the Principal Ordinance.

Short title.

Cap. 54.

2. Section 3 of the Principal Ordinance, as replaced by the Dangerous Petroleum Tax (Amendment) Ordinance, 1936, as amended by the Dangerous Petroleum Tax (Amendment) Ordinance, 1940, shall be read as if the words—

Amendment of
section 3 of
the Principal
Ordinance.

“eighteenth day of November, 1941”

were substituted for the words—

“sixth day of August, 1940”

which appear in the first line thereof, and as if the words—

“thirty-two”

were substituted for the words—

“forty-nine”

which appear in the fourth line thereof.

3. This Ordinance shall continue in force until the 31st day of December next following such date as the Governor may, by proclamation, declare to be the date on which the war that was the occasion of the enactment of this Ordinance came to an end.

Duration.

*- see Proc. 4/46 L. 37
24/2/46*

4. The Dangerous Petroleum Tax (Amendment) Ordinance, 1940, is hereby repealed.

Repeal.

No. 16 of 1940.

ORDINANCE No. XIX of 1941

Assented to in His Majesty's name this fifth day of
December, 1941.

HENRY MOORE,
Governor.

[5TH DECEMBER, 1941] Date of assent.

An Ordinance to Amend the Penal Code (Amendment) Ordinance, 1939

5th December, 1941

Date of
commencement.

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

1. This Ordinance may be cited as the Penal Code (Amendment) Ordinance, 1941, and shall be read as one with the Penal Code (Amendment) Ordinance, 1939, hereinafter referred to as the Principal Ordinance.

Short title.
No. 34 of 1939.

2. When a consolidated edition of the Penal Code has been prepared and printed in accordance with the provisions of section 25 of the Principal Ordinance the Governor may, by notice in the Gazette, declare that the same shall come into operation upon such date as he may appoint.

Bringing into
force of
consolidated
edition.

S. N. 1020/41
f. 420

3. Where in any Ordinance, order, proclamation, rule, regulation, by-law, notice or any other law or in any document of any kind whatsoever reference is made to the Penal Code or to any section thereof or to any section of any Ordinance amending the same, such reference shall be construed as a reference to the consolidated edition referred to in section 2 of this Ordinance, or to the corresponding section in the said edition, as the case may require.

Construction
of references to
consolidated
edition.
No. 10 of 1930.

ORDINANCE No. XX of 1941

Assented to in His Majesty's name this fifth day of December, 1941.

HENRY MOORE,
Governor.

[5TH DECEMBER, 1941] Date of assent.

An Ordinance to Amend the Criminal Procedure Code (Amendment) Ordinance, 1939

5th December, 1941

Date of commencement.

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

1. This Ordinance may be cited as the Criminal Procedure Code (Amendment, No. 2) Ordinance, 1941, and shall be read as one with the Criminal Procedure Code (Amendment) Ordinance, 1939, hereinafter referred to as the Principal Ordinance. Short title.
No. 35 of 1939.

2. When a consolidated edition of the Criminal Procedure Code has been prepared and printed in accordance with the provisions of section 43 of the Principal Ordinance the Governor may, by notice in the Gazette, declare that the same shall come into operation upon such date as he may appoint. Bringing into force of consolidated edition.
S. N. 1021/41
F. 420

3. Where in any Ordinance, order, proclamation, rule, regulation, by-law, notice or any other law or in any document of any kind whatsoever reference is made to the Criminal Procedure Code or to any section thereof or to any section of any Ordinance amending the same, such reference shall be construed as a reference to the consolidated edition referred to in section 2 of this Ordinance, or to the corresponding section in the said edition, as the case may require. Construction of references to consolidated edition.
No. 11 of 1930.

ORDINANCE No. XXI of 1941

Assented to in His Majesty's name this fifth day of December, 1941.

HENRY MOORE,
Governor.

[5TH DECEMBER, 1941] Date of assent.

An Ordinance to Amend the Credit Trade with Natives Ordinance

5th December, 1941

Date of commencement.

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

1. This Ordinance may be cited as the Credit Trade with Natives (Amendment) Ordinance, 1941, and shall be read as one with the Credit Trade with Natives Ordinance, hereinafter referred to as the Principal Ordinance.

Short title.

Cap. 130.

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

Amendment of section 3 of the Principal Ordinance.

“Provided that it shall be lawful for the Governor from time to time by order to vary the value or price specified in this section in respect of any province or district.”

ORDINANCE No. XXII of 1941

Assented to in His Majesty's name this fifth day of
December, 1941.

HENRY MOORE,
Governor.

[5TH DECEMBER, 1941] Date of assent.

**An Ordinance to Amend the Savings Bank
Ordinance, 1936**

1st January, 1942

Date of
commencement.

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

1. This Ordinance may be cited as the Savings Bank
(Amendment) Ordinance, 1941, and shall be read as one with
the Savings Bank Ordinance, 1936, hereinafter referred to as
the Principal Ordinance, and shall come into operation on
the first day of January, 1942.

Short title and
commencement.

No. 29 of 1936.

2. Section 5 of the Principal Ordinance is hereby
amended by deleting therefrom the words "post office" which
occur in the second line thereof and by substituting therefor
the word "place."

Amendment of
section 5 of
the Principal
Ordinance.

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

Repeal and
replacement of
section 9 of the
Principal
Ordinance.
Interest.

"9. (1) Interest shall be payable on deposits at the
rate of two and a half per centum per annum, or at such
other rate as may be fixed from time to time by the
Governor in Council with prior approval of the Secre-
tary of State:

Provided that not less than three months' notice of
any change of rate shall be given in the Gazette:

Provided further that such interest shall not be pay-
able on any account the credit balance of which is less
than twenty shillings or on any fraction of twenty
shillings and shall not commence to accrue until the first
day of the month next following the day of deposit, and
shall cease in respect of any part of a deposit on the last

day of the month preceding that in which authority to withdraw such part of the deposit shall have been given, or such part of the deposit shall be withdrawn, whichever shall first happen :

Provided further that in any case where a warrant for withdrawal issued in pursuance of such authority to withdraw is cancelled before payment has been made, interest on the amount specified in the warrant shall recommence to accrue from the first day of the month next following the day on which such warrant of withdrawal was issued.

(2) Interest on deposits shall, subject to the provisions of sub-section (1) of this section, be calculated to the thirty-first day of December in every year and shall then be added to and become part of any principal money remaining on deposit.

(3) The reference to "deposit" and "deposits" in this section shall include any interest credited to the account."

ORDINANCE No. XXIII of 1941

Assented to in His Majesty's name this fifth day of
December, 1941.

HENRY MOORE,
Governor.

[5TH DECEMBER, 1941] Date of assent.

**An Ordinance to Amend the Stock and Produce
Theft (Levy of Fines) Ordinance, 1933**

5th December, 1941

Date of
commencement.

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

1. This Ordinance may be cited as the Stock and Produce Theft (Levy of Fines) (Amendment) Ordinance, 1941, and shall be read as one with the Stock and Produce Theft (Levy of Fines) Ordinance, 1933, hereinafter referred to as the Principal Ordinance.

Short title.

No. 18 of 1933.

2. The Principal Ordinance is hereby amended—

Amendment of
section 10 of the
Principal
Ordinance.

(a) by renumbering section 10 thereof as section 10 (1);
and

(b) by adding to section 10 thereof the following new
sub-section:—

“(2) A subordinate court of the first class may,
subject to the provisions of section 7 of the Criminal
Procedure Code, try offences under this section.”

No. 11 of 1930.

- Regulations for Africans - S. N. ~~299/42, p. 15~~ ^{1207/48 p. 469}
- - Europeans - S. N. ~~660/42, p. 833~~ ^{788/47 p. 203}
 - - Additional Awards - S. N. 661/42, p. 337.
 - " Asians - see G. N. 1206/48 p. 445
 - African Naval Personnel - see G. N. 101/49 p. 27

Amended by Ord. 35/46

ORDINANCE No. XXIV of 1941

Assented to in His Majesty's name this fifth day of December, 1941.

HENRY MOORE,
Governor.

[5TH DECEMBER, 1941] Date of assent.

An Ordinance to Provide for the Payment of Pensions, Gratuities and Other Allowances in Respect of the Death, Disablement or Sickness of Members of His Majesty's Forces Serving in any Unit Raised in the Colony.

3rd September, 1939

Date of commencement.

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

1. This Ordinance may be cited as His Majesty's Forces Pensions Ordinance, 1941, and shall be deemed to have come into operation on the third day of September, 1939.

Short title and commencement.

2. (1) The Governor in Council may make Regulations prescribing the conditions under which and the manner in which pensions, gratuities or other allowances may be granted in respect of the death, disablement or sickness of any member of His Majesty's Forces serving in any of such forces raised under the authority of any law for the time being in force in the Colony.

Power to make Regulations for grant of pensions, etc.

(2) All regulations made under this Ordinance shall have the same force and effect as if they had been enacted in this Ordinance and 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 regulation shall be revoked or amended, such regulation shall thenceforth be deemed to be revoked or amended, but without prejudice to anything done thereunder.

3. No pension, gratuity or other allowance granted under this Ordinance shall be assignable or transferable, or liable to be attached, sequestered or levied upon for or in

Pensions, etc., not to be assignable.

Amended by Ord. 35/46

*Ord. 37/43
A. N. 67/43
for 325*

*Section 2 replaced
by Ord. 30/46 p. 66*

respect of any debt or claim whatsoever, other than a debt due to the Government of the Colony.

Pensions, etc.,
to cease on
conviction.

4. If any person to whom a pension or other allowance has been granted under this Ordinance is sentenced to a term of imprisonment by any competent court whether within or without the Colony for any crime or offence then, in every such case, it shall be lawful for the Governor to direct that such pension or allowance shall forthwith cease :

Provided that the pension or allowance shall be restored with retrospective effect in the case of a person who after conviction at any time received a free pardon :

And provided further that where a pension or allowance ceases for the reason aforesaid it shall be lawful for the Governor to cause all or any part of the moneys to which the pensioner would have been entitled by way of pension or allowance to be paid to or applied for the benefit of any wife, child or children of the pensioner, or, after the expiration of his sentence, also for the benefit of the pensioner himself, in such proportions and manner as the Governor may think proper, and such moneys shall be paid or applied accordingly.

ORDINANCE No. XXV of 1941

Assented to in His Majesty's name this fifth day of December, 1941.

HENRY MOORE,
Governor.

[5TH DECEMBER, 1941] Date of assent.

**An Ordinance to Amend the Indian Succession Act,
1865, as Applied to the Colony**

1st August, 1941

Date of
commencement.

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

1. This Ordinance may be cited as the Succession Act (Amendment) Ordinance, 1941, and shall be read as one with the Indian Succession Act, 1865, as applied to the Colony, hereinafter referred to as the Principal Act, and shall be deemed to have come into force on the first day of August, 1941.

Short title and
commencement.

2. Section 248 of the Principal Act is hereby amended by adding thereto, at the end thereof, the following proviso:—

Amendment of
Section 248 of
the Principal
Act.

“Provided that no such verification shall be required in the case of a will which contains an attestation clause showing that the will has been attested in accordance with the third rule prescribed by section 50 of this Act.”



COLONY AND PROTECTORATE OF KENYA

OFFICIAL GAZETTE SUPPLEMENT

Ordinances, 1941

Nairobi, December 27, 1941

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"Forest Officer" means any forest officer, or any assistant-forester, ranger, forest-guard, assistant-forest-guard, or any person upon whom the Member may, in writing, confer the powers of a forest officer; Ord. 1/69

ORDINANCE No. XXVI of 1941

Assented to in His Majesty's name this twenty-second day of December, 1941.

HENRY MOORE,

Governor.

[22ND DECEMBER, 1941] Date of assent.

An Ordinance to Amend and Consolidate the Law Relating to Forests

By Notice 1st March 1942

Date of commencement.

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

1. This Ordinance may be cited as the Forest Ordinance, 1941, and shall come into operation on such date as the Governor may by notice in the Gazette appoint. *S. N. 178/42 L 55*

Short title and commencement.

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

Interpretation.

“cattle” means all horned cattle, asses, bulls, camels, cows, geldings, goats, horses, mares, mules, oxen, pigs and sheep and includes the young thereof;

“Conservator” means the person for the time being performing the duties of the Conservator of Forests;

“Crown Land” has the meaning assigned to it in section 5 of the Crown Lands Ordinance, as amended by section 6 of the Crown Lands (Amendment) Ordinance, 1938;

Cap. 140.
No. 27 of 1938.

“demarcated forest” means any forest area or part thereof declared, under the provisions of section 5 of this Ordinance, to be a demarcated forest;

“firewood” includes parts of trees made up into bundles or loads, or cut up in a manner in which it is usual to cut wood for burning, and refuse wood generally, but does not include sound straight timber logs or poles of any kind;

“forest area” means any area of land declared, under the provisions of section 4 of this Ordinance, to be a forest area;

“forest officer” means any European forest officer or any assistant forester or forest guard or any person upon whom the Governor may confer the powers of a forest officer;

*Replaced by
Ord. 1/49*

“forest produce” includes, bark, beeswax, canes, charcoal, creepers, earth, fibres, firewood, fruit, galls, grass, gum,

honey, leaves, limestone, litter, moss, murrum, peat, plants, reeds, resin, rushes, rubber, sap, seeds, spices, stone, timber, trees, wax, withies, and such other things as the Governor may, by notice in the Gazette, declare to be forest produce for the purposes of this Ordinance;

Member - inserted by Ord. 1/49
"timber" means any tree which has been felled or which has fallen, and the part of any tree which has been cut off or fallen and all wood whether sawn, split, hewn or otherwise fashioned;

"trees" includes not only timber trees, but trees, shrubs, bushes of all kinds, seedlings, saplings, and re-shoots of all ages, palms, bamboos, and any part of the tree;

"unalienated and unreserved Crown Land" means Crown Land which—

(a) is not the subject of any conveyance, lease or occupation licence from the Crown;

(b) has not been included in the Fourth and Fifth Schedule to the Crown Lands (Amendment) Ordinance, 1938;

No. 27 of 1938.

Replaced by Ord. 1/49

(c) is not occupied by a native tribe with the sanction of the Governor;

(d) has not been dedicated or set aside for the use of the public, but includes outspans;

(e) has not been declared to be a forest area or a demarcated forest.

Advisory Committee.

3. (1) The Governor shall, by notice in the Gazette, appoint an Advisory Committee for the purpose of advising him on matters of policy relating to forests.

Replaced by Ord. 1/49

(2) Such Advisory Committee shall consist of the Conservator as Chairman and four other persons nominated by the Governor.

Forest areas.

4. The Governor in Council may, from time to time, by Proclamation in the Gazette, declare any unalienated and unreserved Crown land and, subject to the provisions of the Native Lands Trust Ordinance, 1938, any area in any native land to be a forest area and may in like manner declare that any forest area or any part thereof shall cease to be a forest area:

No. 28 of 1938

Replaced by Ord. 1/49

Provided that before declaring that any forest area or part of a forest area shall cease to be a forest area the Governor in Council shall cause twenty-eight days' notice thereof to be published in the Gazette.

5. (1) The Governor in Council may, from time to time by Proclamation in the Gazette, declare any forest area or any part thereof to be a demarcated forest. Demarcated forests.

(2) Before exercising the powers conferred upon him by sub-section (1) of this section the Governor in Council shall require the Conservator— *Replaced by Ord. 1/49*

(a) to submit a report on the area which it is proposed to demarcate and to cause a plan approved by the Director of Surveys to be produced showing the boundaries of such area;

(b) to cause a certified copy of such report, together with a copy of the plan attached thereto, to be deposited in the office of the district commissioner in whose district the area is situate. Such report and plan shall be available at such office during office hours for inspection by members of the public free of charge;

(c) to cause three months' notice of the intention to declare such area to be demarcated forest to be published on three consecutive occasions in the Gazette and in one or more newspapers circulating in the Colony.

(3) Where any such notice has been published in the Gazette, any person who objects to the declaration of such area as a demarcated forest may within thirty days of the final publication in the Gazette lodge with the Conservator an objection in writing specifying the ground on which he objects to the proposal, and any such objection shall be submitted by the Conservator to the ~~Governor in Council~~ *Member* for consideration.

(4) No forest area or any portion thereof which has been declared, under the provisions of this section, to be a demarcated forest shall be withdrawn from demarcation except with the approval of the Legislative Council signified by resolution thereof. Twenty-eight days' notice of such resolution shall be given to the Legislative Council.

(5) Where the Legislative Council has approved of the withdrawal from demarcation of any demarcated forest or any portion thereof, notice thereof shall be published in the Gazette under the hand of the Clerk to the Legislative Council, and upon the publication of that notice or with effect from a date to be specified in such notice, such demarcated

forest or portion thereof, as the case may be, shall cease to be a demarcated forest for the purposes of this Ordinance and shall be deemed to have become unalienated and unreserved Crown Land.

Nature
reserve.

1/49

6. (1) The ^{Member may, by notice in the Gazette, declare} ~~Governor may by Proclamation declare~~ any forest area or any demarcated forest or any part thereof to be a nature reserve for the purpose of preserving the natural amenities thereof and the flora and fauna therein, and may in like manner declare that any nature reserve shall cease to be a nature reserve.

(2) In any nature reserve no cutting, grazing, removal of forest produce or disturbance of the flora shall be allowed except with the permission of the Conservator and such permission shall only be given with the object of conserving the natural flora and amenities of the reserve.

(3) Hunting, fishing and the disturbance of the fauna shall be prohibited except in so far as may be permitted by the Conservator in consultation with the Game Warden and such permission shall only be given in cases where the Conservator in consultation with the Game Warden considers it necessary or desirable to take or kill any species.

Licences.

7. The Conservator or any person authorized by him in that behalf may issue licences for all or any of the purposes referred to in sub-section (1) of section 8 of this Ordinance, upon such conditions and subject to payment of such fees or royalties as may be prescribed:

Provided that the powers conferred by this section shall not, in the case of unalienated and unreserved Crown Land, be exercised except with the consent of the Commissioner of Lands:

Provided further that no licence shall be issued for any purpose in respect of which a licence is required under the Game Ordinance, 1937, or under the Trout Protection Ordinance, 1928.

No. 38 of 1937.
No. 24 of 1928.

Offences.

8. (1) Save as in this Ordinance provided and subject to the provisions of any Rules made thereunder no person shall, except under the licence of the Conservator—

(a) in any forest area or demarcated forest—

(i) fell, cut, take, burn, injure or remove any forest produce;

^ as may be approved by the Conservator with the approval
of the Advisory Committee or upon such conditions -
- see Ord. 1/29

- (ii) be or remain therein ~~except~~ between the hours of 6 a.m. and 9 p.m. or unless he be using a recognized ~~road~~ or footpath; *Replaced by Ord. 1/49*
 - (iii) erect any building or cattle enclosure;
 - (iv) set fire to or assist any person to set fire to any grass or undergrowth or any forest produce;
 - (v) smoke, where smoking is by notice prohibited, kindle, carry or throw down any fire, match or other lighted material;
 - (vi) depasture cattle, or allow any cattle to be therein;
 - (vii) clear, cultivate, or break up land for cultivation or for any other purpose;
 - (viii) set or be in possession of any ~~trap, snare, gin or net, or dig any pit for the purpose of catching any animal, or use or be in possession of any poison or poisoned weapon;~~ *Replaced by Ord. 1/49*
 - (ix) construct any road or path;
 - (x) enter any part thereof which may be closed to ~~travellers,~~ *any person*;
 - (xi) collect any honey or beeswax or hang on any tree or elsewhere any honey barrel or other receptacle for the purpose of collecting any honey or beeswax or enter therein for the purpose of collecting honey and beeswax or be therein with any equipment designed for the purpose of collecting honey or beeswax;
 - (xii) damage, alter, shift, remove or interfere in any way whatsoever with any beacon, boundary mark or fence, notice or notice board;
- (b) on unalienated and unreserved Crown Land—
- (i) fell, cut, take, burn, injure or remove any tree;
 - (ii) collect any honey or beeswax or hang on any tree or elsewhere any honey barrel or other receptacle for the purpose of collecting any honey or beeswax or enter therein for the purpose of collecting honey and beeswax or be therein with any equipment designed for the purpose of collecting honey or beeswax;
 - (iii) light any fire or throw down any match or other lighted material within the vicinity of a forest

area or demarcated forest in such manner as to subject such forest area or demarcated forest to the risk of fire.

(2) Any cattle found in any forest area or in any demarcated forest shall be deemed to be there under the authority of the owner thereof unless the owner thereof proves the contrary, and under the authority of the person, if any, actually in charge of such cattle.

Counterfeiting
or unlawfully
affixing
marks, etc.

9. (1) Any person who without lawful authority—

- (a) marks any forest produce or affixes upon any forest produce a mark used by any forest officer to indicate that such forest produce is the property of the Government of the Colony or that it may be lawfully cut or removed; or
- (b) alters, obliterates, removes, or defaces any stamp, mark, sign, licence or other document lawfully issued under the authority of this Ordinance, or removes or destroys any part of a tree bearing the stamp or other mark used by any forest officer; or
- (c) covers any tree stump in any demarcated forest or forest area or on any unalienated and unreserved Crown Land with brushwood or earth or by any other means whatsoever, conceals, destroys or removes or attempts to conceal, destroy or remove such tree stump or any part thereof; or
- (d) wears any uniform or part of a uniform or any badge, or other mark issued by the Forest Department to be worn by forest officers or other employees of the Forest Department,

shall be guilty of an offence against this Ordinance.

