



THE OFFICIAL GAZETTE OF THE COLONY AND PROTECTORATE OF KENYA

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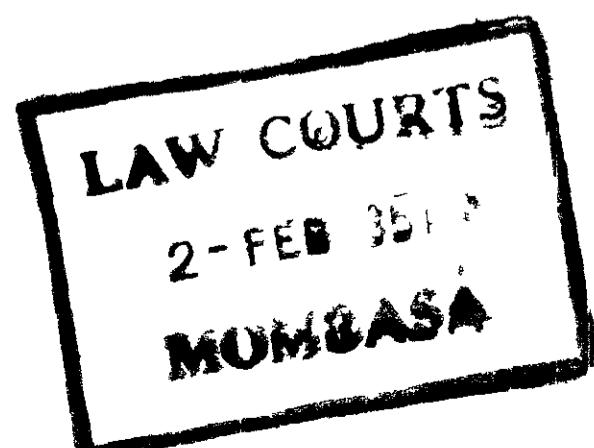
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GOVERNMENT NOTICE No 103

The Governor in Council has approved of the following Bill being introduced into the Legislative Council

T V N FORTESCUE,
Acting Clerk to the Legislative Council

**A BILL ENTITLED
AN ORDINANCE TO AMEND THE PUBLIC TRUSTEE
ORDINANCE**

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

Short title

1. This Ordinance may be cited as the Public Trustee (Amendment) Ordinance, 1951, and shall be read and construed as one with the Public Trustee Ordinance (hereinafter referred to as the principal Ordinance)

Cap 37

2. The principal Ordinance is amended by inserting 5 therein immediately after section 11 the following section—

Insertion of section 11A in the principal Ordinance

11A Notwithstanding the provisions of the Indian Succession Act, 1865, or of any other Act, Ordinance, or any rule of law to the contrary, the fees payable to the Public Trustee under this Ordinance and any rules made 10 thereunder and any court fees and realization expenses and other charges incurred by the Public Trustee in collecting and realizing the assets of the estate of any deceased person shall rank for payment after any funeral expenses and death-bed charges of the deceased 15 but in priority to all other expenses and to the debts for which the deceased was liable

Amendment of section 17 (4) of the principal Ordinance

3. Sub-section (4) of section 17 of the principal Ordinance is amended by deleting the words "nor the administration of any estate known or believed by him to be insolvent"

MEMORANDUM OF OBJECTS AND REASONS

Some doubt is entertained as to the order of priority in which the Public Trustee's fees rank for payment in the case of insolvent estates. It has been the practice to regard such fees as ranking as a first charge but this practice is regarded as inequitable. It is considered that such fees should rank next after the payment of death-bed and funeral expenses. Clause 2 will insert a new clause to provide for this.

Sub-section (4) of section 17 of the Public Trustee Ordinance (Cap 37) forbids the Public Trustee to accept the administration of any estate known or believed by him to be insolvent. It is desirable in the public interest that such estates be administered and if no individual is willing to undertake the administration the Public Trustee should be in a position to do so. Clause 3 will amend sub-section (4) of section 17 of the principal Ordinance to provide for this.

It is not expected that any additional expenditure of public moneys will be involved if the provisions of this Bill become law.

Nairobi,
22nd January, 1951

K K O'CONNOR,
Attorney General

GOVERNMENT NOTICE No 104

The Governor in Council has approved of the following Bill
being introduced into the Legislative Council

T V N FORTESCUE,
Acting Clerk to the Legislative Council

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2—Interpretation

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4—Office and sub-offices of the Director
5—Establishment of Board
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7—Duties of the Board
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A BILL ENTITLED

AN ORDINANCE TO CONSOLIDATE AND AMEND THE LAW RELATING TO SURVEYS AND TO THE LICENSING OF LAND SURVEYORS AND FOR MATTERS INCIDENTAL THERETO AND CONNECTED THEREWITH

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 Survey Ordinance, 1951, and shall come into operation on such date as the Governor may, by notice in the Gazette, appoint

Short title
and
commencement

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

“Board” means the Land Surveyors’ Board established under section 5 of this Ordinance,

“Director” means the Director of Surveys appointed under section 3 of this Ordinance,

“Government surveyor” means any officer of the Survey Department who is authorized by the Director to perform any survey duty under this Ordinance,

“licensed surveyor” means a surveyor duly registered and licensed as a surveyor under this Ordinance or under any Ordinance repealed by this Ordinance,

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"native areas" includes the native lands, the native leasehold areas and the native reserves as respectively defined in the Native Lands Trust Ordinance,

"plan" includes a map, diagram or aerial photograph approved by the Director as suitable for survey purposes, 5

"surveyor" includes both a Government surveyor and a licensed surveyor,

"survey mark" means any trigonometrical station, benchmark, boundary beacon, peg, picket, mark or pole, whether above or below the surface of the ground, which is fixed, 10 placed or set up by, or under the direction of, a surveyor for the purpose of any survey

PART II—ADMINISTRATION

Director to have charge of the administration of the Ordinance

3. There shall be a Director of Surveys who shall be appointed by the Governor and who shall have charge of the 15 administration of this Ordinance, and there shall be such other officers as the Governor may deem necessary, who may, if so authorized by the Director, either generally or specially, perform any of the duties or do any of the acts or things required or authorized by this Ordinance to be done by the Director 20

Office and sub-offices of the Director

4. The principal Office of the Director (in this Ordinance referred to as the Survey Office) shall be at Nairobi, but there may be established such sub-offices at such places as the Governor may from time to time determine

Establishment of Board

5. (1) There shall be established a Board, to be known 25 as the Land Surveyors' Board, which shall consist of—

(a) the Director who shall, *ex officio*, be Chairman of the Board,

(b) two Government surveyors being duly licensed under this Ordinance, appointed from time to time by the 30 Member, on the nomination of the Director, for such period as the Member may direct,

(c) two licensed surveyors, appointed from time to time by the Member, on the nomination of the Director, for such period as the Member may direct 35

(2) The Board may, from time to time, appoint one member of the Board to be Deputy Chairman, who shall, in the absence or inability to act of the Chairman, perform the duties of the Chairman

(3) The Member may on the nomination of the Director, 40 appoint a surveyor to fill the place of any member who may, for any reason, be unable to attend any meeting of the Board

(4) Every member of the Board shall take an oath in the Form A in the Schedule to this Ordinance which shall be administered by a judge of the Supreme Court 45

(5) The Board shall meet at such times and places as may be necessary for the performance of its duties and notice of every meeting of the Board which is convened for the purpose of conducting examinations of candidates for admission as licensed surveyors shall be published in the Gazette 50

(6) Notice of the appointment of a member of the Board shall be published in the Gazette

Appointment of Secretary and other officers

6. The Board may, from time to time, appoint a secretary and such examiners and other officers as may be necessary for carrying out the duties of the Board and all such persons shall hold office during the pleasure of the Board 55

Duties of the Board

7. The duties of the Board shall be—

(a) to conduct the examination of candidates for admission as licensed surveyors in accordance with the provisions of this Ordinance,

- (b) to keep a register of all licensed surveyors,
 (c) to issue, suspend or withdraw a licence in accordance with the provisions of this Ordinance,

(d) to take disciplinary measures against licensed surveyors,

(e) to make recommendations to the Member for the making of rules under this Ordinance as to the manner in which—

(i) the proceedings of the Board shall be conducted,

(ii) the examinations of candidates for admission as licensed surveyors shall be conducted,

(iii) licenses shall be issued, suspended and withdrawn, and

(iv) disciplinary action against licensed surveyors shall be taken,

(f) to advise the Director on all matters relating to cadastral surveys for the registration of title under any Ordinance for the time being in force relating to the registration of land or titles to land

8. (1) Subject to the provisions of sub-section (3) of this section the Member may make rules generally for better carrying out the provisions of this Ordinance

(2) Rules made under sub-section (1) of this section may, without prejudice to the generality of the powers thereby conferred, provide for—

(a) the method of executing every type of survey, including a cadastral survey, for the registration of a title under any Ordinance for the time being in force relating to the registration of lands or titles to land,

(b) the charges to be made for the making of any survey by the Survey Department,

(c) the charges to be made for the approval by the Director of plans submitted by a licensed surveyor,

(d) the fees to be paid in respect of any document issued or act done under the authority of this Ordinance or of any rule made there under,

(e) anything required by this Ordinance to be prescribed

(3) Notwithstanding the provisions of sub-section (1) of this section, rules made thereunder which relate to any of the undermentioned matters shall not be made except with the advice and consent of the Board—

(a) regulating the procedure at meetings of the Board and the conduct of the business thereof,

(b) prescribing the duties of the secretary and any other officers appointed under section 6 of this Ordinance

(c) regulating the manner of keeping the register and prescribing the particulars which shall be recorded therein,

(d) determining the evidence to be produced and the conditions to be fulfilled by any person applying for registration as a licensed surveyor under this Ordinance,

(e) prescribing the method and the syllabus of subjects for the examination of persons desirous of qualifying for a licence and the period of previous service and training required,

(f) regulating the issue of licences,

(g) regulating the suspension and withdrawal of licences,

(h) prescribing what certificates of examination, diplomas, degrees, licences or titles, other than those herein-after prescribed by this Ordinance, will be recognized by the Board for the purpose of exempting a person from passing the whole or any part of an examination of the Board.

(i) regulating the conduct of proceedings in connexion with complaints against a licensed surveyor,

(j) the direction and guidance of licensed surveyors

(k) prescribing scales of fees to be charged by a licensed surveyor in respect of work done

Personal liability of Director

9. Neither the Director nor any person acting under his authority shall be personally liable for any action or other proceeding for or in respect of any act or matter done or omitted in good faith in the exercise or purported exercise of any powers conferred by this Ordinance

Powers of Director and of surveyors to enter land

PART III—SURVEYS, SURVEY MARKS AND BOUNDARY MARKS

10. The Director or any surveyor or any person authorized by the Director either generally or specially, may enter from time to time upon any Crown Land, native areas or alienated land, with such assistants as may be necessary for the purpose of—

(i) making any survey which he is authorized to make,

(ii) affixing or setting up thereon or therein any survey marks,

(iii) inspecting any survey or survey mark,

(iv) altering, repairing, moving or removing any survey mark,

(v) doing anything necessary for carrying out any of the aforesaid purposes

Provided that—

(i) before so entering upon any such land, the Director or surveyor or person authorized as aforesaid shall, whenever practicable, give reasonable notice to the owner or occupier of the land of his intention to enter thereon,

(ii) compensation shall be paid to the owner of any trees or crops cut or damaged in the exercise of any of the powers conferred by this section

Penalty for injuring a survey mark

11. Any person who, not being duly authorized so to do, takes away, is found in possession of, removes, destroys, displaces or alters the position of any survey mark, or wilfully defaces, mutilates, obliterates, breaks or destroys any survey mark, shall be guilty of an offence against this Ordinance and upon conviction shall be liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment

Penalty for obstructing surveyors

12. Any person who wilfully obstructs or hinders any surveyor or any assistant or servant of such surveyor in the execution of any duty under this Ordinance shall be guilty of an offence against this Ordinance and upon conviction shall be liable to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding three months or to both such fine and imprisonment

Boundary marks to be shown on plan

Cap 155

13. Every trigonometrical station, fundamental bench-mark and boundary beacon erected or placed for the purpose of denoting the boundaries of land sold, leased or the subject of a licence under the Crown Lands Ordinance, shall be shown on any plan attached to the conveyance, lease or licence or on any plan referred to in the conveyance, lease or licence

14. It shall be the duty of every purchaser, lessee or licensee to ascertain within sixty days of the receipt of his conveyance, lease or licence with a plan attached that the survey marks shown on such plan are in place in the earth as shown on the plan

Duty of
grantee to
ascertain that
survey marks
are shown
on plan

15. (1) If a purchaser, lessee or licensee shall, within sixty days of the receipt of his conveyance, lease or licence with a plan attached notify the Director in writing that he is unable to find the survey marks shown on the plan, and shall deposit with the Director a sum which, in the estimation of the Director, will be sufficient to cover the cost of inquiry, the Director shall inquire into the matter

Procedure if
the grantee is
unable to find
the survey
marks

(2) If as a result of any such inquiry the Director finds that the survey marks are not in place in the earth as shown on the plan, he shall cause survey marks to be erected or placed in accordance with the plan, and in such case, the sum deposited shall be refunded to the purchaser, lessee or licensee

(3) If as a result of such inquiry the Director finds that the survey marks are in place in the earth as shown on the plan, the sum deposited or such portion thereof as shall be sufficient to cover the cost of such inquiry, shall be forfeited to the Government

16. (1) Every purchaser, lessee or licensee of Crown Land and his successor in title shall maintain every trigonometrical station, fundamental benchmark and boundary beacon erected for the purpose of defining boundaries of the land sold or leased to him or occupied by him.

Obligation to
maintain
boundary
marks

(2) Every purchaser, lessee or licensee and his successor in title who fails to maintain any such trigonometrical station, fundamental benchmark or boundary beacon shall be guilty of an offence against this Ordinance and upon conviction shall be liable to a fine not exceeding four hundred shillings or to imprisonment for a term not exceeding two months and shall in addition be liable to pay the cost of restoring every such survey mark.

Provided that, where one survey mark is common to the land of two or more persons each shall be guilty of an offence and shall be severally liable to the penalty provided by this section, so, however, that the cost of restoring every such survey mark shall be divided equally between them

17. (1) Every purchaser, lessee or licensee of Crown land and his successors in title shall preserve every survey mark affixed, erected or placed on such land for the purpose of denoting the boundaries of the land sold, leased or the subject of the licence under the Crown Lands Ordinance and shall forthwith report to the Director if any such survey mark is obliterated, removed or injured or requires repair

Obligation to
report loss or
damage to a
survey mark

Cap 155

(2) Every person required by this section to report the obliteration, removal, injury to, or necessity for repair of, any survey mark as aforesaid who fails so to do shall be guilty of an offence against this Ordinance and shall be liable on conviction to a fine not exceeding one hundred shillings or to imprisonment for a term not exceeding one month

18. Every trigonometrical station or fundamental benchmark shall be deemed to comprise the land within twenty feet of the centre-mark of such station or within twenty feet of the centre of the pillar of such fundamental benchmark as the case may be, together with a right-of-way to and from the

Sites of
trigonometrical
stations and
fundamental
benchmarks
reserved to
the Crown

same and shall, notwithstanding any alienation thereof, be reserved to the use of the Crown and be deemed to have been and to be excepted out of such alienation

Blasting of rock
within the area
reserved for a
fundamental
benchmark
prohibited

19. (1) No person shall carry out rock-blasting operations within the area of the land reserved for any fundamental 5 benchmark

(2) Any person who contravenes the provisions of this section shall be guilty of an offence against this Ordinance and shall be liable on conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding 10 twelve months or to both such fine and imprisonment

20. Every survey of Crown land for the purposes of any sale, lease or licence under the Crown Lands Ordinance or the Native Lands Trust Ordinance or under any Ordinance thereby repealed shall be conducted under the direction of the 15 Director

21. (1) No person other than a surveyor shall—

(a) survey any land for the purpose of preparing any plan for attachment to, or which is to be referred to in, any instrument of conveyance, lease, assignment or 20 transfer which is required to be registered under any Ordinance for the time being in force relating to the registration of land or title to land,

(b) perform any survey affecting the delineation of the boundaries or the location of survey marks of any 25 land registered or to be registered under any Ordinance for the time being in force relating to the registration of land or title to land

(2) Any person who contravenes any provision of this section shall be guilty of an offence against this Ordinance and 30 shall be liable on conviction to a fine not exceeding two thousand shillings or in default of payment to imprisonment for a term not exceeding six months

22. Every survey under this Ordinance shall be carried out in accordance with any regulations for the time being in 35 force made under this Ordinance

23. No document, other than a judgment, decree or order of a Court, to which there is attached a plan which is not prepared and signed by a surveyor and which is not approved by the Director shall be accepted for registration 40 under any Ordinance for the time being in force relating to the registration of land or title to land

PART IV—THE LICENSING OF SURVEYORS

Complaint Against and Offences by Licensed Surveyors

24. No person shall be entitled to be registered under 45 this Ordinance unless he is—

- (a) licensed by the Board as hereinafter provided,
- (b) duly registered as a licensed surveyor before the enactment of this Ordinance;
- (c) an officer on the permanent establishment of the 50 Colonial Survey Service,
- (d) the holder of a licence to practise as a surveyor in the Dominion of Canada or the Dominion of New Zealand, the Commonwealth of Australia the Union of South Africa, or in such other country as the Member may, by notice in the Gazette, approve, 55
- (e) the holder of the qualification of Fellow or Professional Associate of the Royal Institution of Chartered Surveyors in sub-division V (Land Surveying)

Surveys of
Crown land
to be conducted
under the
direction of
the Director
Cap 155
Cap 100

Unqualified
persons
forbidden
to survey

Surveys to be
carried out
in accordance
with regulations
for the time
being in force
No plan
receivable for
registration
purposes unless
approved by
the Director

Persons eligible
to be registered

Provided that a person holding any of the qualifications mentioned in paragraphs (c), (d) and (e) of this section shall not be registered unless—

(a) he satisfies the Board that he has had field experience of the types of survey required by this Ordinance,

(b) he carries out to the satisfaction of the Board a trial survey, and

(c) he satisfies the Board that he is otherwise capable of conducting land surveys in accordance with the provisions of this Ordinance

25. No person shall be entitled to be examined for a licence to practise as a surveyor unless—

(a) he has previously served regularly and faithfully in that capacity or as a student surveyor, for such period as the Board may require, in the Survey Department or with a licensed surveyor in the Colony or in one of the countries mentioned in paragraph (d) of section 24 of this Ordinance, and he produces either an affidavit from the Director or from such licensed surveyor, as the case may be, in Form B in the Schedule to this Ordinance, or such other evidence as may satisfy the Board that he has so served for the period required by the Board, or

(b) he satisfies the Board that he has pursued courses of study in land surveying and he has had practical experience in land surveying

26. Any person who—

Persons entitled
to be examined

Exemptions

(a) has graduated from any university recognized by the Board and has taken an honours degree in any subject prescribed by rules made under this Ordinance, or

(b) has complied with the provisions of paragraph (b) of section 25 of this Ordinance,

shall, upon production of affidavits in the Forms B and C in the Schedule to this Ordinance, be exempted from examination in all subjects which, in the opinion of the Board, may be unnecessary

27. (1) Each application for examination for admission as a licensed surveyor shall be made to the secretary of the