(2) Any person who counterfeits or issues without lawful authority any licence or other document purporting to be a licence or document issued under the provisions of this Ordinance or of any Rules made thereunder shall be guilty of an offence against this Ordinance.

Compounding
of offences.

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10. (1) Any Forest Officer empowered in that behalf by the ~~Governor~~ ^{Governor} by notice in the Gazette may, with the consent of the Conservator, if he is satisfied that a person has committed an offence against this Ordinance, accept from such person a sum of money by way of compensation for such offence together with the forest produce if any in respect of which the offence has been committed:

Provided that such compensation shall not exceed five times the value of the estimated damage or, where the value cannot be estimated, £10 for each offence.

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

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

11. Any Magistrate, Justice of the Peace, Forest Officer, Police Officer, Game Warden, or Assistant Game Warden may—

Search,
arrest, etc.

- (a) demand from any person the production of any authority or licence for any act done or committed by such person in any demarcated forest or forest area or unreserved and unalienated Crown Land or in relation to any forest produce for which a licence or authority is, under the provisions of this Ordinance or of the Rules made thereunder, required;
- (b) require any person found within any demarcated forest or forest area or on unalienated or unreserved Crown Land or in the vicinity of such forest, area or land and who has in his possession any forest produce, to give an account of the manner in which such person became possessed of such produce, and, if any such person fails to give satisfactory account, he may be arrested and taken before a magistrate, or forest officer authorized under sub-section (1) of section 10 of this Ordinance to compound offences;
- (c) arrest and search any person suspected of being guilty of an offence against this Ordinance or of being in possession of any forest produce in respect of which an offence has been committed and seize and detain any baggage, package, parcel, conveyance, tent, hut or building under the control of such person or his agent or servant:

Provided that no person shall be arrested under the provisions of this section unless the person

authorized and seeking to arrest him has reasonable cause to believe that the said person will fail to appear in answer to a summons or unless such person refuses to give his name and address or gives a name and address which there is reasonable cause to believe is false;

(d) seize and detain any forest produce in respect of which there is reason to believe that any offence has been committed, together with any tools, boats, vehicles, or any cattle used in the commission of such offence:

Provided that the person seizing such property shall forthwith report such seizure to the nearest magistrate having jurisdiction, or to a forest officer authorized under sub-section (1) of section 10 of this Ordinance to compound offences;

(e) seize and detain any cattle ~~found trespassing or~~ found without any person in charge of them in any demarcated forest or forest area;

(f) destroy any honey barrel or any receptacle placed without authority in any demarcated forest or forest area or upon any unalienated or unreserved Crown Land.

Rewards
to informers.

12. In any proceedings instituted against any person for any offence against this Ordinance or any Rules made thereunder, the Court may award an amount not exceeding one-half of any fine imposed to the person who, not being a person in the employment of the Government of the Colony, may have supplied such information as may have led to the conviction of the offender.

Presumption.

13. When in any proceedings under this Ordinance, a question arises as to whether any forest produce has been cut in or obtained from a forest area or demarcated forest it shall be presumed to have been so cut or obtained unless the contrary is proved.

Penalty.

14. (1) Any person who is guilty of an offence against or who commits a breach of or fails to comply with the provisions of this Ordinance or of any Rules made thereunder, or who fails to comply with or commits a breach of any of the terms or conditions of a licence granted to him under the provisions of this Ordinance, shall be guilty of an offence and

*Replaced by
Ord. 1/49*

The Tugen (Kamusia) Native Reserve Forest Rules 1949
- see GN. 331/49 p. 147

The Forest Areas (Fish Hatcheries) Rules 1949 - see GN. 560/49
p. 241

shall, on conviction before any subordinate court of the first or second class, be liable to a fine not exceeding £150 or to a term of imprisonment not exceeding six months or to both such fine and such imprisonment and to forfeiture of the licence, if any.

(2) Where any person is convicted of an offence whereby any forest produce has been damaged or injured or removed the Court may, in addition to any other penalty, order such person—

- (a) to pay to the Conservator by way of compensation the value of the forest produce so damaged or injured or removed; and
- (b) if it be proved to the satisfaction of the Court that the person so convicted is the agent or employee of another person the Court may order such other person to pay such compensation unless, after hearing such other person, the Court is satisfied that such offence was not due to the neglect or default of such other person.

(3) Where any person is convicted of an offence of occupying or cultivating land in any forest area or a demarcated forest without a licence, the Court may order the person so convicted to remove any buildings, enclosures, huts, or crops, within a period to be specified in such order, and, if the person so convicted fails to comply with the order of the Court within the period so specified, any such building, enclosure, hut or crops shall be deemed to be the property of the Crown and may be disposed of in such manner as the Conservator may think fit.

15. (1) The Governor in Council may make Rules— Rules.

(a) either of general application or in respect to any particular demarcated forest, forest area or any unalienated and unreserved Crown Land for all or any of the following purposes:—

- (i) regulating the sale of and the disposal of forest produce and the felling, working and removal thereof;
- (ii) ^{regulating} the use and occupation of land in any demarcated forest or forest area, for the purposes of residence, cultivation, commercial or industrial purposes, or for camping or picnicking or for grazing cattle;
- (iii) the manner in which licences may be granted, and for this purpose such Rules may provide for the

*Rep Council by
Ord. 1/49*

grant without charge or for the sale by auction, or by tender or by private treaty, of the right to obtain and dispose of forest produce;

- (iv) controlling the entry of persons into any demarcated forest or forest area and regulating the period during which persons may remain there and the conditions under which they may do so;
- (v) closing paths and roads in any demarcated forest or forest area either to persons and traffic or to both;
- (vi) closing any demarcated forest or forest area to ~~trespassers~~ ^{passers};
- (vii) controlling and regulating the entry into and the use of any demarcated forest or forest area declared to be a nature reserve;
- (viii) the manner in which any person who holds a licence under the provisions of this Ordinance shall exercise any right conferred upon him by such licence; and
- (~~ix~~)^{viii} prescribing fees and royalties.

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(b) with respect to forest guards and may for that purpose—

See Forest Guards
Rules 1942 G. N.
248/42, p. 121

- (i) prescribe the manner in which forest guards shall be enlisted;
- (ii) provide for the re-engagement, retirement and discharge of, and the grant of leave to, forest guards;
- (iii) prescribe the rates of pay for forest guards and the payment to them of gratuities after prescribed periods of service;
- (iv) provide for the extension of the tours of service of forest guards in times of war, insurrection or other emergency;
- (v) prescribe what shall constitute offences against discipline and for the inquiry into, and punishment of, such offences;
- (vi) provide for the imposition of fines for offences against discipline, for the recovery of such fines from the offenders' pay and for the disposal of any fines or stoppages of pay:

Provided that in no case shall the fine prescribed by any Rule exceed, in the case of a first

offence, one-third of a month's pay or, in the case of a subsequent offence of the same kind or an aggravated offence, one-half of a month's pay;

- (vii) provide for the apprehension of deserters and the punishment for desertion:

Provided that such punishment shall not exceed a fine of £50 or imprisonment for a term exceeding one year or both such fine and such imprisonment;

- (viii) provide for the establishment of a Forest Guards' Rewards and Fines Fund and the manner in which any moneys standing to the credit of that fund may be disposed of, and for the transfer to that fund of any moneys standing to the credit of the Forest Guards' Rewards and Fines Fund established under section 43 of the Ordinance repealed by this Ordinance;

- (ix) provide for the exemption of forest guards from the payment of hut or poll tax; and

- (x) provide generally for the terms of service, and the good government and discipline of, forest guards;

(c) for the protection and management of indigenous forests on alienated Crown land; and

(d) generally for the better carrying out of the provisions of this Ordinance.

(2) Rules made under the provisions of paragraph (b) of sub-section (1) of this section may prescribe different terms of service for forest guards who enlisted before the commencement of this Ordinance and forest guards who enlist after the commencement of this Ordinance.

16. The Forest Ordinance (Chapter 149 of the Revised Edition) is hereby repealed.

ORDINANCE No. XXVII of 1941

Assented to in His Majesty's name this twenty-second day of December, 1941.

HENRY MOORE,
Governor.

[22ND DECEMBER, 1941] Date of assent.

An Ordinance to Amend the Estate Duty (Consolidation) Ordinance, 1926

22nd December, 1941

Date of commencement.

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

1. This Ordinance may be cited as the Estate Duty (Consolidation) (Amendment) Ordinance, 1941, and shall be read as one with the Estate Duty (Consolidation) Ordinance, 1926, hereinafter referred to as the Principal Ordinance.

Short title.
No. 13 of 1926.

2. In this Ordinance any reference to a widow shall, in the case of a married woman whose husband survives her, be deemed to include a reference to the surviving husband.

Interpretation.

3. (1) (a) Where any person dies from wounds inflicted, accident occurring, or disease contracted, within three years before death, while on active service against an enemy, whether on sea, land or air, or on service which, in the opinion of the Governor in Council, is of a warlike nature or involves the same risks as active service, and was, when the wounds were inflicted, the accident occurred or the disease was contracted, subject to any naval, military or air force law; or

Remission of estate duty in case of persons killed in war.

(b) where any person, other than a person referred to in paragraph (a) of this sub-section, dies from injuries received within three years of his death and which were, in the opinion of the Governor in Council, caused by the operations of war,

the Governor may, if he thinks fit, remit, or in the case of estate duty already paid, repay, in any one case, the whole or any part of the estate duty leviable under the Principal Ordinance in respect of property passing upon the death of the deceased to his widow or lineal descendants or lineal ancestors, or to his brothers or sisters or the descendant of

such brothers or sisters, not exceeding the following amounts:—

- (i) where the value for the purpose of such estate duty of the property passing to the widow, lineal descendants, lineal ancestors, brothers or sisters, or the descendants of such brothers or sisters does not exceed seven thousand five hundred pounds, the whole of such estate duty in respect of that property, and
- (ii) where the said value exceeds seven thousand five hundred pounds—
 - (a) in respect of the first seven thousand five hundred pounds the whole of estate duty; and
 - (b) in respect of the remainder an amount not exceeding one-half of the estate duty leviable under the Principal Ordinance in respect of such remainder.

(2) The benefits of the relief given by this section as respects the first seven thousand five hundred pounds shall be apportioned rateably among the several persons who would otherwise bear such estate duty remitted or repaid according to the amounts which they would so bear and without regard to their respective rights of priority.

Remission of estate duty in case of property passing more than once owing to deaths caused by the war.

4. (1) Where the Governor is satisfied that estate duty leviable under the Principal Ordinance has become payable on any property passing on the death of any person to which section 3 of this Ordinance applies and that subsequently such estate duty has again become payable on the same property or any part thereof passing on the death of some other person to which section 3 of this Ordinance applies, the whole of such estate duty payable on such subsequent death in respect of the property so passing shall be remitted, or in case such estate duty has been paid, repaid, and the property shall not be aggregated with any other property passing on such subsequent death for the purpose of determining the rate of such estate duty.

(2) This section shall apply whether or not on any such death any property passes to the widow, lineal descendants, lineal ancestors, brothers or sisters, or the descendants of such brothers or sisters, of the deceased.

Application.

5. The provisions of this Ordinance shall apply only in respect of deaths occurring on or after the third day of September, 1939.

ORDINANCE No. XXVIII of 1941

Assented to in His Majesty's name this twenty-second day of December, 1941.

HENRY MOORE,
Governor.

[22ND DECEMBER, 1941] Date of assent.

An Ordinance to Provide for the Supply of a Further Sum of Money for the Service of the Year Ended 31st December, 1940.

22nd December, 1941

Date of commencement.

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

1. This Ordinance may be cited as the 1940 Supplementary Appropriation Ordinance, 1941. Short title.
2. The public revenue for the period 1st January to 31st December, 1940, of the Colony and Protectorate of Kenya is hereby charged towards the service of the period 1st January to 31st December, 1940, with a further sum of five hundred and fifty-three thousand six hundred and twelve pounds, fourteen shillings and ninety-two cents in addition to the sums provided by the 1940 Appropriation Ordinance, 1939. Public revenue charged.
No. 41 of 1939.
3. The money granted by this Ordinance shall be applied to the purposes and services expressed in the Schedule hereto. Application of money granted.
4. The Accountant General of the Colony and Protectorate of Kenya is hereby given authority for having paid out of the revenue of the Colony and Protectorate of Kenya, for the several services specified in the Schedule hereto the said sum of five hundred and fifty-three thousand six hundred and twelve pounds, fourteen shillings and ninety-two cents which have come in course of payment during the period 1st January to 31st December, 1940. Accountant General's authority for payment.

ORDINANCE No. XXIX of 1941

Assented to in His Majesty's name this twenty-second day of December, 1941.

HENRY MOORE,
Governor.

[22ND DECEMBER, 1941] Date of assent.

An Ordinance to make Temporary Provision for Enabling Persons Required in the Public Interest to be Employed for Purposes Connected with the War in Offices and Places under the Crown to be so Employed Without Being Disqualified for Membership of the Legislative Council and to Enable the Life of the Present Legislative Council to be Extended.

22nd December, 1941

Date of commencement.

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

1. This Ordinance may be cited as the Legislative Council (War Provisions) Ordinance, 1941. Short title.

2. (1) If it is certified by the Governor that the appointment of any person being a member of the Legislative Council to any office or place under the Crown is required in the public interest for purposes connected with the prosecution of any war in which His Majesty may be engaged, that person shall not be deemed to be a person incapable of being elected as a member of that Council, or incapable of sitting or voting as such a member, by reason only of his holding that office or place at any time during the present war period. Prevention of disqualification

(2) A copy of any certificate issued for the purposes of the foregoing sub-section shall be laid before the Legislative Council.

(3) Any person who, since the third day of September, nineteen hundred and thirty-nine and before the passing of this Ordinance, has been appointed to any office or place under the Crown shall not be deemed to have been or to be a person incapable of being elected as a member of the

Legislative Council, or incapable of sitting or voting as such a member, by reason only of his having held or holding that office or place at any time during the present war period.

(4) In this section the expression "the present war period" means the period beginning with the third day of September, nineteen hundred and thirty-nine and ending with the expiry of the Emergency Powers (Defence) Act, 1939, as applied to the Colony by the Emergency Powers (Colonial Defence) Order in Council, 1939.

Suspension of operation of sections 14 and 16 of the Legislative Council Ordinance, 1935. No. 26 of 1935.

3. The operation of sections 14 and 16 of the Legislative Council Ordinance, 1935, is hereby suspended until such time as the Legislative Council is dissolved by the Governor under Article XXX of the Instructions passed under the Royal Sign Manual and Signet bearing date the twenty-ninth day of March nineteen hundred and thirty-four.

ORDINANCE No. XXX of 1941

Assented to in His Majesty's name this twenty-second day of December, 1941.

HENRY MOORE,
Governor.

[22ND DECEMBER, 1941] Date of assent.

An Ordinance Relating to Trusts of Land in the Colony

22nd December, 1941

Date of commencement.

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

PART I

PRELIMINARY

1. This Ordinance may be cited as the Trusts of Land Ordinance, 1941. Short title.

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

“building purposes” includes the erecting and the improving of, and the adding to, and the repairing of buildings; and a “building lease” is a lease for any building purpose or purposes connected therewith;

“Court” means His Majesty's Supreme Court of Kenya;

“death duty” means duty leviable or payable on death under the provisions of the Estate Duty (Consolidation) Ordinance, 1926, or any Ordinance amending or replacing the same; No. 13 of 1926.

“disposition” and “conveyance” include a mortgage, charge, deposit of title deeds or other documents by way of security, lease, assent, disclaimer, release, and every other assurance or act or thing taking effect as an assurance of land or of an interest therein by any instrument, except a will; and “dispose of” and “convey” have corresponding meanings;

“instrument” does not include any Ordinance or Statute unless such Ordinance or Statute creates a settlement within the meaning of Part III of this Ordinance;

“land” includes land of any tenure, and mines and minerals, whether or not held apart from the surface, buildings (whether the division is horizontal, vertical, or made in any

other way) and other immovable property; also a rent, easement, right, privilege, or benefit in, over or derived from land, and any estate or interest in land;

“lease” includes an agreement for a lease;

“limitation” includes a trust; and “trust” includes an implied or constructive trust;

“mines and minerals” mean mines and minerals whether already opened or in work or not, and include all minerals and substances in, on, or under the land, obtainable by underground or by surface working; and “mining purposes” include the sinking and searching for, winning, working, getting, making merchantable, smelting or otherwise converting or working for the purposes of any manufacture, carrying away, and disposing of mines and minerals, and the erection of buildings, and the execution of engineering and other works suitable for those purposes; and a “mining lease” is a lease for any mining purposes or purposes connected therewith, and includes a grant or licence for any mining purposes;

“mortgage” includes any charge or lien on any land for securing money or money’s worth; and “mortgage money” means money or money’s worth secured by a mortgage;

“movables” includes all property other than land;

“personal representative” means the executor or administrator for the time being of a deceased person, and where there are special personal representatives for any purpose means for such purpose those personal representatives;

“possession” includes receipt of rents and profits or the right to receive the same, if any; and “income” includes rents and profits;

“property” includes any thing in action, and any interest in property, movable or immovable;

“purchaser” means a purchaser in good faith for valuable consideration and includes a lessee, mortgagee or other person who for valuable consideration acquires an interest in property except that in Part I of this Ordinance and elsewhere where so expressly provided “purchaser” only means a person who acquires an interest in or charge on property for money or money’s worth; and in reference to a legal estate includes a chargee by way of legal mortgage; and where the context so requires “purchaser” includes an intending purchaser; “purchase” has a meaning corresponding with that of “purchaser”; and “valuable consideration” includes marriage but does not include a nominal consideration in money;

“rent” includes yearly or other rent, and toll, duty, royalty, or other reservation, by the acre, or the ton, or otherwise; and, in relation to rent, “payment” includes delivery; and “fine” includes premium or fore-gift, and any payment, consideration, or benefit in the nature of a fine, premium, or fore-gift;

“securities” include stocks, funds, and shares;

“trust corporation” includes the Public Trustee, and any other person holding any other official position prescribed by the Governor, and any corporation appointed by the Court in any particular case to be a trustee or which is for the time being a trust corporation within the meaning of the Corporations (Probate and Administration) Ordinance, 1931, as amended by the Corporations (Probate and Administration) (Amendment) Ordinance, 1931, and, in relation to the property of a bankrupt and property subject to a deed or arrangement, includes the trustee in bankruptcy and the trustee under the deed respectively, and, in relation to charitable ecclesiastical and public trusts, also includes any local or public authority so prescribed, and any other corporation constituted under the laws of the Colony which satisfies the Governor that it undertakes the administration of any such trusts without remuneration, or that by its constitution it is required to apply the whole of its net income after payment of outgoings for charitable ecclesiastical or public purposes, and is prohibited from distributing, directly or indirectly, any part thereof by way of profits among any of its members, and is authorized by him to act in relation to such trusts as a trust corporation;

No. 14 of 1931.

No. 40 of 1931.

“trust for sale”, in relation to land, means an immediate binding trust for sale, whether or not exercisable at the request or with the consent of any person, and with or without a power at discretion to postpone the sale; “trustees for sale” mean the persons (including a personal representative) holding land on trust for sale; and “power to postpone a sale” means power to postpone in the exercise of a discretion;

“will” includes a codicil.

3. (1) A power to postpone sale shall, in the case of every trust for sale of land, be implied unless a contrary intention appears.

Power to
postpone sale.

(2) Where there is a power to postpone the sale, then (subject to any express direction to the contrary in the instrument, if any, creating the trust for sale) the trustees for sale

shall not be liable in any way for postponing the sale, in the exercise of their discretion, for any indefinite period; nor shall a purchaser be concerned in any case with any directions respecting the postponement of a sale.

(3) The foregoing provisions of this section apply whether the trust for sale is created before or after the commencement or by virtue of this Ordinance.

(4) Where a disposition or settlement coming into operation after the commencement of this Ordinance contains a trust either to retain or to sell land the same shall be construed as a trust to sell the land with power to postpone the sale.

Duration of trusts for sale.

4. (1) Where land has, either before or after the commencement or by virtue of this Ordinance, become subject to an express or implied or statutory trust for sale, such trust shall, so far as regards the safety and protection of any purchaser thereunder, be deemed to be subsisting until the land has been conveyed to or under the direction of the persons interested in the proceeds of sale.

(2) This section applies to sales whether made before or after the commencement of this Ordinance, but operates without prejudice to an order of any court restraining a sale.

Appointment of new trustees for sale of land.

5. (1) The persons having power to appoint new trustees of land held upon trust for sale shall be bound to appoint the same persons (if any) who are for the time being trustees of the settlement of the proceeds of sale, but a purchaser shall not be concerned to see whether the proper persons are appointed to be trustees of such land.

(2) This section applies whether the trust for sale or the settlement of the proceeds of sale comes into operation before or after the commencement or by virtue of this Ordinance.

Consents to the execution of a trust for sale.

6. (1) If the consent of more than two persons is by the disposition made requisite to the execution of a trust for sale of land, then, in favour of a purchaser, the consent of any two of such persons to the execution of the trust or to the exercise of any statutory or other powers vested in the trustees for sale shall be deemed sufficient.

(2) Where the person whose consent to the execution of any such trust or power is expressed to be required in a disposition is not *sui juris* or becomes subject to disability, his consent shall not, in favour of a purchaser, be deemed to be requisite to the execution of the trust or the exercise of the

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Trusts of Land

No. XXX

power; but the trustees shall, in any such case, obtain the separate consent of the parental or testamentary or other guardian of an infant or of the person (if any) legally entrusted with the custody or curatorship of the property and affairs of a lunatic.