Form of
application for
examination

Board in writing at least one month prior to the date on which such examination is to take place, and such application shall be in the prescribed form and shall be accompanied by an examination fee of one hundred shillings, which fee shall be refunded if the candidate is not allowed to be examined

(2) All fees paid under this section shall be paid into the general revenues of the Colony

28. The Board may require the attendance of any person who applies for examination for admission as a licensed surveyor and may examine or question such person upon oath, affirmation, or otherwise, as to his actual practice in the field and other matters relevant thereto, and for such purpose any member of the Board may administer an oath or affirmation

Examining
candidate on
oath

29. Except as otherwise provided in this Ordinance, no person shall receive a licence from the Board authorizing him to practise as a licensed surveyor unless—

Conditions
precedent to
the issue of
a licence

(a) he has attained the age of twenty-one years, and

(b) he has passed the prescribed examination to the satisfaction of the Board or has been exempted therefrom, and

(c) he has complied with the relevant provisions of this Ordinance

Issue of licence

30. Every person who qualifies in the manner prescribed in this Ordinance shall be entitled to receive a licence from the Board in the Form D in the Schedule to this Ordinance 5

Register of licensed surveyors

31. (1) The Board shall cause a register to be kept which shall contain the names, addresses and qualifications of all licensed surveyors, the respective dates of registration and any other particulars which may be prescribed

(2) Every licensed surveyor shall, within sixty days of the issue to him of a licence under this Ordinance, apply to the Board to be registered in accordance with the provisions of this section 10

Complaint against licensed surveyor and how dealt with

32. (1) Every complaint against a licensed surveyor shall be submitted in writing to the Board and shall be signed by 15 the person making the complaint and if it appears to the Board that such complaint justifies an inquiry, the Board shall fix a time and place for the purpose of hearing and determining the complaint

(2) At least thirty days prior to the date fixed for such 20 inquiry, notice in writing shall be sent by the secretary by registered post to the last known address of the licensed surveyor against whom the complaint is made, informing him of the time and place fixed for the inquiry and supplying him with a copy of the complaint 25

(3) At such inquiry the licensed surveyor against whom the complaint is made shall be entitled to be heard in his defence either personally or by an advocate

(4) The findings and decision of the Board on such inquiry shall be made in writing and shall be countersigned by 30 the secretary, and such written finding shall be conclusive evidence of the matters therein contained and of the decision of the Board, which shall be final

Powers of Board to deal with offences

33. (1) Upon a complaint duly made and after inquiry under section 32 of this Ordinance, if it is shown that any 35 licensed surveyor—

(a) has intentionally, or through culpable negligence, or ignorance, made an incorrect plan or a plan which does not conform with any regulation made under this Ordinance, or has made an untrue report or 40 memorandum or record of any survey,

(b) has certified as his own any survey or plan not made by him or under his personal supervision,

(c) has been guilty of any felony or misdemeanour involving moral turpitude, or of such improper conduct 45 as, in the opinion of the Board, renders him unfit to practise as a licensed surveyor

(d) has obtained his licence by misrepresentation, or has had his licence or registration in any country mentioned in paragraph (d) of section 24 of this Ordinance suspended or cancelled in such country 50

the Board may—

- (i) caution such licensed surveyor, or
- (ii) suspend such licensed surveyor from practice as a surveyor for any period not exceeding three years, 55 and enter the reasons for such suspension in the register, or
- (iii) remove the name of such licensed surveyor from the register

- (2) The Board may, in its absolute discretion—
 (a) reinstate a licensed surveyor whose name has been removed from the register, or
 (b) cancel the suspension of a licensed surveyor who has been suspended from practice
- 5 (3) There shall be published in the Gazette a notification of—
 (a) the removal of the name of a licensed surveyor from the register,
 10 (b) the suspension from practice of a licensed surveyor and
 (c) the reinstatement or cancellation of the suspension of a licensed surveyor
- (4) The Director may order any licensed surveyor found 15 guilty by the Board of culpable negligence to pay the cost of any correction to a plan which his negligence may necessitate
- (5) Such licensed surveyor may appeal to the Board against any such order of the Director and the decision of the Board shall be final
- 20 34. (1) If any licensed surveyor submits a plan which, on being checked, is found to be incorrect by reason of culpable negligence on the part of such licensed surveyor, the Board may impose a fine not exceeding one thousand shillings upon such licensed surveyor, so, however, that it shall not be lawful 25 for the Director to impose, under this section, a fine in any case in which he has ordered a licensed surveyor to pay the cost of any correction to a plan under sub-section (4) of section 33 of this Ordinance
- (2) Any licensed surveyor may appeal to the Supreme Court against the imposition of any such fine by the Director, and the decision of the court shall be final
- (3) A fine imposed by this section may be levied in the same manner as if it were a fine imposed by a court
- (4) All fines paid under this section shall be paid into 35 the general revenues of the Colony

PART V—SURVEY PLANS AND RECORDS

35. Every surveyor who executes any survey in accordance with the provisions of this Ordinance shall send to the Director all plans, field notes and computations, and all such 40 plans, field notes and computations shall be deposited in the Survey Office and shall become the property of the Government

Penalty for
culpable
negligence of
licensed
surveyor

All survey
plans and
records to be
deposited with
the Director
and become the
property of
the Government

36. No plan deposited in the Survey Office in accordance with section 35 of this Ordinance shall be altered or 45 amended in any way without the permission of the Director

No plan to
be amended
without the
permission of
the Director

37. (1) The approval by the Director of a plan shall be evidenced by an inscription thereon duly signed by the Director or by some person authorized by him in that behalf and shall be held to be an approval of the survey, or resurvey, as 50 the case may be, to which the plan relates, and no land shall be deemed to have been surveyed or resurveyed until the plan thereof has been approved by the Director

Approval of
plans

- (2) No plan shall be approved—
 55 (a) until such plan has been compared with the field notes and computations deposited with the Director by the surveyor making such plan, and found to be correct and
 (b) unless the survey has been conducted in the manner prescribed by rules made under this Ordinance

Director may
cancel approval
of plan

38. (1) Where, prior to the registration of any document to which a plan approved by the Director is attached or in which reference to such a plan is made—

(a) the plan is found to be inaccurate by reason of any error or omission in the survey, or 5

(b) the plan does not conform with the terms and conditions subject to which approval to sub-divide the land to which the plan relates has been given,

the Director may cancel his approval of such plan and, in every such case, shall make and deposit a corrected plan 10

(2) The Director shall forthwith upon the cancellation of any plan as aforesaid notify in writing—

(a) the registered owner of the land to which such plan relates or, in the case of Crown land, the Commissioner of Lands, and 15

(b) the appropriate registrar

(3) The appropriate registrar upon being notified by the Director as required by paragraph (b) of sub-section (2) of this section, shall, notwithstanding that the plan with regard to which such notification is made is certified or signed by a Government or licensed surveyor and approved by the Director, refuse to register any document to which such plan is attached or in which reference thereto is made 20

(4) For the purposes of this section “the appropriate registrar” means— 25

(i) in the case of land registered under the Registration of Titles Ordinance a registrar of titles

(ii) in the case of land registered under the Crown Lands Ordinance the Principal Registrar of Crown Lands,

(iii) in the case of land registered under the Land Titles Ordinance, the Principal Registrar, and 30

(iv) in the case of any document registered under the Registration of Documents Ordinance, the Principal Registrar of Documents

Cap 160

Cap 155

Cap 159

Cap 161

Seal of
office

39. (1) The Director shall have and use a seal of office bearing the impression of the crest of the Survey Department and having inscribed thereon “Survey of Kenya” and the imprint of such seal shall be valid whether made in wax, ink or any other substance 35

(2) All plans and documents purporting to be made or published by or under the authority of the Director and purporting to be sealed with his seal of office, whether signed by him or on his behalf or not, shall be received in evidence, and any document which is by any Ordinance required to be approved, signed or countersigned by the Director shall be deemed for all purposes to have been so approved, signed or countersigned if it bears thereon his seal of office 40

Provided that, nothing in this section shall be deemed to render receivable in evidence without proof of its accuracy a plan made for the purpose of any civil cause between party and party 50

(3) Such seal shall not be used or affixed except by the Director or by some person authorized by him in writing in that behalf

Survey plans

40. (1) Any person may, at such times as may be notified by the Director, have access to all published plans in the possession of the Survey Department at the Survey Office 55

(2) The Member may make rules for prescribing the circumstances in which persons may have access to unpublished plans and any fees which may be charged in connexion therewith

5 **41.** (1) There shall be a Standing Committee on Geographical Names (hereinafter referred to as the Committee) which shall consist of—

- (a) the Director, who shall, *ex officio*, be Chairman.
 (b) nine members and a secretary to be appointed by the
 10 Member

Standing Committee on Geographical Names

(2) Notice of all appointments to the Committee shall be published in the Gazette

42. (1) It shall be the duty of the Committee to advise 15 the Governor in Council as to the spelling of all names on maps in Kenya, and in so doing it shall have due regard to historical, orthographical and ethnic considerations

Duties of Committee

(2) There shall be published in such manner and as often as the Governor in Council may direct lists containing the 20 approved spelling of all such names

PART VI—REPEAL

43. (1) The Land Surveyors Ordinance is repealed

Repeal Cap 167

(2) Sections 112 to 118 both inclusive, being Part XI of the Crown Lands Ordinance, are repealed

Cap 155

SCHEDULE

FORM A

THE SURVEY ORDINANCE, 1951

(*Section 5 (4)*)

OATH OF MEMBER OF LAND SURVEYORS BOARD

I, do solemnly swear/affirm,* that I will faithfully discharge the duties of a member of the Land Surveyors Board of Kenya according to law, without favour, affection or partiality

Subscribed and sworn to before me at this day of one thousand, nine hundred and

* Delete the words which are irrelevant

FORM B

THE SURVEY ORDINANCE, 1951

(*Sections 25 and 26*)

AFFIDAVIT

I do solemnly swear/affirm,* that has served regularly and faithfully with the Survey Department/me* as a student surveyor/surveyor* for a period of years months from to

The nature of his employment during the period specified is indicated hereunder —

Summary of Employment

Sworn to/Affirmed* before me at this day of one thousand, nine hundred and

Delete the words which are irrelevant

FORM C
THE SURVEY ORDINANCE, 1951

(Section 26)

AFFIDAVIT

I, _____, of _____, do hereby solemnly swear/affirm that I am a Graduate of the University of _____ and have taken an Honours Degree in _____ * and that I have pursued the courses of study and have had practical experience in land surveying as set out in the summary below

Summary

Course/s of study at	from
to	
Periods of practical experience at	
from	to
Sworn to/Affirmed* before me at _____ this _____ day of _____	
, one thousand, nine hundred and _____	

* Delete the words which are irrelevant

FORM D
THE SURVEY ORDINANCE, 1951

(Section 30)

LICENSED SURVEYOR'S LICENCE

No.

This is to certify that _____ of _____ having duly passed the examination for admission as a licensed surveyor under this Ordinance and satisfactorily proved his qualifications, is hereby duly licensed and registered under the provisions of the Survey Ordinance to practise as a surveyor

Dated this _____ day of _____ 19____

Chairman

Secretary

Land Surveyors Board

MEMORANDUM OF OBJECTS AND REASONS

The existing law relating to land surveys and surveyors is in some respects out of date and is greatly in need of consolidation. This Bill will accordingly amend the law in certain respects and consolidate it into one Ordinance.

Part I of the Bill contains the interpretation provisions. The only change of any importance is reflected in the definition of "plan" which is now defined to include an aerial photograph.

Part II contains administrative provisions and rule-making powers. Clause 7 sets out the duties of the Land Surveyors Board which include the conduct of examinations of persons seeking admission as licensed surveyors. Clause 8, which enables the Member to make rules, expressly requires him to obtain the advice and consent of the Board to the making of rules relating to certain matters, the most important of which relate to the method and syllabus of examinations for candidates seeking admission as licensed surveyors, the issue, suspension and withdrawal of licences and the conduct of proceedings in connexion with complaints against a licensed surveyor.

Part III contains provisions relating to surveys, survey marks and boundary marks and in the main this Part is a consolidation of the existing law. Clause 16 provides that every purchaser, lessee and licensee and their successors in title shall be responsible for maintaining boundary marks. Clause 17 places a duty on every purchaser, lessee and licensee and their successors in title to preserve boundary marks and requires such a person to report any mutilation, removal, injury to, or need for repair of, any such mark. Clauses 18 and 19 will ensure the protection and preservation of fundamental benchmarks.

Part IV which provides for the licensing and registration of surveyors follows in general the existing law. The principal amendments are designed to extend the scope of eligibility for registration as licensed surveyors, for examination and for exemption from examination.

Section 7 of the Land Surveyors Ordinance (Cap 167) restricts the classes of persons who may be registered as licensed surveyors to—

- (a) persons licensed by the Board,
- (b) persons holding a licence to practise surveying in one of the Dominions of South Africa, Canada, Australia and New Zealand and in such other countries, as may be notified by the Governor in Council

Clause 24 of the Bill will in addition enable to be registered—

- (a) officers on the permanent establishment of the Colonial Survey Service, and
- (b) holders of the qualification of Fellow or Professional Associate of the Royal Institute of Chartered Surveyors in land surveying

Another amendment of importance is effected by clauses 25 and 26 whereby the classes of person eligible to take the examination with a view to becoming a licensed surveyor will be extended to include—

- (a) a person who has served for the prescribed period in the Survey Department, and
- (b) a person who satisfies the Board that he has pursued courses of study in, and has had practical experience of, land surveying

Hitherto by section 9 of the Land Surveyors Ordinance, only a person who could establish that he had served for the prescribed period with a licensed surveyor in the Colony, or in one of the countries referred to in section 7, was eligible to take the examination.

The only other amendment of importance is the inclusion of a new provision which will enable the Director, subject to appeal to the Board, to impose a fine not exceeding one thousand shillings upon a surveyor who submits a plan which, owing to culpable negligence on the part of the surveyor, is incorrect (*Clause 33*).

Part V provides for the depositing with, and checking and approval of plans by the Director of Surveys. The only new provisions are contained in clauses 36, 38, 39, 40, 41 and 42.

Clause 36 prohibits the amendment of a plan which has been deposited in the Survey Office, except with the permission of the Director.

Clause 38 provides for the cancellation by the Director of his approval of a plan if it is found, prior to the registration of any document to which it is attached or in which reference is made to it, to be inaccurate, or not to conform to the terms and conditions subject to which approval to sub-divide the land was granted.

Clause 39 provides by sub-clause (1) for the Director to have a seal of office. Sub-clause (2) provides how the seal shall be used and expressly provides that a document which is required by any Ordinance to be approved, signed or countersigned by the Director shall be deemed to be so approved, signed or countersigned if it bears his seal of office.

Clause 40 contains provisions as to access to plans in possession of the Survey Department, by members of the public.

Clauses 41 and 42 make statutory provision for the establishment and duties of the Standing Committee on Geographical Names which was first established in 1948.

No additional expenditure of public moneys will be incurred if the provisions of this Bill become law.

Nairobi,
16th January, 1951

K. K. O'CONNOR,
Attorney General

GOVERNMENT NOTICE No 105

The Governor in Council has approved of the following Bill
being introduced into the Legislative Council

T V N FORTESCUE
Acting Clerk to the Legislative Council

ARRANGEMENT OF SECTIONS

SECTION	SECTION
1—Short title and application	15—Titles to wakf property shall not be acquired by prescription or adverse possession after commencement of Ordinance
2—Interpretation	16—Consent of Commissioners to be obtained prior to building of mosques out of wakfs
3—All wakfs to be administered in accordance with this Ordinance	17—How wakf property to be administered
4—Validation of wakfs	18—Commissioners may dispose of wakf property in certain circumstances
5—Saving of previous judgments orders or decrees	19—Unclaimed property of deceased Muslims
6—Constitution of Wakf Commissioners	20—Wakf property not to be used by Wakf Commissioners towards another wakf while latter wakf property exists
7—Commissioners to be a body corporate with a common seal	21—Maintenance and Reserve Funds
8—Chairman and quorum	22—Moneys to be paid into the Surplus Fund
9—Secretary, officers and servants	23—Fees
10—Register of wakf property	24—Allowances to Commissioners
11—Commissioners may take over administration of wakfs upon application	25—Accounts and audit
12—Commissioners may take over administration of wakfs which are being conducted in an improper or unauthorized manner	26—Banking accounts
13—Trustees of wakfs may be called upon to produce evidence of proper administration of their trusts	27—Rules
14—Contracts or agreements relating to wakf property for more than one year must be sanctioned by Commissioners	28—Repeal

A BILL ENTITLED
AN ORDINANCE TO MAKE BETTER PROVISION FOR THE APPOINTMENT OF WAKF COMMISSIONERS, TO PRESCRIBE THEIR POWERS AND DUTIES AND TO AMEND THE LAW RELATING TO WAKF PROPERTY

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

Short title and application

1. This Ordinance may be cited as the Wakf Commissioners Ordinance, 1951, and shall apply to such areas of the Colony as the Governor may, by notice in the Gazette, direct

Interpretation

2. In this Ordinance unless the context otherwise requires—

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“commissioner” means a member of the Wakf Commissioners appointed or elected, as the case may be under section 6 of this Ordinance,

“Muslim” means an Arab, a member of the Twelve Tribes, a Baluchi, a Somali, a Comoro Islander, a Malagasy ¹⁰ or a native of Africa, of the Muslim faith,

“trustee” includes any person, whether alone or jointly with another, in control of any property the subject of a wakf or in receipt of any rents or profits thereof,

“wakf” means the religious, charitable or benevolent ¹⁵ endowment or dedication of any property in accordance with Muslim law,

“wakf Ahli” means a wakf made for the benefit of an individual or family or for the performance of rites or ceremonies recognized by Muslim law as being for the benefit of ²⁰ the soul of an individual (including the dedicator) or of the souls of the members of a family,

“Wakf Commissioners” means the Wakf Commissioners of Kenya constituted under section 6 of this Ordinance.