(3) The trustees for sale shall, as far as practicable, give effect to the wishes of the persons of full age for the time being beneficially interested in possession in the rents and profits of the land until sale, or, in case of dispute, of the majority (according to the value of their combined interests) of such persons, but a purchaser shall not be concerned to see that such wishes are complied with.

7. (1) A purchaser of land from trustees for sale shall not be concerned with the trusts affecting the proceeds of sale of such land (whether made to attach to such proceeds by virtue of this Ordinance or otherwise), or affecting the rents and profits of such land until sale, whether or not those trusts are declared by the same instrument by or which, or by any instrument consequent upon which, the trust for sale is created.

Purchaser not concerned with trusts of proceeds of sale if paid to two or more trustees or to a trust corporation.

(2) Notwithstanding anything to the contrary in the instrument (if any) by or consequent upon which a trust for sale of land is created or in the settlement of the net proceeds, the proceeds of sale or other capital money shall not be paid to or applied by the direction of fewer than two persons as trustees for sale, except where the trustee is a trust corporation, but this sub-section does not affect the right of a sole personal representative as such to give valid receipts for, or direct the application of, proceeds of sale or other capital money, nor, except where capital money arises on the transaction, render it necessary to have more than one trustee.

PART II

IMPLIED TRUSTS FOR SALE

8. (1) Where any land, vested in trustees by way of security, becomes, by virtue of any Ordinance relating to limitation of suits, or of an order for foreclosure, or of a purchase from or release by the person for the time being having the right of redemption, or otherwise, discharged from the right of redemption, it shall be held by them upon trust for sale.

Trust for sale of mortgaged property where right of redemption is barred.

(2) The net proceeds of sale, after payment of costs and expenses, shall be applied in like manner as the mortgage debt, if received, would have been applicable, and the income of the property until sale shall be applied in like manner as the interest, if received, would have been applicable; but this sub-section operates without prejudice to any rule of law relating to the apportionment of capital and income between tenant for life and remainderman.

(3) This section does not affect the right of any person to require that, instead of a sale, the property shall be conveyed to him or in accordance with his directions.

(4) This section applies whether the right of redemption was discharged before or after the commencement of this Ordinance, but has effect without prejudice to any dealings or arrangements made before such commencement.

Trust for sale
in settlement
of movables.

9. (1) Where a settlement of movable property or of land held upon trust for sale contains a power, or where the trustees of any such settlement are empowered by law, to invest money in the purchase of land, such land shall be held by the trustees upon trust for sale; and the net rents and profits until sale, after keeping down costs of repairs and insurance and other outgoings, shall be paid or applied in like manner as the income of investments representing the purchase-money would be payable or applicable if a sale had been made and the proceeds had been duly invested in movable property.

(2) This section applies to all settlements (including wills) whether created before or after the commencement of this Ordinance.

PART III

STATUTORY TRUSTS FOR SALE

What constitutes
settled land.

10. Any land which, at the commencement of this Ordinance, stands, or which, after the commencement of this Ordinance, under or by virtue of any deed, will, agreement, Ordinance, or other instrument, or any number of instruments, is or becomes, or purports to be or become—

- (i) limited to or in trust for any persons by way of succession; or
- (ii) limited to or in trust for any person in possession for any estate or interest subject to a limitation, gift, or disposition over on failure of his issue or in any other event; or

- (iii) limited to or in trust for any person for any estate contingent on the happening of any event; or
- (iv) limited to or in trust of any person under the age of majority for any estate; or
- (v) limited to or in trust for a married woman of the age of majority in possession for any estate with a restraint on anticipation; or
- (vi) charged, whether voluntarily or in consideration of marriage or by way of family arrangement, and whether immediately or after an interval, with the payment of any rent charge for the life of any person, or any less period, or of any capital, annual, or periodical sums for the portions, advancement, maintenance, or otherwise for the benefit of any persons, with or without any term of years for securing or raising the same,

shall be deemed to be settled land for the purposes of this Ordinance and the deed, will, agreement, Ordinance, or other instrument or instruments (whether made or passed before or after, or partly before and partly after, the commencement of this Ordinance) under or by virtue of which the same stands or is or becomes or purports to be or become so limited or charged is in this Ordinance referred to as a settlement, or as the settlement, as the same requires.

11. (1) Where, at the commencement of this Ordinance, settled land is vested either wholly or partially in any trustee or trustees for all or any of the purposes of the settlement, the same shall, as from the commencement of this Ordinance, vest solely in such trustee or trustees to the exclusion of all others (if not already so vested) and be held by him or them upon trust for sale.

Transitional provisions converting settlements into trusts for sale.

(2) Where, at the commencement of this Ordinance, settled land stands vested in any person or persons solely as beneficiary or beneficiaries under or by virtue of the settlement, and not in any collateral capacity as trustee or trustees for the purposes of the settlement, the same shall, as from the commencement of this Ordinance, vest solely and absolutely in the person, or in all the persons if more than one, being of the age of majority and having any beneficial interest, whether in possession or in remainder or expectant or contingent, and not being subject to a restraint on anticipation,

under or by virtue of the settlement, to the exclusion of all others (if not already so vested) and be held by him or them upon trust for sale.

Attempted settlement constitutes trust for sale.

12. (1) Where, by any settlement first taking effect or purporting to take effect after the commencement of this Ordinance, the settled land the subject thereof becomes vested or held, or would but for the provisions of this Ordinance become vested or held, either wholly or partially in or by any trustee or trustees for all or any of the purposes of the settlement, such settled land shall thereupon and thereby vest solely in such trustee or trustees to the exclusion of all others (if not already so vested) and be held by him or them upon trust for sale.

(2) Where, by any settlement first taking effect or purporting to take effect after the commencement of this Ordinance, the settled land the subject thereof becomes vested or held, or would but for the provisions of this Ordinance become vested or held, in or by any person or persons solely as beneficiary or beneficiaries under or by virtue of such settlement, and not in any collateral capacity as trustee or trustees for the purposes of such settlement, such settled land shall thereupon and thereby vest solely and absolutely in the person, or in all the persons if more than one, being of the age of majority and having any beneficial interest, whether in possession or in remainder or expectant or contingent, and not being subject to a restraint on anticipation, under or by virtue of such settlement, to the exclusion of all others (if not already so vested) and be held by him or them upon trust for sale.

Infants cannot hold settled lands.

13. (1) Where, at the commencement of this Ordinance, settled land stands vested solely in one or more persons who is or all of whom either are under the age of majority or, being of the age of majority, hold subject to a restraint on anticipation, the same shall, as from the commencement of this Ordinance, vest solely and absolutely in the Public Trustee and be held by him upon trust for sale.

(2) Where, by any settlement first taking effect or purporting to take effect after the commencement of this Ordinance, the settled land the subject thereof would but for the provisions of this Ordinance become vested solely in one or more persons who is or all of whom either are, at the time of such taking effect or purported taking effect, under the age of majority or, being of the age of majority, would hold subject

to a restraint on anticipation, such settlement shall not operate in any wise to transfer such settled land, but shall take effect merely as an agreement binding all the parties who are bound by such settlement forthwith to convey, assign or otherwise transfer such settled land to two or more persons of the age of majority upon trust for sale.

14. The net rents and profits until sale of any settled land in respect of which a trust for sale is constituted by any of the provisions of this Part, after keeping down costs of repairs and other outgoings, shall be paid or applied in like manner as the same would for the time being have been paid or applied if no such trust for sale had been constituted and all the provisions of the settlement had been permitted to take effect.

Application of rents and profits pending exercise of statutory trust for sale.

15. (1) Capital money arising under this Ordinance by exercise of a trust for sale constituted in respect of settled land by any of the provisions of this Part, while remaining uninvested or unapplied, and securities on which an investment of any such capital money is made shall for all purposes of disposition, transmission and devolution be treated as land, and shall be held for and go to the same persons successively, in the same manner and for and on the same estates, interests, and trusts, as the land wherefrom the money arises, would have been held and have gone under the settlement if such settled land had not been disposed of and all the provisions of the settlement had been permitted to take effect.

Devolution of proceeds of statutory trust for sale and income therefrom.

(2) The income of those securities shall be paid or applied as the income of that land, if not disposed of, would have been payable or applicable under the settlement.

16. (1) The provisions of this Part apply to all settled land, and to every settlement whether made or arising before or after the commencement of this Ordinance.

Extent of application of this Part.

(2) In case of conflict between the provisions of a settlement and the provisions of this Part or of this Ordinance generally relative to any vesting of the settled land the subject thereof, or to any matter in respect whereof the person or persons in whom for the time being such settled land is vested upon trust for sale under or pursuant to the provisions of this Ordinance exercises or contracts or intends to exercise any power as such under this Ordinance, the provisions of this Part or of this Ordinance generally (as the case may be) shall prevail; and, notwithstanding anything in the

settlement, any power (not being merely a power of revocation or appointment) relating to the settled land thereby conferred upon any beneficiary or beneficiaries under the settlement or other persons exercisable for any purpose, whether or not provided for in this Ordinance, shall, after the commencement of this Ordinance, be exercisable by the person or persons in whom for the time being such settled land is vested upon trust for sale as aforesaid, as if it were an additional power conferred on such person or persons and not otherwise.

PART IV

POWERS OF TRUSTEES FOR SALE

Powers of sale
and exchange

17. Trustees for sale of land—

- (i) may sell such land or any part thereof or any easement right or privilege over or in relation to such land; and
- (ii) may make an exchange of such land, or any part thereof, or of any easement, right, or privilege of any kind, whether or not newly created, over or in relation to such land, or any part thereof, for other land, or for any easement, right or privilege of any kind, whether or not newly created, over or in relation to other land, including an exchange in consideration of money paid for equality of exchange: Provided that—
 - (a) every exchange shall be made for the best consideration in land or in land and money that can reasonably be obtained; and
 - (b) an exchange may be made subject to any stipulations respecting title or evidence of title, or other things.

Leasing powers.

18. (1) Trustees for sale of land may lease such land, or any part thereof, or any easement, right, or privilege of any kind over or in relation to the land, for any purpose whatever, whether involving waste or not, provided that save as hereinafter provided every lease—

- (i) shall be by formal lease or demise, and be made to take effect in possession not later than twelve months after its date, or in reversion after an existing lease having not more than seven years to run at the date of the new lease;

- (ii) shall reserve the best rent that can reasonably be obtained, regard being had to any fine or premium taken, and to any money laid out or to be laid out for the benefit of such land, and generally to the circumstances of the case;
 - (iii) shall contain a covenant or agreement by the lessee for payment of the rent, and a condition of re-entry on the rent not being paid within a time therein specified not exceeding thirty days.
- (2) A counterpart of every lease shall be executed by the lessee and delivered to the trustees for sale, of which execution and delivery the execution of the lease by the trustees for sale shall be sufficient evidence.
- (3) A statement, contained in a lease or in an indorsement thereon, signed by the trustees for sale, respecting any matter of fact or of calculation under this Ordinance in relation to the lease, shall, in favour of the lessee and of those claiming under him, be sufficient evidence of the matter stated.
- (4) A fine or premium received on the grant of a lease under any power conferred by this Part shall be deemed to be capital money arising by exercise of the trust for sale.
- (5) A tenancy at the best rent that can reasonably be obtained without fine or premium, and whereby the tenant is not exempted from punishment for waste, may, subject to the provisions of any other law for the time being in force, be granted for a term not exceeding three years from the date of the writing by any writing under hand only containing an agreement instead of a covenant by the tenant for the payment of rent.

19. The leasing power of trustees for sale extends to the making of—

Leases for special subjects.

- (i) a lease for giving effect (in such manner and so far as the law permits) to a covenant of renewal, performance whereof could be enforced against the owner for the time being of the land held upon trust for sale; and
- (ii) a lease for confirming, as far as may be, a previous lease being void or voidable, but so that every lease, as and when confirmed, shall be such a lease as might at the date of the original lease have been lawfully granted under this Ordinance or otherwise, as the case may require.

Power on dispositions to impose restrictions and make reservations and stipulations.

20. (1) On a sale or other disposition or dealing by trustees for sale under the powers conferred by this Part—

- (a) any easement, right, or privilege of any kind may be reserved or granted over or in relation to such land or any part thereof or other land, including the land disposed of, and, in the case of an exchange, the land taken in exchange; and
- (b) any restriction with respect to building on or other user of land, or with respect to mines and minerals, or with respect to or for the purpose of the more beneficial working thereof, or with respect to any other thing, may be imposed and made binding, as far as the law permits, by covenant, condition or otherwise, on the trustees for sale and the land held or acquired by them or any part thereof, or on the other party and any land disposed of to him; and
- (c) the whole or any part of any capital or annual sum (and in the case of an annual sum whether temporary or perpetual) charged on or payable out of the land disposed of, or any part thereof, and other land subject to the trust for sale, may as between the trustees for sale and the persons beneficially entitled to the net proceeds (but without prejudice to the rights of the person entitled to such capital or annual sum) be charged exclusively on the land disposed of, or any part thereof, or such other land as aforesaid, or any part thereof, in exoneration of the rest of the land on or out of which such capital or annual sum is charged or payable.

(2) A sale of land may be made subject to a stipulation that all or any of the timber and other trees, underwood, saplings, and plantations on the land sold or any articles attached to the land shall be taken by the purchaser at a valuation, and the amount of the valuation shall form part of the price of the land, and shall be capital money accordingly.

Separate dealing with surface and minerals.

21. A sale, exchange, lease or other authorized disposition, may (in such manner and so far as the law permits) be made either of land, with or without an exception or reservation of all or any of the mines and minerals therein, or of any mines and minerals and in any such case with or without a grant or reservation of powers of working, wayleaves or rights of way, rights of water and drainage, and other powers, easements, rights, and privileges for or incident to or connected

with mining purposes, in relation to the land held or acquired by the trustees for sale, or any part thereof, or any other land.

22. (1) Trustees for sale of land may at any time, either with or without consideration, grant by writing an option to purchase or take a lease of such land, or any part thereof, or any easement, right, or privilege over or in relation to the same at a price or rent either fixed at the time of granting the option, or to be fixed at or before exercise of the option in some manner prescribed at the time of granting the option.

Powers to grant options.

(2) Every such option shall be made exercisable within an agreed number of years not exceeding ten.

(3) The price or rent shall be the best which, having regard to all the circumstances, can reasonably be obtained.

(4) An option to take a mining lease may be coupled with the grant of a licence to search for and prove any mines or minerals under the land the subject of the trust for sale, or any part thereof, pending the exercise of the option.

(5) The consideration for the grant of the option shall be deemed to be capital money arising by exercise of the trust for sale.

23. (1) Trustees for sale of land may accept, with or without consideration, a surrender of any lease of such land, whether made under this Ordinance or not, or a regrant of any land granted in fee simple, whether under this Ordinance or not, in respect of the whole land leased or granted, or any part thereof, with or without an exception of all or any of the mines or minerals therein, or in respect of mines and minerals, or any of them, and with or without an exception of any easement, right, or privilege of any kind over or in relation to the land surrendered or regranted.

Surrenders and regrants.

(2) On a surrender of a lease or a regrant of land granted in fee simple in respect of part only of the land or mines and minerals leased or granted the rent or rent charge may be apportioned.

(3) On a surrender or regrant, the trustees for sale may in relation to the land or mines and minerals surrendered or regranted, or of any part thereof, make a new or other lease, or grant in fee simple, or new or other leases, or grants in fee simple, in lots.

(4) A new or other lease, or grant in fee simple, may comprise additional land or mines and minerals, and may reserve any apportioned or other rent, or rent charge.

(5) On a surrender or regrant, and the making of a new or other lease, whether for the same or for any extended or other term, or of a new or other grant in fee simple, and whether or not subject to the same or to any other covenants, provisions, or conditions, the value of the lessee's or grantee's interest in the lease surrendered, or the land regranted, may be taken into account in the determination of the amount of the rent or rent charge to be reserved, and of any fine or consideration in money to be taken, and of the nature of the covenants, provisions, and conditions to be inserted in the new or other lease, or grant in fee simple.

(6) Every new or other lease, or grant in fee simple, shall be in conformity with this Ordinance.

(7) All money, not being rent, or a rent charge, received on the exercise by the trustees for sale of the powers conferred by this section, shall, unless the Court, on an application made within six months after the receipt thereof or within such further time as the court may in special circumstances allow, otherwise directs, be deemed to be capital money arising by exercise of the trust for sale.

(8) In this section "land granted in fee simple" means land so granted with or subject to a reservation thereof of a perpetual or terminable rent charge which is or forms part of the land held upon trust for sale, and "grant in fee simple" has a corresponding meaning.

Acceptance of leases.

24. (1) Trustees for sale of land may accept a lease of any land, or of any mines and minerals, or of any easement, right, or privilege, convenient to be held or worked with or annexed in enjoyment to the land held upon trust for sale, or any part thereof, for such period and upon such terms and conditions, as the trustees for sale think fit:

Provided that no fine shall be paid out of capital money in respect of such lease.

(2) The lease may contain an option to purchase the reversion expectant on the term thereby granted.

Power to compromise claims and release restrictions.

25. (1) Trustees for sale of land may, either with or without giving or taking any consideration in money or otherwise, compromise, compound, abandon, submit to arbitration, or otherwise settle any claim, dispute, or question whatsoever relating to such land, or any part thereof, including in particular claims, disputes or questions as to boundaries, the

ownership of mines and minerals, rights and powers of working mines and minerals, local laws and customs relative to the working of mines and minerals and other matters, easements, and restrictive covenants, and for any of those purposes may enter into, give, execute, and do such agreements, assurances, releases, and other things as the trustees for sale may think proper.

(2) Trustees for sale of land may, at any time, by deed or writing, either with or without consideration in money or otherwise, release, waive, or modify, or agree to release, waive, or modify any covenant, agreement, or restriction imposed on any other land for the benefit of the land held upon trust for sale, or any part thereof, or release, or agree to release, any other land from any easement, right or privilege, including a right of pre-emption, affecting the same for the benefit of the land held upon trust for sale, or any part thereof.

26. Trustees for sale of land may at any time, by deed or writing, either with or without consideration in money or otherwise, vary, release, waive, or modify, either absolutely or otherwise, the terms of any lease whenever made of the land held upon trust for sale or any part thereof or any covenants or conditions contained in any grant in fee simple whenever made of land with or subject to a reservation thereof of a rent which is or forms part of the land held upon trust for sale, and in either case in respect of the whole or any part of the land comprised in any such lease or grant but so that every such lease or grant shall, after such variation, release, waiver or modification as aforesaid, be such a lease or grant as might then have been lawfully made under this Ordinance if the lease had been surrendered or the land comprised in the grant had never been so comprised or had been regranted.

Power to vary leases and give licences and consents.

27. (1) Trustees for sale of land may at any time, by deed or writing, either with or without consideration in money or otherwise, agree for the apportionment of any rent reserved or created by any such lease or grant as mentioned in the last preceding section, or any rent being or forming part of the land held upon trust for sale, so that the apportioned parts of such rent shall thenceforth be payable exclusively out of or in respect of such respective portions of the land subject thereto as may be thought proper, and also agree that any covenants, agreements, powers, or remedies for securing such rent and any other covenants or agreements by

Power to apportion rents.

the lessee or grantee and any conditions shall also be apportioned and made applicable exclusively to the respective portions of the land out of or in respect of which the apportioned parts of such rent shall thenceforth be payable.

(2) Where the land held upon trust for sale, or any part thereof, is held or derived under a lease, or under a grant reserving rent, or subject to covenants, agreements or conditions, whether such lease or grant comprises other land or not, the trustees for sale may at any time, by deed or writing, with or without giving or taking any consideration in money or otherwise, procure the variation, release, waiver, or modification, either absolutely or otherwise, of the terms, covenants, agreements, or conditions contained in such lease or grant, in respect of the whole or any part of such land, including the apportionment of any rent, covenants, agreements, conditions, and provisions, reserved, or created by, or contained in, such lease or grant.

(3) This section applies to leases or grants made either before or after the commencement of this Ordinance.

Provisions as
to consideration.

28. (1) All money, not being rent, payable by the trustees for sale in respect of any transaction to which any of the three last preceding sections relates shall be paid out of capital money arising by exercise of the trust for sale, or subject to the same trust and all money, not being rent, received on the exercise by the trustees for sale of the powers conferred by any of those sections, shall, unless the Court, on an application made within six months after the receipt thereof or within such further time as the Court may in special circumstances allow, otherwise directs be deemed to be capital money arising by exercise of the trust for sale.

(2) For the purpose of the three last preceding sections "consideration in money or otherwise" means—

- (a) a capital sum of money or a rent;
- (b) land being freehold or leasehold for any term of years whereof not less than forty years shall be unexpired;
- (c) any easement, right or privilege over or in relation to the land held upon trust for sale, or any part thereof, or any other land;
- (d) the benefit of any restrictive covenant or condition; and
- (e) the release of the land held upon trust for sale, or any part thereof, or any other land, from any easement,

right or privilege, including a right of pre-emption, or from the burden of any restrictive covenant or condition affecting the same.

29. (1) Where there is on any land held upon trust for sale timber ripe and fit for cutting, the trustees for sale may cut and sell that timber, or any part thereof.

Cutting and sale of timber and capitalization of part of proceeds.

(2) Three-fourth parts of the net proceeds of the sale shall be set aside as and be capital money arising by exercise of the trust for sale, and the other fourth part shall go as rents and profits.