“wakf Khairi” means a wakf, other than a wakf Ahli ²⁵ made for any religious, charitable or benevolent public purpose recognized by Muslim law, including the provision and upkeep of cemeteries and burial grounds

3. Every wakf made by or for the benefit of any Muslim shall be administered in accordance with the provisions of this Ordinance

All wakfs to be administered in accordance with this Ordinance

4. (1) Every wakf heretofore or hereafter made by any Muslim which is made, either wholly or partly, for any of the following purposes, that is to say—

Validation of wakfs

- (a) for the maintenance and support, either wholly or partly, of the family, children, descendants or kindred of the maker, or
- 10** (b) if the maker of the wakf is an Ibadhi Mohammedan, for his own maintenance and support during his lifetime,

is declared to be a valid wakf if—

- 15** (i) it is in every other respect made in accordance with Muslim law, and
- (ii) the ultimate benefit in the property the subject of such wakf is expressly, or, in any case in which the personal law of the person making the wakf so permits, impliedly, reserved for the poor or for any other purpose recognized by Muslim law as a religious, pious or charitable purpose of a permanent character

(2) No wakf to which sub-section (1) of this section applies shall be invalid merely because the benefit in the property reserved by such wakf for the poor or any religious pious or charitable purpose is not to take effect until after the extinction of the family, children, descendants or kindred of **30** the maker of the wakf

5. Nothing in this Ordinance shall affect any right, interest or estate in or to any property the title to which, whether vested or contingent and whether in possession, reversion or remainder, accrued or was acquired before the commencement of this Ordinance under any final judgment, order or decree of a court of competent jurisdiction

Saving of previous judgments, orders or decrees

6. (1) There is hereby constituted a body to be known as the Wakf Commissioners of Kenya, which shall consist of eight persons, of whom—

Constitution of Wakf Commissioners

- 40** (a) four shall be appointed by the Governor, and
- (b) four shall be elected by the four Commissioners appointed by the Governor under paragraph (a) of this sub-section

Provided that the first commissioners to be appointed by **45** the Governor under paragraph (a) of sub-section (1) of this section shall be—

- Seyyid Ali bin Ahmed Badawy
- Sheikh Khamis bin Mohamed bin Juma
- Sheikh Mbarak Ali Hinawy
- 50** Shariff Abdalla Salim

(2) (a) Every commissioner appointed by the Governor under paragraph (a) of sub-section (1) of this section shall hold office during his life unless he sooner resigns, or for good cause is removed by the Governor

55 (b) Every commissioner elected in accordance with the provisions of paragraph (b) of sub-section (1) of this section shall hold office for a period of three years, but shall be eligible for re-election

Provided that one such commissioner shall retire at the **60** expiration of one year from the date of first appointment and one shall retire at the expiration of two years from the date of

first appointment The commissioners so to retire at the end of one and two years respectively shall be determined by lot

(3) Any vacancy among the commissioners appointed under paragraph (a) of sub-section (1) of this section shall be filled by some person appointed by the Governor on the recommendation of the Wakf Commissioners ⁵

Commissioners
to be a body
corporate with
a common seal

7. (1) The Wakf Commissioners shall be a body corporate having perpetual succession and a common seal and shall have all the powers, functions and duties conferred and imposed by this Ordinance ¹⁰

Cap 47

Provided that pending the provision of a new seal, the common seal of the Wakf Commissioners for the Colony and Protectorate of Kenya incorporated by the Wakf Commissioners Ordinance (repealed by this Ordinance) may be used

(2) The Wakf Commissioners may sue and be sued in its ¹⁵ corporate name and may for all purposes be described by that name

(3) The seal of the Wakf Commissioners shall be authenticated by the signature of the Chairman, or a commissioner authorized to act in that behalf, and the Secretary, and such ²⁰ seal shall be officially and judicially noticed

(4) All documents, other than those required by law to be under seal, made by, and all decisions of, the Wakf Commissioners may be signified under the hand of the Chairman, any commissioner authorized in that behalf, or the Secretary ²⁵

Chairman and
quorum

8. (1) At the first meeting held in each year the Wakf Commissioners shall elect one of the commissioners appointed by the Governor under paragraph (a) of sub-section (1) of section 6 of this Ordinance to be Chairman for the ensuing year The Chairman shall preside over all meetings of the ³⁰ Wakf Commissioners at which he is present and in his absence from any meeting the commissioners present shall elect a commissioner eligible for appointment as Chairman to preside over the meeting

(2) A quorum of the Wakf Commissioners shall be ³⁵ three of whom two shall be commissioners appointed under paragraph (a) of sub-section (1) of section 6 of this Ordinance

Secretary,
officers and
servants

9. The Wakf Commissioners may, upon such terms and conditions as they may think fit employ a Secretary and such other officers and servants as may be deemed requisite for ⁴⁰ the proper administration of the affairs of the Wakf Commissioners and may dismiss any person so employed

Register of
wakf property

10. (1) The Wakf Commissioners shall keep, in such form and containing such particulars as may be prescribed, a register of all property the subject of a wakf ⁴⁵

(2) Every trustee of property the subject of a wakf shall, within two months from the date of the making of the wakf, apply to the Wakf Commissioners to register the same Every such application shall be in such form and shall contain such particulars and be accompanied by such fee as may be pre- ⁵⁰ scribed

(3) All fees for the registration of property the subject of a wakf shall be credited by the Wakf Commissioners to a fund to be known as the General Administration Fund

(4) Any trustee who fails to comply with the provisions ⁵⁵ of sub-section (2) of this section shall be guilty of an offence against this Ordinance and shall be liable to a fine not exceeding two thousand shillings or to imprisonment for any period not exceeding six months

Commissioners
may take over
administration of
wakfs upon
application

11. On the application—

(a) in the case of wakf Khairi, of the trustee or trustees, ⁶⁰ as the case may be, of the wakf, and

(b) in the case of wakf Ahli, of the trustee or trustees, as the case may be, with the consent of the majority of the beneficiaries of the wakf,

the Wakf Commissioners may take over, subject to such conditions as may be imposed by the Wakf Commissioners, the administration of the property the subject of the wakf and such property shall thenceforth vest in the Wakf Commissioners.

12. (1) In any case in which it appears to the Commissioners that—

- (a) there is no properly constituted trustee of a wakf, or
- (b) any trustee is acting in an improper or unauthorized manner

the Wakf Commissioners may, in the case of wakf Khairi of their own motion, and in the case of a wakf Ahli on the motion of the majority of the beneficiaries, hold an inquiry. Written notice of such an inquiry shall be given to all persons having any interest in the wakf and such persons shall by such notice be invited to appear and give evidence before the Wakf Commissioners.

(2) If after holding such an inquiry the Wakf Commissioners find either that there is no properly constituted trustee of the wakf or that any trustee is acting in an improper or unauthorized manner, the Wakf Commissioners may make an order either declaring that the property the subject of the wakf shall in future be administered by the Wakf Commissioners or appointing some other person or persons to be a trustee or trustees.

13. (1) The Wakf Commissioners may at any time call upon any trustee of wakf property to satisfy it that such property is being properly administered and may require such trustee to produce any document or books, whether of account or otherwise in his possession or control relating to such property.

(2) Any trustee who fails to comply with any requirement to produce any documents or books in his possession or control made by the Wakf Commissioners under sub-section (1) of this section shall be guilty of an offence against this Ordinance and shall be liable to a fine not exceeding two thousand shillings or to imprisonment for a period not exceeding six months.

14. No contract or agreement of any description whatsoever purporting to sell or to lease or otherwise alienate any property the subject of any wakf for any period exceeding one year shall be valid unless the sanction in writing of the Wakf Commissioners has first been obtained.

15. Notwithstanding anything to the contrary in any Ordinance or law for the time being in force, no title to any property the subject of a wakf shall, after the commencement of this Ordinance, be acquired by any person by reason of such person having been in adverse possession thereof or by reason of any law of prescription.

16. No person shall, for the purpose of carrying into effect the intentions of the maker of any wakf, build or cause to be built any mosque unless he shall first have obtained the consent in writing of the Wakf Commissioners after having satisfied them that—

- (a) the mosque is a necessity in the area in which it is proposed to build it or cause it to be built; and

Commissioners may take over administration of wakfs which are being conducted in an improper or unauthorized manner

Trustees of wakfs may be called upon to produce evidence of proper administration of their trusts

Contracts or agreements relating to wakf property for more than one year must be sanctioned by Commissioners

Titles to wakf property shall not be acquired by prescription or adverse possession after commencement of Ordinance

Consent of Commissioners to be obtained prior to building of mosques out of wakfs

How wakf
property to be
administered

(b) the mosque will be sufficiently endowed to provide for its proper maintenance and good order

17. (1) Subject to the provisions of sub-section (2) of this section all property the subject of any wakf which is under the control of the Wakf Commissioners shall be administered by the Wakf Commissioners in accordance with the intentions of the maker of the wakf if such intentions are lawful according to Muslim law and are capable of being carried into effect, and whether such intentions are ascertainable by reference to tradition or by reference to any other evidence lawfully obtainable

(2) In any case where in the opinion of the Wakf Commissioners the intentions of the maker of a wakf are unlawful or unascertainable or are incapable of being carried out or where any surplus revenue remains after fulfilling the intentions of the maker of the wakf the Wakf Commissioners shall, in the case of a wakf Khairi, apply the property the subject of the wakf or any surplus property or revenue therefrom, as the case may be, for such benevolent or charitable purposes on behalf of Muslims as appear to the Wakf Commissioners proper, and in the case of wakf Ahli, shall apply such property or surplus property or revenue as aforesaid in such manner as the Wakf Commissioners think fit for the benefit of the beneficiaries of the wakf

Commissioners
may dispose of
wakf property in
certain
circumstances

18 If it appears to the Wakf Commissioners that in respect of any wakf the intentions of the maker cannot reasonably be carried into effect and that it is accordingly expedient that the property the subject of the wakf or any part thereof should be sold, the Wakf Commissioners may cause such property or part thereof to be sold and shall apply the proceeds of sale in the manner provided by sub-section (2) of section 17 of this Ordinance