30. Where there is an incumbrance affecting any part of the land held upon trust for sale (whether capable of being over-reached on the exercise by the trustees for sale of their powers under this Ordinance or not), the trustees for sale, with the consent of the incumbrancer, may charge that incumbrance on any other part of such land, or on all or any part of the capital money or securities representing capital money subject, or to become subject, to the same trusts as capital money arising by exercise of the trust for sale, whether already charged therewith or not, in exoneration of the first mentioned part, and by a legal mortgage, charge, or otherwise, make provision accordingly.

Shifting of incumbrances.

31. (1) Where an incumbrance affects any part of the land held upon trust for sale, the trustees for sale may, with the consent of the incumbrancer, vary the rate of interest charged and any of the other provisions of the instrument, if any, creating the incumbrance, and with the like consent charge that incumbrance on any part of such land, whether already charged therewith or not, or on all or any part of the capital money or securities representing capital money subject, or to become subject, to the same trusts as capital money arising by exercise of the trust for sale, by way of additional security, or of consolidation of securities, and by a mortgage charge or otherwise, make provision accordingly.

Power to vary provision of an incumbrance and to charge by way of additional security.

(2) "Incumbrance" in this section includes any annual sum payable during a life or lives or during a term of years absolute or determinable, but in any such case an additional security shall be effected so as only to create a charge or security similar to the original charge or security.

32. (1) Where money is required for any of the following purposes namely—

Power to raise money by mortgage or charge.

(i) discharging an incumbrance on the land held upon trust for sale or part thereof;

(ii) paying for any improvement authorized by this Ordinance or by the instrument, if any, creating the trust for sale;

(iii) equality of exchange;

(iv) payment of the costs of any transaction authorized by this section or the last preceding section,

the trustees for sale may raise the money so required, on the security of such land or any part thereof, by mortgage or charge, and the money so raised shall be capital money for that purpose, and may be paid or applied accordingly.

(2) "Incumbrance" in this section does not include any annual sum payable only during a life or lives or during a term of years absolute or determinable.

General powers
of management,
etc.

33. Trustees for sale of land may at any time or times, in addition to the special powers by this Part hereinbefore conferred, enter into and continue in possession of such land and manage or superintend the management thereof, with full power—

(a) to fell timber or cut underwood from time to time in the usual course for repairs or otherwise; and

(b) to erect, pull down, rebuild, and repair houses, and other buildings and erections; and

(c) to cultivate, manure, plant, clean, till, sow, or otherwise farm such land according to the best methods of husbandry practised in the neighbourhood, including power to change the course of husbandry; and

(d) to continue the working of mines, minerals, and quarries which have usually been worked; and

(e) to drain or otherwise improve such land or any part thereof; and

(f) to make allowances to and arrangements with tenants and others; and

(g) to determine tenancies, and to accept surrenders of leases and tenancies; and

(h) to insure against loss or damage by fire or earthquake; and

(i) generally to deal with such land in a proper and due course of management.

(2) Trustees for sale of land may from time to time, out of the income of the land, including the produce of the sale of timber and underwood, notwithstanding that power may be conferred by this Ordinance to apply capital moneys for all or any of such purposes, pay the expenses incurred in the management, or in the exercise of any power conferred by this Part, or otherwise in relation to such land, and all outgoings not payable by any tenant or other person, and shall keep down any annual sum, and the interest of any principal sum, charged on such land.

34. (1) On a sale, exchange, lease, mortgage, charge, or other disposition, trustees for sale of land may, as regards such land sold, given in exchange, leased, mortgaged, charged, or otherwise disposed of, or intended so to be, or, as regards easements or other rights or privileges sold, given in exchange, leased, mortgaged, charged or otherwise disposed of or intended so to be, effect the transaction by deed or writing to the extent of the estate or interest held upon trust for sale or any less estate or interest, in the manner requisite for giving effect to the sale, exchange, lease, mortgage, charge, or other disposition.

Completion of transactions.

(2) Such a deed or writing, as the case may be, to the extent, and in the manner to and in which it is expressed or intended to operate and can operate under this Ordinance, is effectual to pass the land conveyed or transferred, or the easements, rights, privileges, or other interests created, discharged from all the limitations, powers, and provisions of the instrument, if any, creating the trust for sale, and from all estates, interests, and charges subsisting or to arise thereunder, but subject to and with the exception of—

- (i) all rights, titles, and interests of whatsoever nature or kind having priority to the beneficial interests in the capital money arising by exercise of the trust for sale and the income thereof; and
- (ii) all mortgages, charges and liens which have been created or taken effect for securing money actually raised at the date of such deed or writing; and
- (iii) all leases, all grants of easements, and all other rights or privileges which were before the date of such deed or writing granted or made for value in money or money's worth, or agreed so to be, by the trustees for sale, or are at that date otherwise binding on the successors in title of the trustees for sale.

Delegation of powers by trustees.

35. (1) The powers of and incidental to leasing, accepting surrenders of leases, and management, conferred on trustees for sale of land, whether by this Ordinance or otherwise, may, until sale of such land, be revocably delegated from time to time by writing, signed by them, to any person of full age (not being merely an annuitant) for the time being beneficially entitled in possession to the net rents and profits of such land during his life or for any less period: and in favour of a lessee such writing shall, unless the contrary appears, be sufficient evidence that the person named therein is a person to whom the powers may be delegated, and the production of such writing shall, unless the contrary appears, be sufficient evidence that the delegation has not been revoked.

(2) Any power so delegated shall be exercised only in the names and on behalf of the trustees for sale delegating the power.

(3) The trustees for sale delegating any power under this section shall not, in relation to the exercise or purported exercise of the power, be liable for the acts or defaults of the person to whom the power is delegated, but that person shall, in relation to the exercise of the power by him, be deemed to be in the position and to have the duties and liabilities of a trustee.

General power to effect any transaction under order of court.

36. (1) Any transaction affecting or concerning land held upon trust for sale, or any part thereof, or any other land (not being a transaction otherwise authorized by this Ordinance, or by the instrument, if any, creating the trust for sale) which in the opinion of the Court would be for the benefit of the land held upon trust for sale, or any part thereof, or the persons interested under the trust for sale, may, under an order of the Court, be effected by trustees for sale, if it is one which could have been validly effected by an absolute owner.

(2) In this section "transaction" includes any sale, exchange, assurance, grant, mortgage, lien, surrender, reconveyance, release, reservation, or other disposition, and any purchase or other acquisition, and any covenant, contract, or option, and any application of capital money (except as hereinafter mentioned), and any compromise or other dealing, or arrangement; but does not include an application of capital money in payment for any improvement not authorized by this Ordinance, or by the instrument, if any, creating the trust for sale; and "effected" has the meaning appropriate to the particular transaction; and the references to land include references to restrictions and burdens affecting land.

37. (1) The provisions of this Part, other than the last preceding section, apply only if and as far as a contrary intention is not expressed in the instrument, if any, creating the trust for sale, and have effect subject to the terms of that instrument and to the provisions therein contained.

Extent of application of this Part and saving for additional or larger powers.

(2) In the case of conflict between the provisions of the last preceding section and the provisions of the instrument, if any, creating the trust for sale, the provisions of the last preceding section shall prevail.

(3) Nothing in this Ordinance shall preclude or affect the conferring on trustees for sale of land by the instrument, if any, creating the trust for sale, or by any supplemental instrument (if and so far as the same might otherwise be effectual) whether made before or after the commencement of this Ordinance of any powers additional to or larger than those conferred by this Ordinance; and any additional or larger powers so conferred shall, as far as may be, notwithstanding anything in this Ordinance, operate and be exercisable in the like manner, and with all the like incidents, effects, and consequences, as if they were conferred by this Ordinance.

PART V

INVESTMENT OR OTHER APPLICATION OF CAPITAL MONEY

38. Capital money arising by exercise of a trust for sale of land, subject to payment of claims properly payable thereout and to the application thereof for any special authorized object for which the capital money was raised, shall, when received, be invested or otherwise applied wholly in one, or partly in one and partly in another or others, of the following modes (namely):—

Mode of investment or application.

- (i) In investment in securities or other properties or investments in which the trustees for sale are by the instrument, if any, creating the trust for sale or by law authorized to invest moneys arising by exercise of the trust for sale, with power to vary the investment into or for any other such securities, properties or investments.
- (ii) In discharge, purchase, or redemption of incumbrances affecting all or any part of the estate subject to the same trusts as capital money arising by exercise of the trust for sale, or rents, or rent charges, charged on or payable out of such estate, or any part thereof.

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- (iii) In payment for any improvement authorized by this Ordinance.
- (iv) In payment for equality of exchange of any land held subject to the trusts for sale.
- (v) In the purchase, with the leave of the Court, of any leasehold interest where the immediate reversion is held subject to the trust for sale, so as to merge the leasehold interest (unless the Court otherwise directs) in the reversion, and notwithstanding that the leasehold interest may have less than forty years to run.
- (vi) In payment of the costs and expenses of all plans, surveys, and schemes, including schemes under the Town Planning and Development Ordinance, 1931, or any similar enactment, made with a view to, or in connexion with the improvement or development of the land held upon trust for sale, or any part thereof, or the exercise of any statutory powers, and of all negotiations entered into by the trustees for sale with a view to the exercise of any of the said powers, notwithstanding that such negotiations may prove abortive, and in payment of the costs and expenses of opposing any such proposed scheme as aforesaid affecting the land held upon trust for sale, whether or not the scheme is made.
- (vii) In payment to a local or other authority of such sum as may be agreed in consideration of such authority taking over and becoming liable to repair a private road on the land held upon trust for sale or a road for maintenance whereof the trustees for sale are liable *ratione tenurae*, or any sum which may otherwise become lawfully payable by the trustees for sale to such local or other authority in respect of the making up, taking over, or maintenance of any road or street.
- (viii) In financing any person who may have agreed to take a lease or grant for building purposes of the land held upon trust for sale, or any part thereof, by making advances to him in the usual manner upon the security of a legal or equitable mortgage or charge of his building agreement.
- (ix) In payment to any person becoming absolutely entitled or empowered to give an absolute discharge.

- (x) In payment of costs, charges, and expenses of or incidental to the exercise of any of the powers, or the execution of any of the provisions of this Ordinance, including the costs and expenses incidental to any of the matters referred to in this section.
- (xi) In any other mode authorized by the instrument, if any, creating the trust for sale.

39. Where capital money arising by exercise of a trust for sale of land, or deemed to be capital money so arising, is purchase-money paid in respect of—

Application of money paid for lease or reversion.

- (a) a lease for years; or
- (b) any other estate or interest in land less than the fee simple; or
- (c) a reversion dependent on any such lease, estate, or interest,

the trustees for sale or the Court, as the case may be, and in the case of the Court on the application of any party interested in that money, may, notwithstanding anything in this Ordinance, require and cause the same to be laid out, invested, accumulated, and paid in such manner as, in the judgment of the trustees for sale or of the Court, as the case may be, will give to the parties interested in that money the like benefit therefrom as they might lawfully have had from the lease, estate, interest or reversion in respect whereof the money was paid, or as near thereto as may be.

40. (1) Money, not being rent, received by way of damages or compensation for breach of any covenant by a lessee or grantee contained in any lease or grant of land held upon trust for sale shall, unless in any case the Court on the application of any party interested otherwise directs, be deemed to be capital money arising by exercise of the trust for sale, and paid to or retained by the trustees for sale, or paid into Court, and invested or applied, accordingly.

As to money received by way of damages for breach of covenant.

(2) In addition to the other modes in which capital money may be applied under this Ordinance or the instrument, if any, creating the trust for sale, money so received as aforesaid or any part thereof may, if the circumstances permit, be applied at any time within twelve months after such receipt, or such extended period as the Court may allow, in or towards payment of the costs of making good in whole or in part the breach of covenant in respect of which it was so received, or

the consequences thereof, and the trustees for sale, if they think fit, may cause or require any money so received or any part thereof to be so applied.

(3) In the application of any such money in or towards payment of the cost of making good any such breach or the consequences of any such breach as aforesaid, the work required to be done for the purpose shall be deemed to be an improvement authorized by Part I of the Schedule to this Ordinance.

Application of money in court and derived from compulsorily acquired land.

(4) This section does not apply to money received by way of damages or compensation for the breach of a covenant to repay to the lessor or grantor money laid out or expended by him, or to any case in which if the money received were applied in making good the breach of covenant or the consequences thereof such application would not enure for the benefit of the land held upon trust for sale, or any buildings thereon.

(5) This section does not apply to money received by way of damages or compensation before the commencement of this Ordinance, but it applies whether the lease or grant was made before or after the commencement of this Ordinance.

41. Where, under an Ordinance, or under any order or scheme confirmed by or having the force of an Ordinance, relating to the compulsory acquisition of land, or under any Ordinance, whether public or private, money is at the commencement of this Ordinance in any court, or is afterwards paid into any court, and is liable to be laid out in the purchase of land to be made subject to a settlement or trust for sale, then, in addition to any mode of dealing therewith authorized by the Ordinance under which the money is in such court, that money may be invested or applied as capital money arising by exercise of a trust for sale of land, on the like terms, if any, respecting costs and other things, as nearly as circumstances admit, and notwithstanding anything in this Ordinance according to the same procedure, as if the modes of investment or application authorized by this Ordinance were authorized by the Ordinance under which the money is in such court.

42. Where, under any instrument coming into operation either before or after the commencement of this Ordinance money is in the hands of trustees, and is liable to be laid out in the purchase of land to be made subject to the trusts declared by that instrument, then, in addition to such powers of dealing therewith as the trustees have independently of this Ordinance, they may, at their option, invest or apply the money as if it were capital money arising by exercise of a trust for sale of land.

Application of money in hands of trustees under powers of settlements.

43. (1) Where money or securities or the proceeds of sale of any property is or are by any instrument coming into operation either before or after the commencement of this Ordinance directed to be held on trusts declared by reference to capital money arising by exercise of a trust for sale of land constituted by that instrument or by any other instrument, the money securities or proceeds shall be held on the like trusts as if the same had been or represented money which had actually arisen by exercise of such trust for sale.

Provision as to movables settled by reference to capital money or on trusts corresponding with the limitations of land.

(2) Where money or securities or the proceeds of sale of any property is or are by any instrument coming into operation either before or after the commencement of this Ordinance directed to be held on the same trusts as, or on trusts corresponding as nearly as may be with the limitations of land settled or purporting to be settled or made subject to a trust for sale by that instrument or any other instrument, the money, securities or proceeds shall be held on the like trusts as if the same had been or represented capital money arising by exercise of a trust for sale of such land.

(3) Such money, securities, or proceeds of sale shall be paid or transferred to or retained by the trustees for sale of such land, or paid or transferred into court, and invested or applied accordingly.

(4) This section shall operate without prejudice to the rights of any person claiming under a disposition, for valuable consideration, made before the commencement of this Ordinance of any such money, securities or proceeds, as are referred to in this section.

44. The provisions of this Part apply only if and as far as a contrary intention is not expressed in the instrument, if any, creating the trust for sale, and shall have effect subject to the terms of such instrument, and to any provisions therein contained.

Extent of application of this Part.

PART VI

IMPROVEMENTS

Description of improvements authorized by the Ordinance.

45. Improvements authorized by this Ordinance are the making or execution on, or in connexion with, and for the benefit of land held upon trust for sale, of any of the works mentioned in the Schedule to this Ordinance, or of any works for any of the purposes mentioned in that Schedule, and any operations incident to or necessary or proper in the execution or proper in the execution of any of those works or necessary or proper for carrying into effect any of those purposes, or for securing the full benefit of any of those works or purposes.

Mode of application of capital money.

46. (1) Capital money arising by exercise of a trust for sale of land, or deemed to be capital money so arising, may be applied in or towards payment for any improvement authorized by this Ordinance or by the instrument, if any, creating the trust for sale, without any scheme for the execution of the improvement being first submitted for approval to, or approved by, the beneficiaries or any of them, or the Court.

(2) Where the capital money to be expended is in the hands of the trustees for sale, they may apply that money in or towards payment for the whole or any part of any work or operation comprised in the improvement, on—

(i) a certificate to be furnished by a competent engineer or able practical surveyor employed independently of the tenant for life, certifying that the work or operation comprised in the improvement or some specific part thereof, has been properly executed, and what amount is properly payable in respect thereof, which certificate shall be conclusive in favour of the trustees for sale as an authority and discharge for any payment made by them in pursuance thereof; or

(ii) an order of the Court directing or authorizing the trustees for sale so to apply a specified portion of the capital money:

Provided that:—

(a) In the case of improvements not authorized by Part I of the Schedule to this Ordinance or by the instrument, if any, creating the trust for sale, the trustees for sale may, if they think fit, and shall if so directed by the Court, before they make any such application

of capital money make provision that that money, or any part thereof, shall be repaid to or retained by them out of the income of the land held upon trust for sale by not more than fifty half-yearly instalments, the first of such instalments to be paid or to be deemed to have become payable at the expiration of six months from the date when the work or operation, in payment for which the money is to be applied, was completed.

(b) No capital money shall be applied by the trustees for sale in payment for improvements not authorized by Parts I and II of the Schedule to this Ordinance, or by the instrument, if any, creating the trust for sale, except subject to provision for the repayment or retention thereof being made in manner mentioned in the preceding paragraph of this proviso.

(3) Where the capital money to be expended is in any court, such court may, if it thinks fit, on a report or certificate of a competent engineer or able practical surveyor approved by such court, or on such other evidence as such court may think sufficient, make such order and give such directions as it thinks fit for the application of the money, or any part thereof, in or towards payment for the whole or any part of any work or operation comprised in the improvement.

(4) Where any court authorizes capital money to be applied in payment for any improvement or intended improvement not authorized by Part I of the Schedule to this Ordinance or by the instrument, if any, creating the trust for sale, such court, as a condition of making the order, may in any case require that the capital money or any part thereof, and shall as respects an improvement mentioned in Part III of that Schedule (unless the improvement is authorized by the instrument, if any, creating the trust for sale), require that the whole of the capital money shall be repaid to or retained by, the trustees for sale out of the income of the land held upon trust for sale by a fixed number of periodical instalments to be paid or retained at the times appointed by such court, and may require that any incumbrancer of such income shall be served with notice of the proceedings.

(5) All money received by the trustees for sale in respect of any instalments under this section shall be held by them as capital money arising by exercise of the trust for sale, unless the Court otherwise directs.

Court may order payment for improvements executed.

47. The Court may, in any case where it appears proper, make an order directing or authorizing capital money to be applied in or towards payment for any improvement authorized by this Ordinance, whether executed before or after the commencement of this Ordinance notwithstanding that a scheme was not, before the execution of the improvement, submitted for approval to the Court, and notwithstanding that no capital money is immediately available for the purpose.

Extent of application of this Part.

48. The provisions of this Part apply only if and as far as a contrary intention is not expressed in the instrument, if any, creating the trust for sale, and shall have effect subject to the terms of such instrument, and to any provisions therein contained.

PART VII

GENERAL PROVISIONS AS TO TRUSTEES OF LAND

Surviving or continuing trustees can act.

49. Subject as provided by sub-section (2) of section 7 the provisions of this Ordinance referring to trustees for sale of land apply to the surviving or continuing trustees or trustee for sale for the time being.

Trustee's receipts.

50. The receipt or direction in writing of or by the trustees for sale of land, or where a sole trustee for sale of land is a trust corporation or personal representative, of or by that trustee, or of or by the personal representative of the last surviving or continuing trustee for sale of land, for or relating to any money or securities, paid or transferred to or by the direction of the trustees, trustee, or representatives, as the case may be, effectually discharges the payer or transferor therefrom, and from being bound to see to the application or being answerable for any loss or misapplication thereof, and, in case of a mortgagee or other person advancing money, from being concerned to see that any money advanced by him is wanted for any purpose of this Ordinance, or that no more than is wanted is raised.

Protection of each trustee individually.

51. Each person who is for the time being a trustee for sale of land is answerable for what he actually receives only, notwithstanding his signing any receipt for conformity, and in respect of his own acts, receipts and defaults only, and is not answerable in respect of those of any other trustee, or of any banker, broker, or other person, or for the insufficiency or deficiency of any securities, or for any loss not happening through his own wilful default.

52. Trustees for sale of land, personal representatives, or other persons who have in good faith, pursuant to a trust for sale of land or this Ordinance, executed a conveyance, transfer, assent, assignment, or other disposition of the land held upon trust for sale, or a deed of discharge of trustees, shall be absolutely discharged from all liability in respect of the equitable interests and powers taking effect under the instrument (if any) constituting the trust for sale, and shall be entitled to be kept indemnified at the cost of the trust estate from all liabilities affecting the land held upon trust for sale, but the person to whom the land held upon trust is conveyed, transferred, assigned, or otherwise disposed of (not being a purchaser taking free therefrom) shall hold such land upon the trusts (if any) affecting the same.

Indemnities to personal representatives and others.

53. Trustees for sale of land may reimburse themselves or pay and discharge out of the trust property all expenses properly incurred by them.

Trustee's reimbursements.

PART VIII

SUPPLEMENTARY PROVISIONS

54. (1) If in a settlement, will, assurance, or other instrument executed or made before or after, or partly before and partly after, the commencement of this Ordinance a provision is inserted—

Prohibition or limitation against exercise of powers void, and provision against forfeiture

(a) purporting or attempting, by way of direction, declaration, or otherwise, to forbid trustees for sale of land to exercise any power under this Ordinance herein expressed to be exercisable or impliedly conferred without regard to or notwithstanding the provisions of the instrument (if any) constituting the trust for sale; or

(b) attempting, or tending, or intended, by a limitation, gift, or disposition over of land held upon trust for sale, or by a limitation, gift or disposition of other immovable or any movable property, or by the imposition of any condition, or by forfeiture, or in any other manner whatever, to prohibit or prevent them from exercising, or to induce them to abstain from exercising, or to put them into a position inconsistent with their exercising, any such power as aforesaid,

that provision, as far as it purports, or attempts, or tends, or is intended to have, or would or might have, the operation aforesaid, shall be deemed to be void.

(2) For the purposes of this section an estate or interest limited to continue so long only as a person abstains from exercising any such power or right as aforesaid shall be and take effect as an estate or interest to continue for the period for which it would continue if that person were to abstain from exercising the power or right, discharged from liability to determination or cesser by or on his exercising the same.

(3) Notwithstanding anything in an instrument constituting a trust for sale of land or settlement, the exercise by a trustee for sale of any power under this Ordinance herein expressed to be exercisable or impliedly conferred without regard to or notwithstanding the provisions of such instrument or settlement shall not occasion a forfeiture.

Powers of Court where trustees for sale refuse to exercise powers

55. If trustees for sale of land refuse to sell or to exercise any of the powers conferred by this Ordinance, or any requisite consent cannot be obtained, any person interested may apply to the Court for a vesting order or other order for giving effect to the proposed transaction or for an order directing the trustees for sale to give effect thereto, and the Court may make such order as it thinks fit.

Application to personal representatives.

56. The provisions of this Ordinance relating to trustees for sale of land apply to personal representatives holding land upon trust for sale, but without prejudice to their rights and powers for purposes of administration.

Power to make rules.

57. The Court shall have power to make rules concerning the following matters—

- (a) the fees to be paid in respect of any registration or court proceedings, or to the Public Trustee in respect of the performance of any duties imposed or the exercise of any powers conferred upon him under or by virtue of any of the provisions of this Ordinance;
- (b) the procedure to be adopted in respect of any matters disputes or transactions arising under or by virtue of this Ordinance and not herein expressly provided for; and
- (c) generally for the better carrying into effect of the provisions of this Ordinance.

Saving.

58. Nothing in this Ordinance contained shall in anywise prejudice or affect the rules of Mohammedan law relating to Wakf or the operation of the Registration of Titles Ordinance or any Ordinance from time to time amend-

Cap. 142.

ing or replacing the same and the provisions of this Ordinance shall in respect of land registered under the Registration of Titles Ordinance only take effect if and so far and in such manner as provided for by that Ordinance or so far as not inconsistent therewith. Cap. 142.

SCHEDULE

PART I

Improvements, the Costs of which are not Liable to be Replaced by Instalments

- (i) Drainage, including the straightening, widening, or deepening of drains, streams and watercourses.
- (ii) Bridges.
- (iii) Irrigation and permanent measures for the prevention of soil erosion.
- (iv) Drains, pipes and machinery for supply and distribution of sewage as manure.
- (v) Embanking or weiring from a river or lake, or from the sea, or a tidal water.
- (vi) Groynes; sea walls; defences against water.
- (vii) Fencing; redivision of fields.
- (viii) Reclamation.
- (ix) Farm roads; private roads, roads or streets in villages or towns.
- (x) Clearing; cleaning; trenching; planting.
- (xi) Cottages, quarters, or huts for labourers, farm servants, and artisans, whether squatters or otherwise, and whether employed on the land held upon trust for sale or not.
- (xii) Farm houses, offices, and outbuildings, and other buildings for farm purposes, including siles, bomas, and cattle dips.
- (xiii) Saw-mills, scutch-mills, and other mills, water-wheels, engine-houses, and kilns, which will increase the value of the land held upon trust for sale for agricultural purposes or as woodland or otherwise.
- (xiv) Reservoirs, tanks, conduits, watercourses, pipes, wells, ponds, shafts, dams, weirs, sluices, and other works and machinery for supply and distribution of water for agricultural, manufacturing, or other purposes, or for domestic or other consumption.

(xv) Tramways; railways; canals; docks.

(xvi) Jetties, piers, and landing places on rivers, lakes, the sea, or tidal waters, for facilitating transport of persons and of agricultural stock and produce, and of manure and other things required for agricultural purposes, and of minerals, and of things required for mining purposes.

(xvii) Streets, roads, paths, squares, gardens, or other open spaces for the use, gratuitously or on payment, of the public or of individuals, or for dedication to the public, the same being necessary or proper in connexion with the conversion of land into building land.

(xviii) Sewers, drains, watercourses, pipe-making, fencing, paving, brick-making, tile-making, and other works necessary or proper in connexion with any of the objects aforesaid.

(xix) Trial pits for mines, and other preliminary works necessary or proper in connexion with the development of mines.

(xx) Reconstruction enlargement, or improvement of any of these works.

(xxi) The provision of small dwellings, either by means of building new buildings or by means of the reconstruction, enlargement, or improvement of existing buildings, if that provision of small dwellings is, in the opinion of the Court, not injurious to the land upon trust for sale.

(xxii) Additions to or alterations in buildings reasonably necessary or proper to enable the same to be let.

(xxiii) Erection of buildings in substitution for buildings taken by a local or other public authority, or for buildings taken under compulsory powers, but so that no more money be expended than the amount received for the buildings taken and the site thereof.

(xxiv) The building of a permanent homestead on the land held upon trust for sale: Provided that the sum to be applied under this head shall not exceed one-half of the annual rental of the land held upon trust for sale.

PART II

Improvements, the Costs of which the Trustees for Sale or the Court may require to be repaid by Instalments out of Income

(i) Residential houses for land or mineral agents, managers, clerks, bailiffs, woodmen, and other persons employed on the land held upon trust for sale, or in connexion with the management or development thereof.

(ii) Any offices, workshops and other buildings of a permanent nature required in connexion with the management or development of the land held upon trust for sale or any part thereof.

(iii) The erection and building of dwelling houses, shops, electric light or power works, or any other works necessary or proper in connexion with the development of the land held upon trust for sale, or any part thereof as a building estate.

(iv) Restoration or reconstruction of buildings damaged or destroyed by dry rot or white ants.

(v) Structural additions to or alterations in buildings reasonably required, whether the buildings are intended to be let or not, or are already let.

(vi) Boring for water and other preliminary works in connexion therewith.

PART III

Improvements, the Costs of which the Trustees for Sale and the Court must require to be repaid by Instalments out of Income

(i) Heating, hydraulic or electric power apparatus for buildings, and engines, pumps, lifts, rams, boilers, flues, and other works required or used in connexion therewith.

(ii) Engine houses, engines, dynamos, accumulators, cables, pipes, wirings, switchboards, plant and other works required for the installation of electric or other artificial light, in connexion with any principal mansion house or other house or buildings; but not electric lamps or decorative fittings required in any such house or buildings.

(iii) Steam rollers, traction engines, motor lorries and movable machinery for farming or other purposes.

ORDINANCE No. XXXI of 1941

Assented to in His Majesty's name this twenty-second day of December, 1941.

HENRY MOORE,
Governor.

[22ND DECEMBER, 1941] Date of assent.

An Ordinance to Amend the Registration of Titles Ordinance

22nd December, 1941

Date of commencement.

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

1. This Ordinance may be cited as the Registration of Titles (Amendment) Ordinance, 1941, and shall be read as one with the Registration of Titles Ordinance (Chapter 142 of the Revised Edition), hereinafter referred to as the Principal Ordinance. Short title.

2. Section 2 of the Principal Ordinance is hereby amended by inserting therein at the end thereof the following new definition:— Amendment of section 2 of the Principal Ordinance.

“Trust’ and ‘trustees for sale’ shall have the meaning assigned to these expressions by the Trusts of Land Ordinance, 1941, but shall not include a Wakf created under the rules of Mohammedan law or trustees appointed thereunder.” No. 30 of 1941.

3. Section 23 of the Principal Ordinance is hereby amended by deleting therefrom the words “subject to the conditions and agreements expressed or implied in the original grant and in any subsequent transfer or transmission thereof” which appear in the sixth, seventh and eighth lines thereof and substituting therefor the words “subject to the encumbrances, easements, restrictions and conditions contained therein or endorsed thereon”. Amendment of section 23 of the Principal Ordinance.

4. Section 34 of the Principal Ordinance is hereby amended by deleting therefrom the words “is a minor or of unsound mind, the guardian, next friend or other person” Amendment of section 34 of the Principal Ordinance.

appointed by the court to act on behalf of the minor or person of unsound mind in the matter" which appear in the third, fourth, fifth and sixth lines thereof and substituting therefor the words "is of unsound mind, the guardian or other person appointed by the court to act on his behalf in the matter".

Amendment of section 46 of the Principal Ordinance.

5. Section 46 of the Principal Ordinance is hereby amended by deleting therefrom the words "is a minor or of unsound mind the guardian, next friend or other person appointed by the court to act on behalf of the minor or person of unsound mind in the matter" which appear therein and substituting therefor the words "is of unsound mind, the guardian or other person appointed by the court to act on his behalf in the matter".

Amendment of section 51 of the Principal Ordinance.

6. Section 51 of the Principal Ordinance is hereby amended—

(a) by deleting therefrom the brackets and words "(and subject to the provisions of the Indian Succession Act, 1865, and the Indian Probate and Administration Act, 1881, as applied to the Colony, or any Ordinance or other law substituted for same)" which appear in the third, fourth, fifth and sixth lines thereof; and

(b) by deleting therefrom the brackets and words "(subject to the provisions of the Indian Succession Act, 1865, and the Indian Probate and Administration Act, 1881, as applied to the Colony, or any Ordinance or other law substituted for the same)" which appear in the seventeenth, eighteenth, nineteenth, twentieth and twenty-first lines thereof.

Amendment section 53 of the Principal Ordinance.

7. Section 53 of the Principal Ordinance is hereby amended by deleting therefrom the words "of the Indian Succession Act, 1865, and the Indian Probate and Administration Act, 1881, as applied to the Colony, or any Ordinance or other law in substitution therefor, and" which appear in the seventh, eighth, ninth and tenth lines thereof.

Repeal and replacement of section 57 of the Principal Ordinance.
Attestation of signatures.

8. Section 57 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

"57. (1) Every signature to an instrument requiring to be registered and to a power of attorney whereof a duplicate or an attested copy is required to be deposited

with the registrar shall be attested by one of the following persons:—

- (a) Within the Colony—
- (i) A judge or magistrate,
 - (ii) A registrar of titles,
 - (iii) A notary public,
 - (iv) An advocate of the Supreme Court,
 - (v) A justice of the peace,
 - (vi) The Registrar or Deputy Registrar of the Supreme Court,
 - (vii) An administrative officer.
- (b) In the United Kingdom or in any part of His Majesty's dominions or in any place under His Majesty's protection or in any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty—
- (i) A judge or magistrate,
 - (ii) A notary public,
 - (iii) A commissioner of the Supreme Court of Judicature, empowered to take affidavit in such court,
 - (iv) The mayor or recorder or other chief officer of any city or municipal corporation,
 - (v) In the Uganda Protectorate or the Tanganyika Territory, an administrative officer.
- (c) In any other place—
- (i) The British consular officer,
 - (ii) Any person specially appointed by the Governor in that behalf.

(2) In all cases where an official holding a seal of office shall attest any instrument he shall authenticate his signature by his official seal.

(3) The provisions of this section shall not apply to any instrument executed by the Governor, or any duly registered company by means of its common seal affixed in accordance with the memorandum and articles of association."

9. The Principal Ordinance is hereby amended by inserting therein immediately next after section 79 thereof the following new section:—

"80. The Governor in Council shall have power from time to time to make Rules for the purposes of

Amendment of
the Principal
Ordinance.

Rules.

regulating any matter or thing to be done under this Ordinance including the prescribing of forms and of fees either in lieu of or in addition to those prescribed in the First and Second Schedules and generally for the better carrying out of the provisions of this Ordinance.”

TRUSTS

Registrar or person dealing with land registered not to be affected with notice of a trust.

10. Subject to the provisions hereinafter contained as to land held upon trust for sale and as to registration of caveats neither the registrar nor in the absence of actual fraud any other person dealing with land registered subject to the Principal Ordinance shall be affected with notice of a trust express implied or constructive and the registrar shall not enter in the register particulars of any such trust or register any instrument setting out the terms of a trust. Mere knowledge that any such trust is in existence shall not of itself be imputed as fraud.

Registration of land subject to a trust for sale.

11. (1) Where land registered under the Principal Ordinance is subject to a trust for sale express or implied whether or not there is a power to postpone the sale the land shall be registered in the names of the trustees for sale.

(2) Where by virtue of any Ordinance land registered under the Principal Ordinance is made subject to a trust for sale the land shall be transferred in Form F of the First Schedule to the Principal Ordinance to the trustees for sale (unless already registered as proprietors) and in the event of the registered proprietor refusing to execute a transfer or his execution of a transfer being unobtainable or only obtainable after undue delay or expense the trustees for sale shall apply to the registrar in writing signed by themselves or by their advocate for registration as proprietors.

(3) Where an application is made under the provisions of the last preceding sub-section the registrar may—

- (a) after due notice under this sub-section to the registered proprietors;
- (b) on production of the grant or certificate of title unless the registrar dispenses with its production; and
- (c) on such other evidence as he may deem sufficient that the land is by virtue of a specified Ordinance made subject to a trust for sale and that the applicants are the trustees thereof,

make such entry in or correction of the register as under the circumstances he shall deem fit for the purpose of vesting the registered land in such trustees for sale.

(4) Where upon any such application as aforesaid the registrar refuses to make such entry in or correction of the register the person claiming to be trustee for sale may apply to the court by originating summons or by plaint for a vesting order to be made accordingly: Provided that any costs and expenses incurred by such application to the court shall not be given against the registrar.

12. (1) Where the registered proprietor of any land made or about to be made subject to a trust for sale desires to place restrictions on transferring or charging the land or on disposing of or dealing with the land in any manner in which he is by the Principal Ordinance as amended by this Ordinance authorized to dispose of or deal with it or on the deposit by way of charge of any documents of title to the land the registered proprietor may apply in Form W of the First Schedule to the Principal Ordinance as amended by this Ordinance to the registrar to make an entry in the register that no dealing to which the application relates shall be effected unless the following things or such of them as the registered proprietor may determine are done that is to say—

Mode of placing restrictions on transferring, charging or disposing of land subject to a trust.

- (a) unless notice of any application for the dealing is transmitted by post to such address as he may specify to the registrar;
- (b) unless the consent of some person or persons to be named by the registered proprietor is given to the dealing; and
- (c) unless some other matter or thing is done as may be required by the applicant and approved by the registrar.

(2) The registrar shall thereupon if satisfied of the right of the applicant to give the directions and upon payment of the prescribed fee and production of the grant or certificate of title for endorsement enter the requisite restriction on the register and no dealing to which the restriction relates shall be effected except in conformity therewith but it shall not be the duty of the registrar to enter any restriction that the registrar may deem unreasonable or calculated to cause inconvenience.

(3) In the case of there being more than one registered proprietor the restriction may be to the effect that when the number of registered proprietors is reduced below a certain specified number no dealing shall be registered except under an order of the court.

(4) Any such restrictions except such as are provided for under sub-section (3) of this section may at any time be withdrawn or modified in Form X of the First Schedule to the Principal Ordinance as amended by this Ordinance at the instance of all persons for the time being appearing by the register to be interested in such restrictions and shall also be liable to be set aside by an order of the court.

(5) Nothing in this section contained shall in anywise affect or derogate from the general right of registration of caveats otherwise conferred by the Principal Ordinance.

Amendment of First Schedule to the Principal Ordinance.

13. The First Schedule to the Principal Ordinance is hereby amended by adding thereto the following forms after Form V thereof:—

“FORM W

Application to Register a Restriction under Section 12 of the Registration of Titles (Amendment) Ordinance, 1941

To the Registrar of Titles.

Take notice that I (the registered proprietor) of hereby apply to enter the following restriction against Title No.

Restriction :

Dated the day of 19.....

Signed in the presence of:

.....

.....

Signature

FORM X

Application to Withdraw or Modify a Restriction

To the Registrar of Titles.

Take notice that I (A, B, etc.) of hereby apply to withdraw (or modify) the restriction registered on (date) against Title No.

Dated the day of 19.....

Signed in the presence of:

.....

.....

Signature”

1941

Registration of Titles

No. XXXI

14. The Second Schedule to the Principal Ordinance is hereby amended—

Amendment of
Second Schedule
to the Principal
Ordinance.

(a) by deleting therefrom items 3, 12, 16 and 20 thereof and substituting therefor respectively the following items:—

| | <i>Sh.</i> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| “3. Registering transfer or charge: | 20 |
| Provided that— | |
| (a) where the consideration is less than £100 but not less than £25 | 6 |
| (b) where the consideration is less than £25 | 3 |
| 12. For every search | 2 |
| 16. For entering notice, writ or order of court | 10 |
| 20. When any instrument purports to deal with land included in more than one grant or certificate, for each registration memorial after the first | 6”; |

(b) by adding thereto the following items after item 21 thereof:—

| | <i>Sh.</i> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| “22. For making entry in or correction of the register under section 11 (3) of the Regis- tration of Titles (Amendment) Ordin- ance, 1941 | 20 |
| 23. For entering restriction under section 12 (2) of the Registration of Titles (Amendment) Ordinance, 1941 | 20 |
| 24. For entering withdrawal or modification of restriction under section 12 (4) of the Registration of Titles (Amendment) Ordinance, 1941 | 6 |
| 25. For photostat copy of any instrument, per folio of 250 words | 1 |
| 26. For preparation of Certificate of Title | 20”. |

ORDINANCE No. XXXII of 1941

Assented to in His Majesty's name this twenty-second day of December, 1941.

HENRY MOORE,
Governor.

[22ND DECEMBER, 1941] Date of assent.

An Ordinance to Amend the War Risks Insurance Ordinance, 1940

22nd December, 1941

Date of commencement.

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

1. This Ordinance may be cited as the War Risks Insurance (Amendment, No. 2) Ordinance, 1941, and shall be read as one with the War Risks Insurance Ordinance, 1940, hereinafter referred to as the Principal Ordinance.

Short title.

No. 41 of 1940.

2. The definition of "supplier of goods" in section 2 of the Principal Ordinance is hereby amended by substituting a comma for the full stop which appears at the end thereof and adding thereto immediately after such comma the words—
"and includes a person who is in possession of goods as a supplying or forwarding agent."

Amendment of definition of "supplier of goods" in section 2 of the Principal Ordinance.

3. Sub-section (1) of section 6 of the Principal Ordinance is hereby amended as follows:—

Amendment of section 6 (1) of the Principal Ordinance.

- (a) by substituting the word "or" for the comma which appears in line 6 thereof;
- (b) by deleting therefrom the words "or the Tanganyika Territory" which appear in lines 6 and 7 thereof; and
- (c) by substituting a colon for the full stop which appears immediately after the word "Ordinance" in line 13 thereof, and inserting therein immediately after such colon the following proviso—

"Provided that goods situate in the Tanganyika Territory, the value of which exceeds £1,000, shall be insurable voluntarily under this Ordinance."

ORDINANCE No. XXXIII of 1941

Assented to in His Majesty's name this twenty-second day of December, 1941.

HENRY MOORE,
Governor.

[22ND DECEMBER, 1941] Date of assent.

An Ordinance to Amend the Arms and Ammunition Ordinance, 1925

22nd December, 1941

Date of commencement.

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

1. This Ordinance may be cited as the Arms and Ammunition (Amendment) Ordinance, 1941, and shall be read as one with the Arms and Ammunition Ordinance, 1925, hereinafter referred to as the Principal Ordinance.

Short title.

No. 8 of 1925.

2. (1) Any police officer of or above rank of assistant inspector may at all reasonable times enter upon any premises with a view to ascertaining whether or not the provisions of the Principal Ordinance or of any Rules made thereunder are being complied with, and may demand for inspection the production of any arms, and the production of any licence, permit, document or record of any description whatsoever which may, under the provisions of the Principal Ordinance or of any Rules made thereunder, be required to be taken out, or kept, as the case may be, and may require any person appearing to be in control of such premises or employed therein to give such information as such police officer may require in order to ascertain whether or not the provisions of the Principal Ordinance or any Rules made thereunder are being complied with.

Power to inspect premises.

(2) Any person who obstructs any police officer in the exercise of the powers conferred on such police officer by this section, or who fails to comply with any lawful order given by such police officer or who refuses to give any information when requested so to do by such police officer shall be guilty of an offence.

(3) Any such police officer having reasonable grounds for believing that any person has committed an offence against the Principal Ordinance or any Rules made thereunder and that such person will not attend the court in answer to any process which may be issued against him, may arrest such person without a warrant.

ORDINANCE No. XXXIV of 1941

Assented to in His Majesty's name this twenty-second day of December, 1941.

HENRY MOORE,
Governor.

[22ND DECEMBER, 1941] Date of assent.

An Ordinance to Amend the Matrimonial Causes Ordinance, 1939

22nd December, 1941

Date of commencement.

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

1. This Ordinance may be cited as the Matrimonial Causes (Amendment) Ordinance, 1941, and shall be read as one with the Matrimonial Causes Ordinance, 1939, hereinafter referred to as the Principal Ordinance.

Short title.
No. 33 of 1939.
2. Section 15 of the Principal Ordinance is hereby amended—

Amendment of section 15 of the Principal Ordinance.