Provided that nothing in this section shall be deemed to authorize the sale of any land or any part thereof which under any wakf is to be used for a cemetery or burial ground or for the building of a mosque

Unclaimed
property of
deceased
muslims

19. (1) Notwithstanding anything to the contrary in the Indian Succession Act, 1865, any property of a deceased Muslim to which no claim has been established within one year from the date upon which such property vested in the administrator of the estate or in the Public Trustee shall be handed over to the Wakf Commissioners by the said administrator or Public Trustee, as the case may be, and shall, if not handed over in the form of money, be converted into money and paid by the Wakf Commissioners into a special fund created for the purpose to be known as the Surplus Fund

(2) The Surplus Fund shall be utilized by the Wakf Commissioners for such benevolent or charitable purposes for the benefit of Muslims as the Wakf Commissioners may consider proper

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Provided that if, within twelve years from the date upon which any property of a deceased Muslim was handed over to the Wakf Commissioners pursuant to sub-section (1) of this section any person establishes a claim thereto, the Wakf Commissioners shall pay out of the Surplus Fund a sum equal to the amount paid into such fund in respect of the property of such deceased Muslim

Wakf property
not to be used
by Wakf
Commissioners
towards another
wakf while
latter wakf
property exists

20. It shall not be lawful for the Wakf Commissioners to utilize any property or any revenue from any property the subject of a wakf for any purpose connected with another wakf so long as there still exists any property the subject of such latter wakf

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Provided that, if satisfied that any property the subject of a wakf Khairi is urgently in need of a ny expenditure for repairs or for any other purpose the Wakf Commissioners may, notwithstanding that there exists property the subject 5 of such wakf, utilize the revenue arising from property the subject of some other wakf Khairi for the purpose if the Wakf Commissioners are satisfied that—

- (a) such revenue is not then required in connexion with such latter wakf Khairi, and
- 10 (b) the amount of the revenue so utilized will, without prejudice to the purposes of the wakf in connexion with which it is used, be repaid out of the property of such wakf within five years from the date of being so utilized
- 15 21. The Wakf Commissioners shall keep in respect of each wakf a Maintenance and Reserve Fund into which shall be paid before any payment is made for the purpose of carrying out the intentions of the maker of the wakf such sum as in the opinion of the Wakf Commissioners is necessary 20 to maintain and preserve the property the subject of the wakf

Maintenance
and
Reserve Funds

Provided that the balance on hand in any such Maintenance and Reserve Fund shall not at any time exceed thirty per cent of the value of the property the subject of the wakf

- 22. (1) If, in respect of any wakf—
- 25 (a) the intentions of the maker—
 - (i) are unlawful or unascertainable, or
 - (ii) are incapable of being carried into effect, or
 - (iii) cannot reasonably be carried into effect, or
- (b) the beneficiaries are unascertainable, or
- 30 (c) any surplus revenue remains after making the payments required by section 21 of this Ordinance and after carrying into effect the intentions of the maker of the wakf,

Moneys to be
paid into the
Surplus Fund

the Wakf Commissioners shall pay into the Surplus Fund 35 created under section 19 of this Ordinance the proceeds of sale of any such property the subject of a wakf as is mentioned in paragraphs (a) and (b) of this section and any such surplus revenue as is mentioned in paragraph (c) of this sub-section

(2) The Wakf Commissioners shall have power to place 40 on deposit in any bank or to invest in and upon such investments and securities as are allowed by law for the investment of trust funds any moneys standing to the credit of the Surplus Fund and income derived therefrom shall be paid to the credit of the General Administration Fund

45 23. (1) There shall be charged by the Wakf Commissioners a fee of such amount as may from time to time be prescribed for the management of wakfs vested in the Wakf Commissioners Until any other fee is prescribed the Wakf Commissioners shall charge a fee at the rate of five per cent 50 per annum of the revenue of the property of wakf Khairi and ten per cent per annum of the revenue of the property of a wakf Ahli

(2) The money derived from such fees shall be paid into the General Administration Fund and shall be utilized by the 55 Wakf Commissioners first in defraying the expenses of management and the surplus shall be used for such charitable purposes as the Wakf Commissioners may consider proper

(3) No fees shall be prescribed under sub-section (1) of this section except after the passing of a resolution for that 60 purpose by the majority of the Commissioners present at a meeting of the Wakf Commissioners convened for the purpose

Allowances to
Commissioners

24. The Wakf Commissioners may pay to any commissioner such allowance as the Wakf Commissioners may fix

Provided that the payment of any such allowance shall only be made after a resolution for the purpose has been passed by a majority of the commissioners present at a meeting of the Wakf Commissioners ⁵

Accounts and
audit

25. The Wakf Commissioners shall keep proper accounts of all property and money which comes into their hands and such accounts shall be audited by an auditor ¹⁰ approved by the Governor at such times as the Governor may direct

Banking
accounts

26. The Wakf Commissioners shall open a banking account or banking accounts into which all moneys received by the Wakf Commissioners shall be paid and out of which ¹⁵ all payments authorized by the Wakf Commissioners shall be made Any such banking account shall be operated by the Chairman, or a commissioner appointed under paragraph (a) of sub-section (1) of section 6 of this Ordinance and the Secretary ²⁰

Rules

27. The Wakf Commissioners may, with the approval of the Governor, make rules generally for the better carrying out of the provisions of this Ordinance and for prescribing anything required by this Ordinance to be prescribed

Repeal
Cap 47

28. The Wakf Commissioners Ordinance is repealed ²⁵

Provided that—

- (a) all wakf property registered under the Ordinance hereby repealed shall be deemed to have been duly registered under this Ordinance,
- (b) all wakf property vested in the Wakf Commissioners ³⁰ for the Colony and Protectorate of Kenya under the provisions of the Ordinance hereby repealed and the benefit and burden of all contracts, choses in action and obligations to which such Wakf Commissioners were entitled or subject at the commencement of this Ordinance shall upon such commencement, vest in the Wakf Commissioners constituted under this Ordinance

MEMORANDUM OF OBJECTS AND REASONS

This Bill will repeal and re-enact with amendment the law relating to wakfs Under the existing law doubt has been cast on the validity of wakfs made for certain purposes and one of the main objects of this Bill will be to declare a wakf made for any such purpose to be a lawful and valid wakf if it is otherwise made in accordance with Muslim law *Clause 4* of the Bill will provide for this

The other principal changes to the existing Ordinance are set out hereunder

Under the existing Wakf Commissioners Ordinance, wakf is not defined It is considered desirable that there should be such a definition and that a wakf Khairi and a wakf Ahli should also be separately defined and that the expression trustee should be the subject of definition These new definitions will be found in *clause 2*

Under the existing Ordinance the Wakf Commissioners consist of five persons *Clause 6* of the Bill will provide for the Wakf Commissioners to consist of eight persons, four of whom are to be appointed by the Governor and four to be elected by the Commissioners appointed by the Governor Provision is made for four of the existing Commissioners to continue to serve The clause also contains provision for the persons elected as Commissioners to hold office for a period of three years with provision for one to retire after one year and one after two years All will, however, be eligible for re-election

Under the existing Ordinance all wakf property in respect of which there is no properly constituted trustee vests automatically in the Wakf Commissioners. This Bill will not vest such property automatically but clause 11 will contain provision for the vesting of wakf property in the Wakf Commissioners on the application, in the case of a wakf Khairi, of the trustee or trustees, and in the case of a wakf Ahli, of the trustees, with the consent of the majority of the beneficiaries and clause 12 will enable the Wakf Commissioners, on their own motion, in the case of a wakf Khairi, and on the motion of the majority of the beneficiaries of a wakf Ahli to hold an inquiry if it appears that in relation to a wakf either—

- (a) there is no properly constituted trustee or trustees, or
- (b) any trustee is acting in an improper or unauthorized manner,

and if the Commissioners find either to be the case they may make an order declaring that the property shall in future be administered by the Wakf Commissioners or by some person or persons appointed by them to be a trustee or trustees.

Clause 15 will provide that no title to wakf property can be acquired by adverse possession or by reason of any law of prescription.

Clause 16 will prohibit the building of a mosque in pursuance of the intentions of the maker of a wakf without first obtaining the consent of the Wakf Commissioners. This provision will ensure that a mosque is not built in an area in which it is not required nor without adequate funds for its proper maintenance.

Clause 20 will prohibit the use of the property of one wakf for the benefit of any other wakf while there exists any property the subject of such latter wakf. A proviso to the clause will enable this to be done, however, in certain circumstances and subject to certain safeguards set out in the proviso.

Clause 24 will provide for the fees to be charged by the Wakf Commissioners for the management of wakfs vested in them.

The provisions of this Bill will not, if they become law, result in additional expenditure of public moneys.