 - (a) by deleting therefrom the brackets and figure “(1)” which appear in the first line thereof; and
 - (b) by deleting therefrom sub-sections (2) and (3) thereof.
3. Sub-section (2) of section 20 of the Principal Ordinance is hereby amended by substituting a full stop for the comma which appears in the third line thereof and by deleting therefrom the words—

Amendment of section 20(2) of the Principal Ordinance.

“and for that purpose may direct that it shall be referred to one of the advocates of the Court to settle and approve a proper deed or instrument to be executed by all necessary parties.”
4. Section 23 of the Principal Ordinance is hereby amended by substituting a comma for the semi-colon which appears in the seventh line thereof and by inserting immediately after such comma the word “or”.

Amendment of section 23 of the Principal Ordinance.
5. Sub-section (2) of section 24 of the Principal Ordinance is hereby amended by substituting a full stop for the comma which appears after the word “reasonable” in the seventh line thereof and by deleting therefrom the words—

Amendment of section 24(2) of the Principal Ordinance.

“and the Court may for that purpose order that it shall be referred to one of the advocates of the Court

to settle and approve a proper deed or instrument, to be executed by all necessary parties, and may, if it thinks fit, suspend the pronouncing of the decree until the deed or instrument has been duly executed.”

Amendment of section 28(3) of the Principal Ordinance.

6. Sub-section (3) of section 28 of the Principal Ordinance is hereby amended—

(a) by substituting a colon for the comma which appears after the word “reasonable” in the sixth line thereof;

(b) by deleting therefrom the words—

“and the Court may for that purpose order that it shall be referred to one of the advocates of the Court to settle and approve a proper deed or instrument to be executed by all necessary parties.”; and

(c) by adding thereto after such colon the following proviso:—

“Provided that the term for which any sum of money is secured for the benefit of a child shall not extend beyond the date when the child—

(i) if a male native, Arab, Abyssinian (Amhara, Tigre and Shoa), Somali, Baluchi born in Africa, Malagasy or Comoro Islander, attains the age of sixteen years, or if a female native, Arab, Abyssinian (Amhara, Tigre and Shoa), Somali, Baluchi born in Africa, Malagasy or Comoro Islander, attains the age of thirteen years;

(ii) if a child other than a child referred to in paragraph (i) of this proviso, attains the age of majority or marries, whichever date is the earlier.”

Amendment of section 34 of the Principal Ordinance.

7. Section 34 of the Principal Ordinance is hereby amended by deleting therefrom the words “and compellable” which appear in the fourth line thereof.

Amendment of section 35 of the Principal Ordinance.

8. Section 35 of the Principal Ordinance is hereby amended by deleting therefrom the last five lines thereof and substituting therefor the following:—

“And provided that no appeal in any proceedings under this Ordinance shall lie from the Court of Appeal for Eastern Africa to His Majesty in Council, except with the leave of the Court of Appeal for Eastern Africa.”

Repeated & replaced by ord. 10/14/47 para 9
2/47 he 2

ORDINANCE No. XXXV of 1941

Assented to in His Majesty's name this twenty-second day of December, 1941.

This ord is repealed by ord. 2/1/47 para 3.

HENRY MOORE,
Governor.

[22ND DECEMBER, 1941] Date of assent

An Ordinance to Vary the Rates of Customs and Excise Duties in order to Assist the Successful Prosecution of the War

22nd December, 1941

Date of commencement.

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

1. This Ordinance may be cited as the War Revenue (Customs and Excise Duties) Ordinance, 1941. Short title.

2. During the continuance in force of this Ordinance, the Customs Tariff Ordinance, 1930, shall be read— Increase of Customs duties. No. 1 of 1930.

(a) as if the customs duties leviable under the provisions of the said Ordinance were increased, in every case other than in the case of the articles specified in the Schedule hereto, by a surcharge of ten per centum of the amount of the duty;

(b) as if the customs duties leviable under the provisions of the said Ordinance were, in the case of the articles set out in the Schedule hereto, respectively increased by a surcharge to the extent set out in the third column of the Schedule hereto.

3. During the continuance in force of this Ordinance, the Excise Duties Ordinance, 1935, shall be read as if the rates of excise duties specified in the Schedule thereto were increased— Increase of Excise duties. No. 40 of 1935.

(a) in the case of sugar (not including jaggery), by a surcharge of Sh. 1/24 per cwt.;

(b) in the case of tea, by a surcharge of 5 cents per lb;

(c) in the case of cigarettes, cigars and cigarillos, by a surcharge of Sh. 2 per lb.;

(d) in the case of manufactured tobacco other than cigarettes, cigars and cigarillos, by a surcharge of Sh. 1/50 per lb.

Secord. 11/47

Increase of duty on beer. Cap. 100.

4. During the continuance in force of this Ordinance, the Beer Ordinance shall be read as if the duty imposed by section 4 of the said Ordinance were increased by a surcharge of Sh. 1 per Imperial gallon of worts produced:

Provided that in calculating the quantity of worts produced a deduction of ten per centum shall be made in respect of such accidental loss and waste as arises in the brewing of beer.

Duration.

*See Proc. 4/66-399
24/2/41*

5. This Ordinance shall continue in force until the 31st day of December next following such date as the Governor may by proclamation declare to be the date on which the war that was the occasion of the enactment of this Ordinance came to an end.

Repeal. No. 15 of 1940.

Repealed & replaced by O.D. 1940

6. The War Taxation (Customs and Excise Duties) Ordinance, 1940, is hereby repealed.

SCHEDULE

| Tariff Item | ARTICLE | Surcharge on the Amount or the Duty |
|-------------|------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|
| | | <i>Per cent</i> |
| 2 | Bacon and ham | 50 |
| 3 | Biscuits | 50 |
| 4 | (c) Ornamental feathers, n.e.e. | 100 |
| 5 | Butter | 50 |
| 6 | Cheese | 100 |
| 7 | Corn, grain and pulse (not including infants' foods, patent or proprietary foods, or corn grain or pulse prepared as vegetables):— | |
| | (b) Rice— | |
| | (i) In the grain | 100 |
| | (ii) Otherwise prepared | 100 |
| | (c) Maize— | |
| | (iii) Otherwise prepared | 100 |
| | (d) Other corn and grain | 50 |
| | (e) Pulse— | |
| | (i) Dhall | 50 |
| | (ii) Other pulse, including meal and flour | 50 |
| 9 | Extracts and essences of all kinds for food and flavouring | 50 |
| 10 | Fish— | |
| | (d) Other | 50 |
| 14 | Ghee and ghee substitutes | 100 |
| 17 | Milk— | |
| | (b) Cream | 100 |

SCHEDULE—(Contd.)

| Tariff Item | ARTICLE | Surcharge on the Amount of the Duty |
|-------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|
| | | <i>Per cent</i> |
| 21 | Salt— | |
| | (b) Common, n.e.e., imported in bulk | 100 |
| | (d) Other | 100 |
| 23 | Sugar, refined or unrefined, including jaggery | 100 |
| 24 | Tea | 100 |
| 25 | Ale, beer, cider, perry and stout, all kinds of a strength exceeding 3 per cent of proof spirit | 25 |
| 26 | Beverages, cordials and syrups, n.e.e., not exceeding 3 per cent of proof spirit | 100 |
| 27 | Spirits— | |
| | (a) Perfumed | 100 |
| | (c) Other potable spirits exceeding 3 per cent of proof spirit, e.g., brandy, whisky, rum, gin, geneva, and rectified spirits, n.e.e. | 50 |
| | (e) Power alcohol, not potable | 100 |
| | (f) Toilet preparations, essences and tinctures, n.e.e. containing over 3 per cent of proof spirit, but not including tooth washes and dentifrices | 100 |
| | (h) Spirituous tooth washes and dentifrices | 100 |
| 28 | Waters, mineral, aerated and table— | |
| | (a) In bottles, each not more than one reputed half-pint | 100 |
| | (b) In bottles each more than one reputed half-pint and not more than one reputed pint | 100 |
| | (c) In bottles, each more than one reputed pint and not more than one reputed quart | 100 |
| | (d) In other containers or larger bottles | 100 |
| 30 | Cigars, cheroots and cigarillos | 66 $\frac{2}{3}$ |
| 31 | Cigarettes | 66 $\frac{2}{3}$ |
| 32 | Snuff | 66 $\frac{2}{3}$ |
| 33 | Tobacco, manufactured, n.e.e. | 66 $\frac{2}{3}$ |
| 34 | Tobacco, unmanufactured | 66 $\frac{2}{3}$ |
| 38 | Clothing and apparel, n.e.e., second-hand (reconditioned or otherwise) for sale | 100 |
| 40 | Piece goods— | |
| | (c) Made of silk or artificial silk or of materials containing silk or artificial silk | 100 |
| 57 | Machinery, apparatus, appliances and implements (not specially provided for, and not including material, domestic machines or vehicles)— | |
| | (f) Lawn mowers, garden shears, garden and path rollers, watering cans and similar horticultural and gardening requisites | 50 |
| 74 | Wire— | |
| | (a) Wire ordinarily used for native adornment : | |
| | (i) Iron | 100 |
| | (ii) Brass | 100 |
| | (iii) Copper | 100 |
| | (iv) Aluminium | 100 |

SCHEDULE—(Contd.)

| Tariff Item | ARTICLE | Surcharge on the Amount of the Duty |
|----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------|
| | | <i>Per cent</i> |
| 87 | Glass— | |
| | (b) Polished plate, not silvered or bevelled | 100 |
| | (d) Other | 100 |
| 88 | Glassware, chinaware and porcelainware— | |
| | (c) Other, n.e.e. | 50 |
| 90 | Marble or other stone— | |
| | (a) In the rough or sawn | 100 |
| 96 | Motor spirit, and products ordinarily used as such : benzine, benzoline, naphtha (non-potable), n.e.e., gasoline, petrol and petroleum, shale and coal tar spirit generally, but not including power paraffin or kerosene | 66 $\frac{2}{3}$ |
| 97 | Oils, essential (natural or synthetic) and perfumed, not being medicinal, or for use as food or flavouring.. .. . | 100 |
| 99 | Oils, mineral— | |
| | (b) Oil kerosene and power paraffin | 66 $\frac{2}{3}$ |
| 102 | Oils— | |
| | (b) Other, n.e.e. | 50 |
| 104 | Soap, n.e.e., soap powders and extracts | 100 |
| 111 | Dyes— | |
| | (c) Hair dyes and similar toilet preparations | 100 |
| 114 | Perfumery, cosmetics, and toilet preparations, n.e.e., but not including tooth powders, tooth pastes or tooth washes | 100 |
| 126 | Joinery : wooden framework of houses, window frames, sashes, casements, doors, lintels, and builders' mouldings | 100 |
| 129 | Wood and timber, unmanufactured— | |
| | (a) Teak, in the log, or hewn or sawn | 100 |
| | (b) Other, n.e.e., including planed, smoothed, grooved or tongued | 100 |
| 139 | Paper— | |
| | (a) Cigarette paper | 50 |
| 140 | Pictures, paintings, engravings, etchings, picture books, and drawings, not elsewhere provided for, including photographic reproductions and enlargements— | |
| | (c) Other, n.e.e., including picture post cards, Christmas, New Year, birthday or similar cards, calendars or calendar mounts, menu cards and other forms of stationery imported as such, whether bearing pictures or otherwise | 100 |
| 142 | Beads | 100 |
| 147 | Toys and games, children's, including toy cycles, scooters and the like | 100 |
| 156 | Films, cinematograph, printed or exposed for exhibition— | |
| | (b) Other | 100 |
| 157 | Fireworks | 100 |
| 170A | Umbrellas and parasols, not including paper parasols | 100 |

ORDINANCE No. XXXVI of 1941

Assented to in His Majesty's name this twenty-ninth day of December, 1941.

G. M. RENNIE,
Governor's Deputy.

[29TH DECEMBER, 1941] Date of assent.

An Ordinance to Amend the Income Tax Ordinance, 1940, so as to Provide for the Raising of Additional Revenue during the Present War
29th December, 1941

Date of commencement.

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

1. (1) This Ordinance may be cited as the War Taxation (Income Tax) (Amendment) Ordinance, 1941, and shall be read as one with the Income Tax Ordinance, 1940, as amended by the War Taxation (Income Tax) Ordinance, 1940 (hereinafter together referred to as the Principal Ordinance).

Short title.

No. 11 of 1940.

No. 26 of 1940.

(2) Section 2 of this Ordinance shall apply to assessments in respect of the year of assessment commencing on the 1st day of January, 1942, and each subsequent year of assessment.

2. Section 27 of the Principal Ordinance shall be read as if—

Amendment of section 27 of the Principal Ordinance.

(a) sub-section (1) thereof were deleted therefrom and the following were substituted therefor—

“27. (1) The tax upon the income of any individual resident in the Colony shall be charged as follows:—

Rates of tax.

(a) where the chargeable income does not exceed £250: at the rate of two shillings for every pound of the chargeable income;

(b) where the chargeable income exceeds £250: at the rate of two shillings with the addition of one-eighth of a cent for every pound of the chargeable income in excess of £250 up to a maximum rate of five shillings for every pound of the chargeable income; and

(c) where the total income exceeds three thousand pounds: an additional tax (to be called “surtax”) at the rate of four shillings with the addition of one-twentieth of a cent for every pound of the

total income in excess of three thousand pounds up to a maximum rate of seven shillings and fifty cents for every pound in excess of three thousand pounds of the total income.”;

(b) sub-section (2) thereof were deleted therefrom, and the following were substituted therefor:—

“(2) The tax upon the chargeable income of a person, other than an individual, resident in the Colony shall be charged at the rate of four shillings on every pound of the chargeable income thereof:

Provided that where any such person proves to the satisfaction of the Commissioner that any dividends have been paid out of such chargeable income an amount equal to such dividends may be charged at a lower rate or not charged with any tax, as the Commissioner shall determine.”;

(c) the first eighteen lines of sub-section (3) thereof were deleted therefrom and the following were substituted therefor:—

“(3) The tax upon the income upon any person who is not resident in the Colony shall, in the case of a person other than an individual, be charged at the rates specified in sub-section (2) of this section and shall, in the case of an individual, be charged as follows:—

(a) where the chargeable income does not exceed £750: at the rate of two shillings for every pound of the chargeable income;

(b) where the chargeable income exceeds £750: at the rate of two shillings with the addition of one-eighth of a cent for every pound of the chargeable income in excess of seven hundred and fifty pounds up to a maximum rate of five shillings for every pound of the chargeable income;

(c) where the total income exceeds three thousand pounds: an additional tax (to be called “surtax”) at the rate of four shillings with the addition of one-twentieth of a cent for every pound of the total income in excess of three thousand pounds up to a maximum rate of seven shillings and fifty cents for every pound in excess of three thousand pounds of the total income:

1941

War Taxation (Income Tax)

No. XXXVI

Provided where any such person has other income accruing in, derived from or received in another East African territory the amount of tax to be charged upon his income shall be the amount resulting from the last of the following calculations:—

3. Sub-section (3) of section 28 of the Principal Ordinance shall be read as if—

Amendment of section 28(3) of the Principal Ordinance.

- (a) the word "three" which occurs in the third line thereof were deleted therefrom and the word "four" were substituted therefor; and
- (b) the word "company" which occurs in the fourth line thereof were deleted therefrom and the words and commas "person, other than an individual," were substituted therefor.

4. Sub-section (1) of section 29 of the Principal Ordinance shall be read as if—

Amendment of section 29(1) of the Principal Ordinance.

- (a) the word "three" which occurs in the fifth line thereof were deleted therefrom and the word "four" were substituted therefor; and
- (b) the word "company" which occurs in the sixth line thereof were deleted therefrom and the words and commas "person, other than an individual," were substituted therefor.

5. Section 4 of the War Taxation (Income Tax) Ordinance, 1940, shall be read as if—

Amendment of section 4 of Ordinance No. 26 of 1940.

- (a) the word "non-resident" which occurs in the third line thereof were deleted therefrom;
- (b) the words "not resident in the Colony or to the agent of such person" were added thereto immediately after the word "person" which occurs in the fourth line thereof;
- (c) the figures "1939" which occur in the fourth line thereof were deleted therefrom, and the figures "1941" were substituted therefor;
- (d) the word "three" which occurs in the fifth line and in the eleventh line thereof were deleted therefrom and the word "four" were substituted therefor; and

(e) the word "company" which occurs in the sixth line thereof were deleted therefrom and the words and commas "person, other than an individual," were substituted therefor.

Duration.

See Proc. 4/46/27
24/1/46
00 2/27 10

6. This Ordinance shall continue in force until the 31st day of December next following such date as the Governor may, by proclamation, declare to be the date on which the war that was the occasion of the enactment of this Ordinance came to an end, and shall then expire.

ORDINANCE No. XXXVII of 1941

Assented to in His Majesty's name this twenty-ninth day of December, 1941.

G. M. RENNIE,
Governor's Deputy.

[29TH DECEMBER, 1941] Date of assent.

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

29th December, 1941

Date of commencement.

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

1. This Ordinance may be cited as the Increase of Rent and of Mortgage Interest (Restrictions) (Amendment No. 2) Ordinance, 1941, and shall be read as one with the Increase of Rent and of Mortgage Interest (Restrictions) Ordinance, 1940, hereinafter referred to as the Principal Ordinance.

Short title.

No. 12 of 1940.

2. Sub-section (1) of section 2 of the Principal Ordinance is hereby amended by deleting therefrom the definition of "Court" contained therein, and substituting therefor the following:—

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

"'Court' means the Supreme Court and, notwithstanding the provisions of the Courts Ordinance, 1931, relating to the jurisdiction of magistrates, any magistrate holding a subordinate court of the first class."

No. 16 of 1931.

3. Sub-section (1) of section 8 of the Principal Ordinance is hereby amended—

Amendment of section 8 (1) of the Principal Ordinance.

(a) by deleting therefrom paragraph (e) thereof and by substituting therefor the following paragraph:—

"(e) the dwelling-house is reasonably required for the purpose of the execution of the statutory duties or powers of a local authority, or statutory undertaking, or for any purpose which, in the opinion of the Court, is in the public interest; or";

(b) by inserting therein the word "or" immediately after the semi-colon which appears in the last line of paragraph (g) thereof; and

(c) by inserting therein, immediately after paragraph (g) thereof, the following new paragraphs:—

“(h) the tenant without the consent of the landlord has at any time after the 1st day of December, 1941, or the prescribed date, whichever is the later, assigned or sublet the whole of the dwelling-house or sublet part of the dwelling-house, the remainder being already sublet; or

(i) the landlord is the owner of a dwelling-house which he has previously occupied as a residence for himself and reasonably requires such house for occupation as a residence for himself, and has complied with the terms relating to the giving of notice contained in any lease into which he has entered with the tenant in respect of such house, or, in the absence of any such lease, has given the tenant one month's notice to quit:

Provided that if, within twelve months next after the date upon which the landlord was, under the provisions of this paragraph, entitled to vacant possession of such dwelling-house, he wishes again to let such house (whether for a consideration or without consideration), he shall give to the tenant who, under the provisions of this paragraph, was required to give up possession of such house, the first option to let and take possession of the said house. If any landlord fails to give such option, or to give up possession to the tenant accepting such option, he shall be liable to a fine of £100 or to six months' imprisonment or to both such fine and such imprisonment.”.

Amendment of section 16 of the Principal Ordinance.

4. Section 16 of the Principal Ordinance is hereby amended by inserting the commas and words “, subject to the provisions of this Ordinance,” between the word “may” and the word “make” which appear in the first line thereof.

ORDINANCE No. XXXVIII of 1941

Assented to in His Majesty's name this twenty-ninth day of December, 1941.

G. M. RENNIE,
Governor's Deputy.

[29TH DECEMBER, 1941] Date of assent.

An Ordinance to Amend the Resident Labourers Ordinance, 1937

By Notice 2nd January 1942 Date of commencement.

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

1. This Ordinance may be cited as the Resident Labourers (Amendment) Ordinance, 1941, and shall be read as one with the Resident Labourers Ordinance, 1937, hereinafter referred to as the Principal Ordinance, and shall come into operation on such date as the Governor may by notice in the Gazette appoint. *S. N. 107/42.7.42*

2. Section 7 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

“7. No occupier shall allow any native or Somali—

(a) to reside or remain on a farm or Railway land in contravention of the provisions of this Ordinance; or

(b) to cultivate on such occupier's farm, for the use or benefit of such native or Somali or of the members of such native's or Somali's family, any area of land exceeding half an acre in extent unless such native or Somali is residing on such farm under a contract entered into with such occupier under the provisions of section 5 of this Ordinance.”

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

(a) by deleting therefrom paragraph (b) of sub-section (3) thereof and substituting therefor the following paragraph:—

“(b) who keeps on a farm or Railway land any stock in excess of the number which, or any stock of

Short title and commencement.
No. 30 of 1937.

Repeal and replacement of section 7 of the Principal Ordinance.

When natives or Somalis may not reside or remain on farms.

Amendment of section 16 of the Principal Ordinance.

a kind different from which, he is lawfully entitled to keep under the provisions of this Ordinance or of any order made under section 21 of this Ordinance, or of any contract made or any written consent given thereunder;”;

(b) by deleting therefrom sub-section (4) thereof.

Amendment of
section 21 of
the Principal
Ordinance.

4. Section 21 of the Principal Ordinance is hereby amended—

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

“(a) limit the number of resident labourers that may be employed on any farm or group of farms, or prescribe the conditions subject to which resident labourers may be employed on any farm or group of farms;

(b) prohibit the keeping of stock by resident labourers, natives or Somalis, on any farm or group of farms, either generally or in respect of any specified kind of stock, or limit the number of any specified kind of stock which may be kept on any farm or group of farms by resident labourers, natives or Somalis, or prescribe the conditions subject to which any specified kind of stock may be kept by resident labourers, natives or Somalis on any farm or group of farms;

In making any order under this paragraph the local authority may prescribe that the prohibition on the keeping of any specified kind of stock, or the limitation on the number of any specified kind of stock that may be kept, shall be made effective either on or before such date, or within such period or periods, as may be specified in such order.”

(ii) by inserting therein immediately after sub-section (1) thereof the following new sub-section:—

“(1A) For the purpose of the better carrying out of the provisions of this section the local authority may, in addition to the powers conferred upon it by sub-section (1) of this section, prescribe in any order—

(a) that no native or Somali shall be attested as a resident labourer, or that no resident labourer

shall continue to reside on any farm, except in accordance with the terms of a permit (hereinafter referred to as a 'permit') issued to the occupier by the local authority;

- (b) the period during which a permit shall be valid, and that the local authority shall be empowered to cancel any such permit, upon giving not less than six months' notice to the holder thereof;
- (c) the manner in which an application for a permit shall be made;
- (d) the form of permit to be granted;
- (e) the fee to be paid by the applicant for a permit or for any duplicate of a permit;
- (f) the records to be kept by attestation officers;
- (g) the manner in which the attestation of natives or Somalis as resident labourers shall be carried out."

5. Sub-section (3) of section 21 of the Principal Ordinance is hereby repealed and the following sub-section is substituted therefor:—

Repeal and replacement of section 21 (3) of the Principal Ordinance.

"(3) When such an order has been made it shall be the duty of the occupier of a farm to which such order applies, within one month after the date of the publication of the order in the Gazette in accordance with the provisions of sub-section (7) of section 22 of this Ordinance, to take such steps, either by varying, or by giving three months' notice of termination of, such contracts as may be necessary to make the said order effective, and failure to do so shall be an offence against the provisions of this Ordinance."

6. Sub-section (8) of section 22 of the Principal Ordinance is hereby amended by deleting therefrom the word "Departmental" which appears in the second line of paragraph (a) and in the second line of paragraph (b) thereof.

Amendment of section 22 (8) of the Principal Ordinance.

7. Section 24 of the Principal Ordinance is hereby amended by adding thereto the following new sub-section:—

Amendment of section 24 of the Principal Ordinance.

(4) Offences against sections 4 and 16(1) of this Ordinance shall be cognizable to the police.

Amendment of
section 27 (1)
of the Principal
Ordinance.

8. Sub-section (1) of section 27 of the Principal Ordinance is hereby amended by deleting therefrom the commas and words “, if the resident labourer consents,” which appear in the second and third lines of sub-paragraph (ii) of paragraph (c) thereof.

Amendment of
section 34 of
the Principal
Ordinance.

9. Section 34 of the Principal Ordinance is hereby amended by inserting therein the word “Native” between the word “Resident” and the word “Labourers” which appear in the fifth line thereof.

ORDINANCE No. XXXIX of 1941

Assented to in His Majesty's name this twenty-ninth day of December, 1941.

G. M. RENNIE,
Governor's Deputy.

[29TH DECEMBER, 1941] Date of assent.

An Ordinance to Amend the Crown Lands Ordinance

29th December, 1941

Date of commencement.

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

1. This Ordinance may be cited as the Crown Lands (Amendment) Ordinance, 1941, and shall be read as one with the Crown Lands Ordinance (Chapter 140 of the Revised Edition), hereinafter referred to as the Principal Ordinance.

Short title.
Cap. 140.

2. The Principal Ordinance is hereby amended by inserting therein, between sub-section (2) of section 57A and section 58A thereof, the following heading and sections:—

Amendment of the Principal Ordinance.

“NATIVE SETTLEMENT AREAS

57B. The areas of Crown land, the boundaries of which are set out in the Ninth Schedule to this Ordinance, shall be reserved for the purpose of settling thereon native groups, families or individuals and shall be known as Native Settlement Areas.

Native Settlement Areas.

57C. The Governor may, with the advice and consent of the Trust Board, grant a Native Settlement Licence for a term not exceeding 99 years to native groups, families or individuals to occupy any Native Settlement Area or any portion thereof for such period and subject to such conditions in regard to the occupation, use and development of such Native Settlement Area as may be prescribed.

Licences to occupy Native Settlement Areas.

57D. The provisions of Part XI of this Ordinance, of the Registration of Titles Ordinance and of the Stamp Ordinance shall not apply to any Native Settlement Licence granted under the provisions of the preceding section.

Exemption from certain provisions.
Cap. 142.
Cap. 57.

57E. The provisions of sections 56, 58A, 58I and 58J of this Ordinance shall apply to a Native Settlement

Application of certain provisions.

Area to the same extent as they apply to the Native Reserves, the Temporary Native Reserves and Native Leasehold Areas.”

Addition of
Ninth Schedule
to the Principal
Ordinance.

3. The Principal Ordinance is hereby amended by adding thereto at the end thereof the Ninth Schedule set out in the Schedule hereto.

SCHEDULE

NINTH SCHEDULE

I.—OLENGURUONE NATIVE SETTLEMENT AREA.

Commencing at the south-western corner of L.R. No. 4600;

thence by a straight line on a true bearing of approximately $254^{\circ} 01'$ for a distance of about 45,060 feet to a beacon on the boundary of the Masai Native Land Unit;

thence generally southerly and generally north-easterly by that Native Land Unit boundary to its intersection with generally south-eastern boundary of L.R. No. 4600;

thence generally south-westerly by the latter boundary to the point of commencement.

This Native Settlement Area is delineated cross-hatched yellow on Boundary Plan No. 183/1 deposited in the Survey Records Office, Department of Lands and Settlement, Nairobi.

II.—KICHUIRU NATIVE SETTLEMENT AREA.

Commencing at the south-western corner of L.R. No. 1057;

thence southerly, south-easterly and northerly by a series of cut and beacons lines (which also define the boundary of the Kikuyu Native Land Unit) to a beacon on the southern boundary of L.R. No. 1057;

thence westerly by that southern boundary to the point of commencement.

This Native Settlement Area is delineated cross-hatched yellow on Boundary Plan No. 183/2 deposited in the Survey Records Office, Department of Lands and Settlement, Nairobi.

III.—DIGO NATIVE SETTLEMENT AREAS.

These Native Settlement Areas comprise four portions of land, adjoining the Coast Native Land Unit, known as L.R. Nos. 5004/34, 5004/35, 3855/37, and 4660, and are delineated cross-hatched yellow on Boundary Plan No. 183/3 deposited in the Survey Records Office, Department of Lands and Settlement, Nairobi.

IV.—GEDI NATIVE SETTLEMENT AREA.

Commencing at the northernmost corner of Mazrui Reserve No. 4;

thence south-westerly by the north-western boundary of that portion to the north-eastern corner of Plot No. 1, Group XVI;

thence westerly and generally south-easterly by the northern and generally south-western boundaries of that portion and the south-western boundary of Plot No. 2, Group XVI, to the southernmost corner of the last-mentioned portion;

thence south-westerly by a cut and beacons line to its intersection with H.W.M. on the eastern shore of Mida Creek;

thence generally north-easterly by that H.W.M. to its intersection with the eastern boundary of the Arabuko Forest Reserve;

thence northerly by that Forest Reserve Boundary to its intersection with a cut and beacons line;

thence generally north-easterly by cut and beacons lines to the westernmost corner of Mazrui Reserve No. 5;

thence easterly and southerly by part of the generally western boundary of Mazrui Reserve No. 5 to the south-western corner of that portion;

thence westerly by a straight line to the point of commencement;

Excepting and excluding the area covered by the ruined town of Gedi, declared to be a Monument under Government Notice No. 445 of the 15th June 1935.

This Native Settlement Area is more particularly delineated cross-hatched yellow on Boundary Plan No. 183/4 deposited in the Survey Records Office, Department of Lands and Settlement, Nairobi.

ORDINANCE No. XL of 1941

Assented to in His Majesty's name this twenty-ninth day of December, 1941.

G. M. RENNIE,
Governor's Deputy.

[29TH DECEMBER, 1941] Date of assent.

**An Ordinance to Amend the Pyrethrum Ordinance,
1938**

29th December, 1941

Date of commencement.

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

1. This Ordinance may be cited as the Pyrethrum (Amendment, No. 2) Ordinance, 1941, and shall be read as one with the Pyrethrum Ordinance, 1938, hereinafter referred to as the Principal Ordinance.

Short title.

No. 34 of 1938.

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

Amendment of section 2 of the Principal Ordinance.

(a) by deleting therefrom the definition of "Conference" contained therein;

(b) by deleting therefrom the definition of "pyrethrum" contained therein and substituting therefor the following definition:—

"'pyrethrum' means the plant known botanically as *Chrysanthemum cinerariifolium* or the dried flowers thereof and any product of such flowers;"

and

(c) by deleting therefrom the definition of "pyrethrum grower" contained therein and substituting therefor the following definition:—

"'pyrethrum grower' means a person who is licensed under the provisions of this Ordinance to grow pyrethrum for sale, and includes the duly authorized agent of such person;"

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

Repeal and replacement of section 3 of the Principal Ordinance.

"3. (1) There shall be established a Board to be known as "the Pyrethrum Board", which shall consist of—

Establishment and constitution of the Board.

(a) two members to be appointed by the Governor;

(b) one member, who shall be elected as hereinafter provided, for each of the electoral areas specified by the Governor under sub-section (2) of this section.

Ord. 2/42

(2) The Board shall convene a meeting ^{of pyrethrum growers} in the first half of each calendar year at such place and at such time as to the Board may seem fit in each of the electoral areas specified by the Governor by notice in the Gazette, and where an election in that area falls due such election shall take place at that meeting:

Provided that in the first instance the members of the Board referred to in paragraph (b) of sub-section (1) of this section shall be appointed by the Governor on the recommendation of the Director, and such appointment shall be deemed to have terminated when the members referred to in the said paragraph have been duly elected.

(3) The Board shall elect a Chairman and Vice-Chairman annually.

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

(b) Members of the Board referred to in paragraph (b) of sub-section (1) of this section shall hold office for a period of three years, and after the expiration of the said period shall retire from office, and shall be eligible for re-election:

Provided that in the case of the members elected in the year 1942, two of such members shall retire in the year 1943 and two further shall retire in the year 1944 and the remainder shall retire in the year 1945, and all such members shall be eligible for re-election; and the retirement of such members shall be determined by lot (unless they otherwise agree amongst themselves).

(5) A candidate for election shall, subject to any rules made under section 20 of this Ordinance, lodge with the Secretary to the Board, at least thirty days before the date fixed for the election, a nomination paper signed by not less than five pyrethrum growers resident in the area which he proposes to represent.

(6) In any case in which the Board is satisfied that any member of the Board is incapacitated by illness,

absence or other sufficient cause from performing the duties of his office, the Board may appoint some fit person to be a deputy to act for that member during such incapacity, and any deputy shall, while he acts as such, have all the powers and authority of the member for whom he is acting.

(7) Where a member elected under sub-section (2) of this section dies or resigns his seat on the Board, the Governor may, with the advice of the Board, nominate any pyrethrum grower to act as a member of the Board until such time as a member is elected to fill the vacancy at the next meeting called in accordance with the provisions of sub-section (2) of this section."

4. Section 5 of the Principal Ordinance is hereby amended—

Amendment of section 5 of the Principal Ordinance.

(a) by deleting therefrom the word "three" which appears in the first line of sub-section (2) thereof and substituting therefor the word "four"; and

(b) by deleting therefrom the words "at the Conference" which occur in paragraph (b) of sub-section (6) thereof.

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

Repeal and replacement of section 6 of the Principal Ordinance.

"6. The Board shall prepare annually a report of its operations, which shall be submitted to every meeting convened under sub-section (2) of section 3 of this Ordinance, and shall be otherwise published in such manner as the Governor may direct."

Annual report.

6. The Principal Ordinance is hereby amended by the insertion of the following new section immediately after section 6 thereof:—

"6A. (1) The Board shall convene a conference of delegates of pyrethrum growers in every year at such place and at such time as to the Board may seem fit.

Conference of delegates.

(2) The Board may, subject to the provisions of this Ordinance, make rules governing—

(a) the election of delegates to the conference; and

(b) the conduct of the business of the conference."

Amendment of section 8 of the Principal Ordinance.

7. Section 8 of the Principal Ordinance is hereby amended—

(a) by substituting the word “thirty” for the word “ten” which appears in the fifth line of the first proviso and in the third line of the second proviso to sub-section (2) thereof;

(b) by deleting therefrom paragraph (a) of sub-section (5) thereof and substituting therefor the following paragraph:—

“(a) the acreage of land which the licensee is authorized to plant with pyrethrum:

Provided that in the case of any pyrethrum grower (or his successor in title) who was registered under section 4 of the Sale of Pyrethrum Ordinance, 1935, such acreage shall not be less than the acreage which the licensee had planted with pyrethrum at the 17th day of January, 1939; or”;

No. 23 of 1935.

and

(c) by deleting therefrom sub-sections (8) and (9) thereof.

Repeal and replacement of sections 10 and 10A of the Principal Ordinance. Offences.

8. Sections 10 and 10A of the Principal Ordinance are hereby repealed and the following section is substituted therefor:—

“10. (1) No pyrethrum grower shall sell any pyrethrum to any person other than the agency.

(2) No pyrethrum grower shall—

(a) plant any land with pyrethrum except the acreage of land specified in his licence; or

(b) deliver to the agency pyrethrum in excess of the quantity which he has produced on the acreage of land specified in his licence; or

(c) offer for sale pyrethrum in excess of the maximum quantity specified in his licence,

unless he is in possession of a permit issued to him by the Director authorizing him to do so.”

1941

Pyrethrum

No. XL

9. Section 12 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

Repeal and replacement of section 12 of the Principal Ordinance.

“12. Subject to the provisions of any rules made under this Ordinance, the agency shall accept all pyrethrum offered to it by any grower, provided the pyrethrum so offered is suitable for the preparation of an insecticide of good quality and that the quantity does not exceed the quantity which the pyrethrum grower has produced on the acreage of land which he was authorized under the terms of his licence to plant with pyrethrum, or the maximum quantity of pyrethrum which the pyrethrum grower was authorized to deliver to the agency under the terms of this licence. For the purposes of this section a licence includes a permit issued under the provisions of sub-section (2) of section 10 of this Ordinance.”

Agency to accept pyrethrum offered.

10. Notwithstanding anything to the contrary in the Principal Ordinance contained, the members of the Board holding office at the commencement of this Ordinance who were elected by the Conference under the provisions of section 3 of the Principal Ordinance as the section appeared in that Ordinance before the coming into force of this Ordinance, shall continue to be members of the Board until the annual elections to be held under sub-section (2) of section 3 of the Principal Ordinance for the year 1942, and every such member shall be deemed to have been elected under the terms of such sub-section by the pyrethrum growers of the electoral area in which such member resides. Any such member shall be eligible for re-election.

Members to continue in office.

*Amended by Ord No. 38/45-
18/49*

ORDINANCE No. XLI of 1941

Assented to in His Majesty's name this twenty-ninth day of December, 1941.

G. M. RENNIE,
Governor's Deputy.

[29TH DECEMBER, 1941] Date of assent.

An Ordinance to Provide for the Control of Grass Fires

By Notice 15th January 1942 Date of commencement.

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

1. This Ordinance may be cited as the Control of Grass Fires Ordinance, 1941, and shall come into operation on such date as the Governor may, by notice in the Gazette, appoint. *S.N. 31/42. p 7* Short title and commencement.

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

“Director” means the Director of Agriculture or any person deputed by him to act in his stead;

“firebreak” means a strip of land not less than 30 feet on either side of a boundary, whether under trees or not, which has been cleared of inflammable matter to prevent the spread of fire;

High Commissioner - Amended by Ord No. 38/45-
“local authority” means—

(a) in the case of any municipality established under the jurisdiction of a Municipal Council or Board, the Municipal Council or Board of such Municipality as constituted under the provisions of the Local Government (Municipalities) Ordinance, 1928; No. 19 of 1928.

(b) in the case of any area under the jurisdiction of a District Council established under the provisions of the Local Government (District Councils) Ordinance, 1928, the District Council; No. 21 of 1928.

(c) in the case of any area in which a Local Native Council has been established under the provisions of the Native Authority Ordinance, 1937, such Local Native Council; No. 2 of 1937.

(d) in the case of any township established under the Townships Ordinance, 1930, the District Commissioner; No. 62 of 1930.

(e) in the case of any other area, the District Commissioner or such person, body of persons or authority as the Governor may by notice in the Gazette appoint to be the local authority for the purposes of this Ordinance;

No. 28 of 1938 “native areas” means native lands, native reserves, temporary native reserves and native leasehold areas as defined in section 3 of the Native Lands Trust Ordinance, 1938;

Cap. 140. “owner or occupier” in relation to any land includes any person who is for the time being managing a farm on such land, and in respect of Crown Lands as defined in section 5 of the Crown Lands Ordinance shall include the Commissioner of Lands, and in respect of forest areas as defined in section 2 of the Forest Ordinance, 1941, shall include the Conservator of Forests;

No. 26 of 1941

“vegetation” means growing or standing vegetation, and includes any tree and any part thereof, any bush, shrub, brushwood, undergrowth, grass, crops, stubble.

Burning of vegetation without authority.

3. (1) No person shall set fire to any vegetation which is not his property unless he has lawful authority so to do.

(2) No person shall wilfully or negligently kindle any fire which by spreading may damage or destroy the property of any other person.

Notice to be given before burning vegetation.

4. (1) Save in native areas, every person, before proceeding to burn vegetation upon his own land or upon land on which he is permitted or authorized to burn vegetation, shall give at least two days' notice in writing of his intention to do so to all owners or occupiers of adjoining land which is within half a mile of the land on which the burning is to take place. Such notice shall be delivered by hand and shall be deemed to commence from the time when it is received by the person to whom it is addressed, or any servant or agent of his, and shall state as nearly as possible the time at which the burning will take place:

Provided that in the case of native areas no person shall burn growing or standing vegetation within half a mile of any land situate in any non-native area unless such person shall give two days' notice to the owner or occupier of such land in the non-native area, which notice need not be in writing.

(2) If a fire lawfully kindled after notice given in terms of the preceding sub-section spreads to adjoining land, the fact that such notice was given—

(a) shall to the person who kindled or was responsible for kindling such fire be a sufficient defence to any charge of contravening the provisions of section 3 of this Ordinance, unless it is proved that he wilfully or by the negligence of himself, his servants or agents, caused or permitted such fire to spread across his boundaries to such adjoining land; but

(b) shall not affect the right of any person aggrieved to receive damages or any loss sustained by him as the result of such fire.

*Amended
by Ord. 1945*

5. (1) The Director, after consulting the local authority, may by order prohibit the burning of vegetation, except at such times as may be stated in the order.

Power to prohibit burning of vegetation.

(2) Any such order shall specify the place or area within which, and the purposes for which, such prohibition is to remain in force and shall be published in the Gazette and one newspaper circulating in such place or area at least fourteen days prior to the commencement of such prohibition.

6. (1) No servant of the owner or occupier of any land shall burn any vegetation thereon except with the consent and under the personal direction of such owner or occupier or such person as may be authorized by such owner or occupier.

Burning of vegetation by servants.

(2) Any person who contravenes the provisions of the preceding sub-section shall be guilty of an offence against this Ordinance.

(3) For the purpose of this section "servant" includes a resident labourer as defined in the Resident Labourers Ordinance, 1937, and all the members of the family of such resident labourer.

No. 30 of 1937.

7. (1) (a) Any grower or occupier of land, and, in the case of native areas, the appropriate native authority (through the District Commissioner in charge of the native area), who desires to guard against fires spreading beyond the boundaries of such land may call upon the owner or occupier of any adjoining land and, in the case of native areas, the appropriate native authority (through the District Commissioner in charge of the native area), on the boundaries of

Firebreaks.

which sufficient firebreaks have not been provided and maintained, to construct and maintain the half firebreak on his side of the common boundary or to contribute one half of the labour or cost necessary to provide and maintain sufficient firebreaks on their common boundaries or at such other points as shall be mutually agreed upon for the protection of the property.

(b) Any person so called upon may appeal to the Director on the ground that it is unnecessary to provide and maintain such firebreaks, and the decision of the Director on such appeal shall be final.

(2) Subject to the provisions of paragraph (b) of the preceding sub-section, if any person so called upon refuses or neglects to contribute as required by the provisions of the preceding sub-section, the person so calling upon him shall be entitled to—

(a) enter upon the land of such first-mentioned person, without being answerable or chargeable with any act of trespass, and may construct and maintain half such firebreak; and

(b) recover from such first-mentioned person the cost of such construction and maintenance.

(3) (a) If any firebreak is of the width required by the definition of "firebreak" in section 2, but its sufficiency for the purposes of this section is disputed on the ground that such firebreak is not so cleared of inflammable matter as to prevent the spread of fire, the dispute shall be referred to the Director, and his decision thereon shall be final.

(b) If the decision of the Director is that any such firebreak has not been so cleared of inflammable matter as to prevent the spread of fire, he may give such written directions to the person in default as, in the opinion of the Director, are necessary, and any such person failing to carry out such directions shall be liable to a fine of twenty shillings for every day during which such default continues.

Restrictions as to removal of bees and honey from land.