Nairobi,
16th January, 1950

K K O'CONNOR,
Attorney General

GOVERNMENT NOTICE NO 106

The Governor in Council has approved of the following Bill being introduced into the Legislative Council

T V N FORTESCUE,
Acting Clerk to the Legislative Council

ARRANGEMENT OF SECTIONS

SECTION	SECTION
1—Short title	16—Offences
2—Interpretation	17—Endorsement and cancellation of licence
3—Limitation of licences under the Ordinance	18—Signboards to be exhibited
4—Traders to be licensed	19—Hawkers' licences
5—Application for licences	20—Servants of hawkers
6—Forms of licences	21—Power to refuse licence in certain circumstances
7—Licence fees	22—Exemption
8—Period of validity of licence	23—Licensee responsible for acts of employee
9—Transfer of licences	24—Rules
10—Issue of duplicate licences	25—Penalty
11—Licences to be exhibited at place of business	26—Power to exempt any trade or person or to reduce fee
12—Licences to be produced for inspection	27—Repeal
13—Power of entry	
14—Books to be kept	
15—Value of goods may be determined by administrative police or licensing officer	SCHEDULES

**A BILL ENTITLED
AN ORDINANCE TO MAKE BETTER PROVISION FOR
THE LICENSING OF TRADERS AND TO FIX THE
FEES PAYABLE FOR LICENCES AND FOR OTHER
MATTERS INCIDENTAL THERETO AND CONNECTED THEREWITH**

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 Traders' Licensing Ordinance, 1951

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

“caterer” means any person who carries on the business of supplying food or drink for consumption on the premises at which such food or drink is supplied by persons other than persons who reside and are boarded on such premises,

“commercial traveller” means any person who, not being ordinarily resident in the Colony, solicits orders for goods on behalf of any other person, but does not include a person employed as a traveller by a person licensed under this Ordinance,

“commission agent” or “indent agent” means any person resident in the Colony who orders goods from abroad on account of others,

“hawker” means any person who, whether as a principal agent or employee, carries on the business of offering or exposing goods for sale, barter or exchange elsewhere than at a fixed price,

“licensee” means the holder of a licence issued under the provisions of this Ordinance,

“licensing officer” means the Commissioner of Inland Revenue, any district officer or any other person whom the Governor may, by notice in the Gazette, appoint either by name or by office to be a licensing officer,

“local authority” means—

(a) a municipality established under the Municipalities Ordinance or

(b) a district council established under the Local Government (District Councils) Ordinance, or

(c) an African district council established under the African District Councils Ordinance, 1950, or

5 (d) the district commissioner of any township established under the Townships Ordinance or

(e) the district commissioner of any place or district in respect of which no municipality, district council African district council or township has been

10 established,

"manufacturer's representative" means any person resident in the Colony who receives his remuneration only in the form of commission paid by the firm or firms he represents

15 "municipality" means a municipality established under the Municipalities Ordinance,

"township" means a township established under the Townships Ordinance;

20 "shop" means any building or part thereof or any place whether or not such a place is a building, in or at which goods are sold or exposed for sale but does not include a canteen holding a Canteen Liquor Licence under the Liquor Ordinance,

25 "trade" means the sale or exposure for sale in a shop of goods for the purpose of profit and "trading" shall be construed accordingly

3. Nothing in this Ordinance shall be deemed to entitle the holder of a licence under this Ordinance to sell any article or substance for the sale of which a separate licence is required by any law for the time being in force in the Colony

Limitation of licences under the Ordinance

30 4. (1) A licensing officer shall have power to issue licences under this Ordinance

Traders to be licensed Offences

(2) No person shall trade, or carry on the business of a commercial traveller, or of a commission agent or indent agent, or of a manufacturer's representative or of a caterer 35 unless he is the holder of a valid licence issued by a licensing officer under this Ordinance

(3) If any person contravenes the provisions of this section, he shall be liable for a first offence to a fine not exceeding one thousand shillings or in default of payment to 40 imprisonment for any term not exceeding two months, and for a second or subsequent offence to a fine not exceeding five thousand shillings or in default of payment to imprisonment for a term not exceeding six months

Provided that no person who held a valid licence on the 45 thirty-first day of December of the preceding year shall be prosecuted for trading during the period between the first day of January and the thirty-first day of March inclusive in any year without a trading licence, if he takes out the appropriate trading licence before the expiration of that period

50 5. (1) Every application for a licence, other than a hawker's licence, shall be in the form set out in Schedule A to this Ordinance

Application for licence

(2) Every such application shall be made and signed by the owner or by the manager or other duly authorized agent 55 of the owner of the business to which the application relates

Provided that a licence may be issued without a written application if the applicant applies in person and the licensing officer is satisfied that the applicant has not sufficient knowledge of the English language to enable him to apply in writing

No 12 of 1950

Cap 133

Cap 136

Cap 133

Cap 266

- (3) Where an application is for a licence to trade—
 (a) in a shop in a municipality or township, the applicant shall satisfy the licensing officer that he has complied with the requirements of any by-laws relating to the carrying on of the trade to which the application relates,
 (b) in a shop to which the provisions of the Shops in Rural Areas Ordinance applies, the applicant shall produce a valid licence under the aforesaid Ordinance,
 (c) in a shop elsewhere, the applicant shall produce a valid certificate issued by the district commissioner of the district in which such shop is situated that the premises are suitable and properly sited for the carrying on of the trade to which the application relates and that the applicant has complied with the requirements of any by-laws of the local authority relating to the carrying on of any such trade

and no licence shall be issued unless the applicant complies with the provisions of this sub-section

(4) Where any licensing officer refuses to issue a licence to any person on the ground that the applicant has not complied with the relevant provision of sub-section (3) of this section the applicant may appeal to the Member whose decision shall be final

Forms of licences

6. (1) A licence issued under section 4 of this Ordinance shall be in the form set out in Schedule B to this Ordinance

(2) A hawker's licence shall be in the form set out in Schedule C to this Ordinance

Licence fees

7. (1) The fees payable for licences issued under the provisions of this Ordinance shall be as follows—

(a) for a trading licence for each shop with liberty to store in and deliver out of public and other godowns and warehouses three hundred and seventy-five shillings per annum

Provided that for each shop when the value of the goods on hand during the year for which the licence is required exceeds two thousand shillings but does not exceed six thousand shillings at any one time during the period of validity of the licence the fee shall be one hundred and twelve shillings and fifty cents per annum

Provided further that for each shop when the value of the goods on hand during the year for which the licence is required does not exceed at each shop two thousand shillings at any one time during the period of validity of the licence the following fees shall be payable—

(i) in municipalities, townships and trading centres forty-five shillings per annum,

(ii) elsewhere fifteen shillings per annum

(b) for a commercial traveller's licence—

(i) for three months three hundred and seventy-five shillings,

(ii) for more than three months but not exceeding twelve month six hundred shillings,

(c) for a licence to carry on the business of a commission agent, indent agent or manufacturer's representative or more than one such business three hundred and seventy-five shillings per annum,

(d) for a caterer's licence—

- (i) in respect of premises situated within a municipality or township twenty shillings per annum,
- (ii) in respect of premises situated elsewhere fifteen shillings per annum,

5 (e) for a hawker's licence one hundred and fifty shillings per annum or forty-five shillings or three months

For the purposes of this sub-section the expression "goods on hand" shall be deemed not to include any domestic produce not for sale direct to the consumer

15 (2) If the value of any goods on hand at any time during the validity of a licence exceeds the value stated in the declaration contained in the form of application for a licence in Schedule A to this Ordinance, the licensee shall forthwith pay to the licensing officer the difference between the licence fee actually paid and the licence fee payable under this section for a licence authorizing the keeping on hand of goods to the value actually on hand

20 Provided that in the case of a licence issued after the thirtieth day of June in any year the licensee shall be required to pay only half of the difference as aforesaid

25 (3) A licensing officer may, in the case of any shop in respect of which the licensee has not paid the maximum fee for a trading licence under paragraph (2) of sub-section (1) of this section, require any insurer of goods on hand in such shop to disclose the value for which such goods are insured

30 (4) Any person who fails to comply with the provisions of sub-section (2) or who fails to obey a requirement under sub-section (3) of this section or who knowingly makes any false statement in the form of application for a licence in Schedule A to this Ordinance shall be guilty of an offence against this Ordinance

8. (1) Every licence under this Ordinance, other than a hawker's licence, shall become due to be taken out on the first day of January in each year and shall expire on the thirty-first day of December next following

Period of validity of licence

Provided that a licence to carry on the business of a commercial traveller may be taken out upon any day in each year

40 (2) Where a licence, other than a commercial traveller's licence, is due after the thirtieth day of June in any year, the fee for such licence shall be one-half of the annual fee specified in this Ordinance

9. (1) A trading licence may, by endorsement of a licensing officer and on payment of a fee of five shillings, be transferred to different premises

Transfer of licences

(2) Upon good reasons being adduced therefor a trading licence may, by endorsement of a licensing officer and on payment of a fee of ten shillings, be transferred to another person

50 **10.** A licensing officer, on being satisfied that a licence issued by him under this Ordinance has been lost or destroyed and on payment to him of a fee of five shillings, shall issue a duplicate licence to the licensee

Issue of duplicate licences

11. Every licence, other than a commercial traveller's or hawker's licence, shall be exhibited in a prominent place in the premises to which it relates or, if the business is not carried on in any particular premises, such licence shall be kept at the place where the person who carries on the business usually resides

Licences to be exhibited at place of business

Licences to be produced for inspection

12. Every licence issued under this Ordinance shall be produced for inspection to any administrative officer, police officer, or licensing officer on reasonable notice being given by him

Power of entry

13. (1) Any administrative officer, police officer or licensing officer may enter any shop or premises in respect of which a licence has been issued under this Ordinance, and may require to be furnished with such information as will enable him to determine whether or not the provisions of this Ordinance are being complied with