TA - Added by Sec. 44 Ord No 30/45
8. No person shall take or remove honey or bees from, or place beehives on, the land of another without the consent of the owner or occupier thereof:

Provided that the provisions of this section shall not be deemed to apply to the Turkana or Northern Frontier Extra Provincial Districts.

9. A local authority, for the purpose of controlling grass fires within the area under its jurisdiction, may engage such number of fire-rangers as the local authority may think fit, who shall be remunerated out of the revenue of the local authority.

Engagement of fire-rangers.

10. (1) The Governor may proclaim a state of danger in respect of any area.

State of danger.

Repealed by Ord. 30/42

(2) Upon a state of danger being proclaimed the local authority having jurisdiction in such area shall be empowered to prohibit by order the burning of vegetation within the whole or any part of such area for such period as it may think fit during the continuance of the state of danger. Such order shall be published in one newspaper circulating in such area at least seven days prior to the commencement of such prohibition.

*See Proc. 25/42
p. 147*

11. (1) Any owner or occupier on whose land a fire is burning, and who has good reason to believe that such fire may become dangerous to life or property, may require any person present at or in the vicinity of such fire to render assistance, or to do any act or perform any service as may reasonably be considered necessary or expedient to control or extinguish or prevent the spread of such fire; and any person who fails to comply with such requirement shall be guilty of an offence.

Refusal to assist in putting out fire.

(2) Any person acting in good faith may either alone or with persons under his control enter upon any land for the purpose of extinguishing a fire which he has good reason to believe is not under control or may become dangerous to life or property.

12. Nothing in this Ordinance contained shall be deemed to prohibit any person, when his life, person or property is in danger of loss or injury from an approaching fire, from setting alight to and burning vegetation, in the manner commonly known as counter-firing, in order to prevent such loss or injury:

Protection of life, person or property by counter-firing.

Provided that he shall take reasonable care that the fire so kindled does not spread beyond the limits necessary to secure him from such loss or injury.

13. If any servant, when acting under the direction or command of his employer, by any act or omission contravenes any of the provisions of this Ordinance, or of any order

Liability of a servant.

made thereunder, such employer and such servant may both or either of them be prosecuted, and, if convicted, punished under this Ordinance.

Arrest.

14. (1) Any person found committing an offence against any of the provisions of this Ordinance may, if there are reasonable grounds for believing that he will abscond or if his name and address are unknown and cannot be ascertained, be apprehended by the owner or occupier of the land on which the offence is committed or by the servant of such owner or occupier or by any fire-ranger engaged under the provisions of section 9 of this Ordinance, and such person, when so apprehended, shall be handed over to the nearest police officer without unnecessary delay.

(2) Any offence under this Ordinance shall be cognizable to the police.

Penalties.

Ord 18/49

15. If any person contravenes or fails to comply with any of the provisions of this Ordinance, or of any order made thereunder, he shall be guilty of an offence against this Ordinance, and shall be liable on conviction to a fine not exceeding ~~one~~^{two} hundred pounds or to imprisonment for a term not exceeding ~~six~~^{six} months or to both such fine and imprisonment.

Civil remedy preserved.

16. Nothing in this Ordinance contained shall be deemed to affect the right of any person aggrieved to receive damages by civil action for any loss sustained by him.

Power to make rules.

17. The Governor in Council may make rules for the better carrying into effect of the provisions of this Ordinance.

Repeal.

18. The Careless Use of Fire Prevention Ordinance (Chapter 76 of the Revised Edition) is hereby repealed.

See H.C. Res. 2/1941

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ORDINANCE No. XLII of 1941

Assented to in His Majesty's name this twenty-ninth day of December, 1941.

G. M. RENNIE,
Governor's Deputy.

[29TH DECEMBER, 1941] Date of assent.

An Ordinance to Amend the Kenya and Uganda Railway Ordinance, 1927

29th December, 1941

Date of commencement.

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

1. This Ordinance may be cited as the Kenya and Uganda Railway (Amendment) Ordinance, 1941, and shall be read as one with the Kenya and Uganda Railway Ordinance, 1927, hereinafter referred to as the Principal Ordinance.

Short title.

No. 15 of 1927.

2. Section 2 of the Principal Ordinance is hereby amended by the deletion of the definition of "firebreak" and the substitution of the following therefor:—

Substitution of new definition of "firebreak" in section 2 of the Principal Ordinance.

"'Firebreak' means a strip of land not less than 30 feet on either side of a boundary, whether under trees or not, which has been cleared of inflammable matter to prevent the spread of fire."

3. Section 70 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

Repeal and replacement of section 70 of the Principal Ordinance.

"70. (1) No compensation shall be payable by the High Commissioner to any owner or occupier of any land contiguous to railway land adjoining a railway in respect of fires caused by sparks from locomotives to the land of such owner or occupier or to any property thereon, unless—

Liability of High Commissioner for compensation for fires caused by sparks from locomotives.

(a) he shall within fourteen days of such fire give notice to the High Commissioner of his intention to make a claim in respect thereof; and

(b) he shall prove that in the case of any building and any property therein damaged or destroyed by fire, such building was not within a distance of 200 feet from the railway.

(2) Notwithstanding anything contained in sub-section (1) of this section, when damage is caused to land contiguous to railway land or to any property thereon, other than buildings and property in such buildings within 200 feet of such railway land, by fire arising from sparks or cinders emitted from any locomotive used on a railway, the High Commissioner shall be liable, without proof of negligence, in an action for such damage brought by the owner or occupier of land contiguous to railway land, if such owner or occupier can prove that—

- (a) prior to such fire he had on his land a firebreak contiguous to railway land adjoining a railway; and
- (b) at the time such fire originated he had such firebreak in good condition; and
- (c) prior to such fire there was a similar firebreak on railway land and contiguous to his firebreak; or
- (d) not less than one month prior to such fire he had notified the High Commissioner to construct a similar firebreak on railway land and contiguous to his firebreak:

Provided that—

- (A) the liability of the High Commissioner under this sub-section shall not exceed £200;
- (B) this sub-section shall not apply unless—
 - (i) notice in writing of the fire having occurred and of intention to claim shall have been sent to the High Commissioner within fourteen days of the occurrence of the damage; and
 - (ii) particulars in writing of the damage, showing the amount of the claim in money not exceeding the said sum of £200, shall have been sent to the High Commissioner within twenty-one days of the damage;
- (C) no compensation shall be payable under this section except to the owner or occupier of the land contiguous to the railway land on which the fire started.”

ORDINANCE No. XLIII of 1941

Assented to in His Majesty's name this twenty-ninth day
of December, 1941.

G. M. RENNIE,
Governor's Deputy.

[29TH DECEMBER, 1941] Date of assent.

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

29th December, 1941

Date of
commencement.

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

1. This Ordinance may be cited as the Local Govern- Short title.
ment (District Councils) (Amendment) Ordinance, 1941, and
shall be read as one with the Local Government (District No. 21 of 1928.
Councils) Ordinance, 1928, hereinafter referred to as the
Principal Ordinance.

2. Section 57 of the Principal Ordinance is hereby Amendment of
amended by the insertion immediately after sub-section (2) section 57 of
of the following sub-section:— the Principal
Ordinance.

“(2A) To engage and remunerate such staff as the
Council may consider necessary for the control of grass
fires.”

ORDINANCE No. XLIV of 1941

Assented to in His Majesty's name this twenty-ninth day of December, 1941.

G. M. RENNIE,
Governor's Deputy.

[29TH DECEMBER, 1941] Date of assent.

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

29th December, 1941

Date of
commencement.

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

1. This Ordinance may be cited as the Local Government (Municipalities) (Amendment, No. 2) Ordinance, 1941, and shall be read as one with the Local Government (Municipalities) Ordinance, 1928, hereinafter referred to as the Principal Ordinance.

Short title.

No. 19 of 1928.

2. Section 52 of the Principal Ordinance is hereby amended by the insertion immediately after sub-section (6) of the following sub-section:—

Amendment of
section 52 of the
Principal
Ordinance.

“(6A) To engage and remunerate such staff as the Council may consider necessary for the control of grass fires.”

ORDINANCE No. XLV of 1941

Assented to in His Majesty's name this twenty-ninth day
of December, 1941.

G. M. RENNIE,
Governor's Deputy.

[29TH DECEMBER, 1941] Date of assent.

An Ordinance to Apply a Sum of Money for the Service of the Year ending the 31st day of December, 1942

29th December, 1941

Date of
commencement.

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

Short title.

1. This Ordinance may be cited as the 1942 Appropriation Ordinance, 1941.

Public Revenue
and other funds
charged.

2. The Public Revenues for the year 1942 and other funds of the Colony and Protectorate of Kenya are hereby charged towards the service of the year ending the thirty-first day of December, one thousand nine hundred and forty-two, with the sum of four million two hundred and sixty thousand four hundred and fourteen pounds.

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

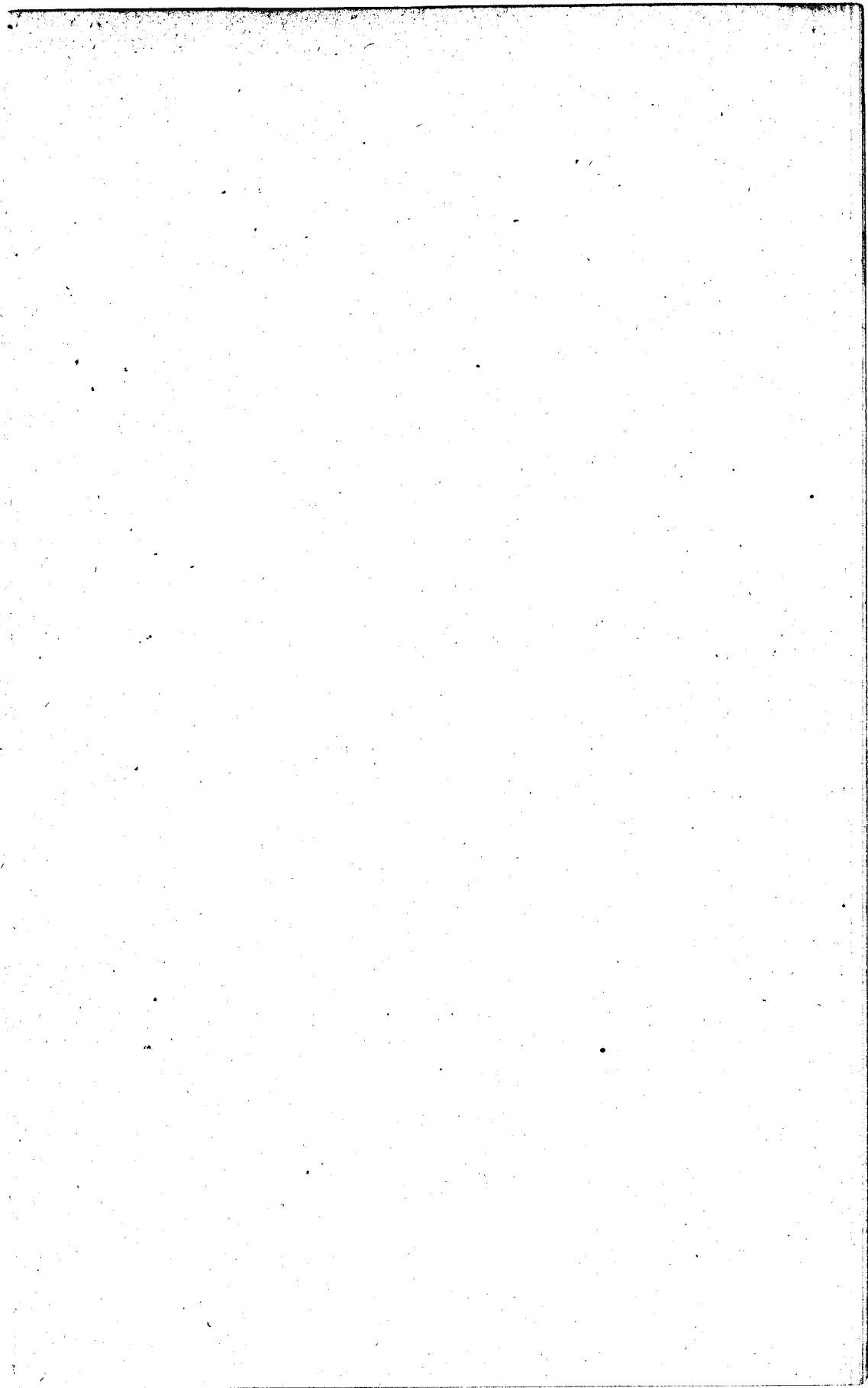
Application of
money granted.

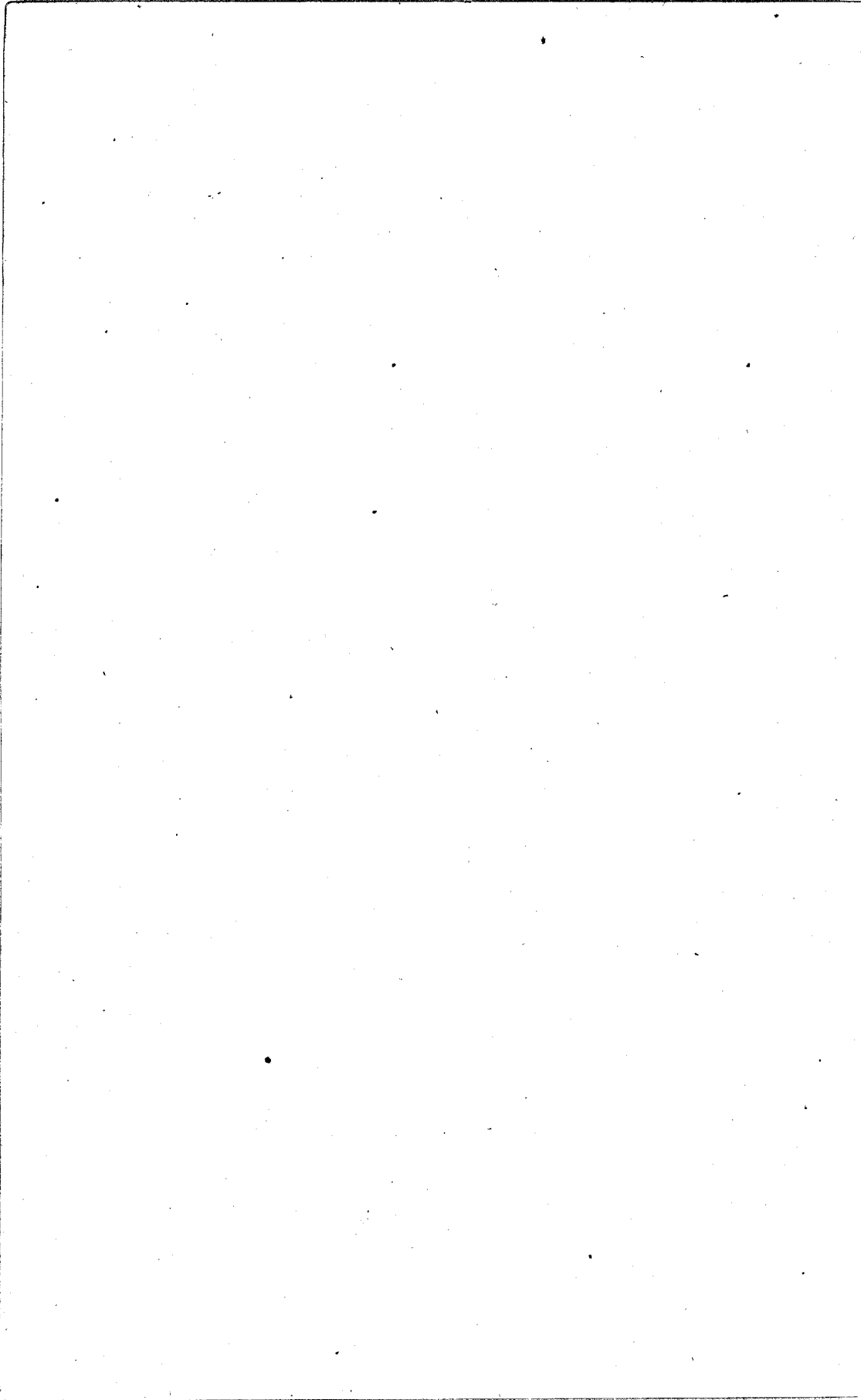
4. The Accountant General of the Colony and Protectorate of Kenya is hereby authorized and required from time to time upon the warrant or order of the Governor to pay out of the Revenue and other funds of the Colony and Protectorate of Kenya, for the several services specified in the Schedule annexed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

Accountant
General's
authority for
payment.

SCHEDULE

| <i>No of Head</i> | | <i>Amount £</i> |
|-----------------------|-----------------------------------------------------|---------------------|
| 1 | His Excellency the Governor | 14,767 |
| 2 | Accountant General | 17,543 |
| 3 | Administration | 198,694 |
| 3A | Administration Extraordinary | 2,282 |
| 4 | Agricultural Department | 85,079 |
| 4A | Agricultural Department Extraordinary | 14,249 |
| 5 | Audit | 20,197 |
| 6 | Civil Aviation | 29,565 |
| 6A | Civil Aviation Extraordinary | 140 |
| 7 | Coast Agency | 5,252 |
| 7A | Coast Agency Extraordinary | 30 |
| 8 | Conference of E.A. Governors | 3,467 |
| 9 | Customs | 32,979 |
| 9A | Customs Extraordinary | 148 |
| 10 | Education | 213,712 |
| 11 | Forests | 30,393 |
| 11A | Forests Extraordinary | 10,720 |
| 12 | Game | 10,910 |
| 13 | Government Chemist | 2,368 |
| 14 | Inland Revenue | 29,348 |
| 15 | Judicial | 32,000 |
| 16A | Kenya Auxiliary Air Unit Extraordinary | 3,600 |
| 17 | Labour | 14,853 |
| 18 | Lands and Settlement | 32,914 |
| 18A | Lands and Settlement Extraordinary | 5,000 |
| 19 | Legal | 8,891 |
| 20 | Local Government Contributions | 123,622 |
| 20A | Local Government Contributions Extraordinary | 6,108 |
| 21 | Medical | 261,227 |
| 21A | Medical Extraordinary | 15,630 |
| 22 | Military | 138,555 |
| 23 | Mining and Geological | 9,983 |
| 23A | Mining and Geological Extraordinary | 5,570 |
| 24 | Miscellaneous Services | 32,635 |
| 24A | Miscellaneous Services Extraordinary | 2,000 |





1941

Appropriation Ordinance

No. XLV

| <i>No of Head</i> | | <i>Amount £</i> |
|-----------------------|------------------------------------------------------------|---------------------|
| 25 | Naval | 4,285 |
| 26 | Pensions and Gratuities | 254,900 |
| 27 | Police | 158,064 |
| 27A | Police Extraordinary | 1,382 |
| 28 | Posts and Telegraphs | 173,531 |
| 28A | Posts and Telegraphs Extraordinary | 8,165 |
| 29 | Printing and Stationery | 37,072 |
| 30 | Prisons | 65,582 |
| 30A | Prisons Extraordinary | 2,400 |
| 31 | Public Debt | 298,644 |
| 32 | Public Works Department | 84,208 |
| 33 | Public Works Recurrent | 134,976 |
| 34 | Registrar General | 5,554 |
| 35 | Rent and Interest to H.H. the Sultan of Zanzibar | 16,000 |
| 36 | Secretariat and Legislative Council | 29,700 |
| 37 | Subventions | 16,435 |
| 38 | Veterinary | 70,873 |
| 38A | Veterinary Extraordinary | 13,500 |
| 39 | Public Works Extraordinary | 197,650 |
| 40 | War Expenditure, Civil | 154,225 |
| 41 | Conference of E.A. Governors | 14,715 |
| 42 | Customs | 24,899 |
| 42A | Customs Extraordinary | 112 |
| 43 | Income Tax | 17,439 |
| 44 | Naval | 120,715 |
| 45 | Posts and Telegraphs | 123,201 |
| 45A | Posts and Telegraphs Extraordinary | 225 |
| 46 | Public Debt | *817,531 |
| | | <hr/> |
| | | £4,260,414 |
| | | <hr/> |



COLONY AND PROTECTORATE OF KENYA

LIST OF
KENYA ORDINANCES ASSENTED TO
as at 31st December, 1941

1941

PRINTED BY THE GOVERNMENT PRINTER, NAIROBI

Price 50 cts.

LIST OF
KENYA ORDINANCES ASSENTED TO
as at 31st December, 1941

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NOTE.—The Ordinances marked * have not yet been brought into operation.

| TITLE | Cap. or No. and Year |
|-----------------------------------------------------------------------------------------|----------------------------|
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| TITLE | Cap. or No. and Year |
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NOTE.—The Ordinances marked * have not yet been brought into operation.

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NOTE.—The Ordinances marked * have not yet been brought into operation.

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NOTE.—The Ordinance marked * has not yet been brought into operation and Cap. 149 of the Revised Edition is still in operation.

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NOTE.—The Ordinances marked * have not yet been brought into operation.

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NOTE.—The Ordinances marked * have not yet been brought into operation.

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| Plays on Stage and Cinematograph Exhibitions (Amendment) | 8/29 |
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| Poisons and Drugs (Amendment) | 54/33 |
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| Police (Amendment) | 44/34 |
| Police (Amendment) | 36/35 |
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Amendments made by the Revised Edition of the Laws (Operation) Ordinance, 1926, and by the Interpretation (Definition of "Native") Ordinance 1934, to various Ordinances are not shown in this list.