(2) Any administrative officer, police officer or licensing officer may enter any shop or premises in respect of which a licence has not been issued under this Ordinance but in which he has good reason to suspect that there is carried on any business or trade for which a licence is required under this Ordinance, and may require to be furnished with any information he may deem to be necessary

Books to be kept

14. Every licensee shall keep such books as may be prescribed by rules made under this Ordinance

Value of goods may be determined by administrative, police or licensing officer

15. In the case of a trader licensed under the first or second proviso to paragraph (a) of sub-section (1) of section 7 of this Ordinance, the nature of the trade carried on and value of the goods on hand at any one time may be determined by any administrative officer, European police officer or licensing officer, or, at the option and expense of the licensee an official valuer appointed under the Brokers Ordinance

Cap 283

Offences

16. Any person who—

(a) contravenes the provisions of section 11 of this Ordinance, or
(b) fails to produce his licence when notice has been given to him to do so under section 12 of this Ordinance, or

(c) fails to furnish any information required from him under the provisions of section 13 of this Ordinance, or

(d) fails to keep the books required to be kept under the provisions of section 14 of this Ordinance, or

(e) obstructs or hinders any administrative or police officer or licensing officer in the exercise of his duties under the provisions of this Ordinance,

shall be guilty of an offence against this Ordinance

Endorsement and cancellation of licence

17. (1) Any licensee who is convicted—

(a) of giving short change, short measure or weight or of not keeping such books as may be prescribed under section 14 of this Ordinance, or of any breach of this Ordinance or of any rule made thereunder, or

(b) of any offence mentioned in Chapter XXX or Chapter XXXI of the Penal Code, or

(c) of an offence under the Trade Marks Ordinance or the United Kingdom Designs (Protection) Ordinance,

shall, in addition to any penalty to which he may otherwise be liable be liable in the discretion of the court to have his trading licence endorsed, or cancelled with effect from such date as the court may consider necessary to enable him to dispose of his existing stocks, and to be debarred from obtaining another licence for such period as the court may determine

(2) Where any licence has been endorsed pursuant to the order of a court every such endorsement shall be inserted on

Cap 24

Cap 293

Cap 296

any renewal of such licence issued within a period of two years from the date of such endorsement

(3) If within such period of two years the licence of any licensee is endorsed in respect of three offences such licence is hereby declared to be cancelled and the licensee shall not for a period of five years be granted any licence under this Ordinance

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

Cap 27

18. Every person who is liable under the provisions of this Ordinance to take out a licence, and who has a shop, office or other place of business shall exhibit at such shop, office or other place of business a signboard or name-plate bearing in legible English characters the name under which he carries on business

Signboards
to be exhibited

19. (1) No person shall hawk goods in any district of the Colony unless he holds a hawker's licence, for the time being in force authorizing him to do so, issued under the provisions of this Ordinance

Hawkers'
licences

(2) A hawker's licence shall not be issued except the applicant therefor produces to the licensing officer a permit in the form set out in Schedule D to this Ordinance issued by the local authority of the district within which the applicant proposes to hawk goods. Every such permit shall specify the district within which and the conditions subject to which the applicant may hawk goods

(3) A hawker's licence shall authorize the person to whom it is issued to hawk goods only within the district and subject to the conditions specified in a permit issued by a local authority pursuant to sub-section (2) of this section

(4) Any person who—
 (a) hawks goods without having a valid licence so to do, or
 (b) being the holder of a valid licence, hawks goods in breach of any conditions specified in the permit mentioned in sub-section (3) of this section,
 shall be guilty of an offence against this Ordinance

20. (1) Subject to the provisions of sub-section (2) of this section, where any person employs more than one servant to hawk goods on his account such person shall be liable to take out a licence and to pay the fees hereof for each such servant

Servants of
hawkers

(2) A hawker shall not transfer his licence to any person

Provided that a licence shall not be deemed to have been transferred by reason only of its user by a servant of the licensee if such licensee employs only one servant for such purpose but nothing in this proviso shall be taken as exempting a licensee from taking out a licence in respect of each servant if more than one is employed for such purpose

(3) Every person required by this section to be provided with a hawker's licence shall carry the same with him and shall produce the same on the demand of an administrative officer, licensing officer or police officer

(4) The provisions of section 19 and of this section of this Ordinance shall not apply to—

- (a) a commercial traveller,
 (b) a person hawking only goods in respect of which no licence under this Ordinance is required for the sale thereof in a shop,
 (c) a person selling fish, poultry, vegetables, eggs, fruit, milk, victuals, firewood charcoal, newspapers or native handicrafts,
 (d) a person selling religious or instructive literature

(5) Any person who acts in contravention of any of the provisions of this section shall be guilty of an offence against 10 this Ordinance

Power to refuse licence in certain circumstances

21. A licensing officer may in his discretion refuse a licence to a person who has had his licence cancelled under the provisions of section 17 of this Ordinance, or who is a minor, or who is an undischarged bankrupt. If a licensing 15 officer in exercise of the powers conferred upon him by this section refuses a licence, the person to whom such licence has been refused may appeal to the Governor whose decision shall be final

Exemption

22. Persons engaged in any one of the following businesses 20 shall not merely in respect of such businesses be liable to take out a trading licence under this Ordinance—

- (a) the business or trade of a planter, farmer, stock raiser, market gardener or dairymen disposing of his own produce, but not including a manufacturer of 25 sugar or a manufacturer of tea or a manufacturer of roasted coffee,
 (b) a business for which a licence is taken out under any law for the time being in force relating to intoxicating liquor in respect of brewers or traders dealing 30 solely in intoxicating liquors
 (c) the business of mining under the authority of a prospecting right, an exclusive prospecting licence, a location or a mining lease granted under the Mining Ordinance, or the Oil Production Ordinance, or any 35 legislation substituted therefor,
 (d) the business of an auctioneer, broker or coffee dealer,
 (e) any other business or trade, in respect of which a licence is required to be taken out under any other 40 law for the time being in force in the Colony, to which the Governor may, by notice in the Gazette extend the provisions of this section

Cap 168
Cap 171

Licensee responsible for acts of employee

23. (1) Any licensee under this Ordinance who employs in his shop, office or other place of business any agent, clerk 45 or other person shall be answerable for the acts of such agent, clerk or other person in so far as they concern the business of such licensee in relation to this Ordinance, and if such agent, clerk or other person commits any act which is an offence against the provisions of this Ordinance, such licensee and his 50 agent, clerk or other person shall be jointly and severally liable to the forfeiture, fines and penalties thereby incurred

(2) The licensee shall not be allowed to plead as a bar to the proceedings taken against him that any such agent, clerk or other person who may have committed such offence 55 did so without his authority, or was not acting in the capacity of an agent, clerk or other person employed

Rules

24. The Member may make rules—

- (a) prescribing forms of application, forms of licences and any other forms required for the better carrying out of the provisions of this Ordinance,

- (b) prescribing the books to be kept by a licensee, the matters in relation to which such books shall be kept and the particulars to be recorded in them,
- (c) amending or revoking the forms set out in Schedules
5 A, B, C or D of this Ordinance,
- (d) generally for the better carrying out of the provisions
of this Ordinance

25. Any person who is guilty of an offence against this
Ordinance shall, if no other penalty is imposed by this Ordinance,
10 be liable on conviction for each offence to a fine not exceeding one thousand shillings and in default of payment to imprisonment for a term not exceeding six months

26. The Governor may exempt any trade or any person carrying on any trade from the operation of this Ordinance
15 either generally or in any area, or he may waive or reduce the fee payable under this Ordinance either in respect of any trade or by any person carrying on any trade if, in his opinion, such exemption or reduction is desirable in the interests of the community or for any other reason which may seem to him to
20 be sufficient

27. The Traders' Licensing Ordinance is repealed

Penalty

Power to
exempt any
trade or person
or to reduce
feeRepeal
Cap 279

SCHEDULE A

COLONY AND PROTECTORATE OF FENYA

THE TRADERS LICENSING ORDINANCE, 1951

FORM OF APPLICATION FOR A LICENCE
(Section 5)

(A separate form must be completed in respect of each licence applied for)

- 1 Name under which the business is to be carried on
- 2 Full address where the business is to be carried on
- 3 Name of proprietor, partner or owning company
- 4 Full description of the business for which a licence is required
- 5 State number and date of licence previously held, or state date of commencing business
- 6 State period for which licence is required
- 7 Is your stock insured against fire
- 8 If so, for what amount
- 9 Name of insurance company
- 10 State if you are a minor
- 11 State if you are an undischarged bankrupt
- 12 State if licence previously endorsed or cancelled

I hereby certify that the information given in this application is true and correct

*Signature of applicant**Designation**Date*

The following declaration must be completed by an applicant for a licence to carry on business as a trader for the purposes of sub-section (2) of section 7 of this Ordinance

In respect of the licence for which I make application I hereby declare that the value of the goods on hand will not at any time during the period of the validity of the said licence exceed Sh

Date

Signature

For Official Use only

Licence No	Date	Fee
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Issued in the name of
in respect of premises situate at
under section

Station

Registered

Licensing Officer

SCHEDULE B

COLONY AND PROTECTORATE OF KENYA THE TRADERS LICENSING ORDINANCE, 1951

LICENCE

(*Section 6 (1)*)

Place where issued

Licence is hereby granted to
of (*address*)
to carry on the business of
on premises situated at

This licence expires on the thirty-first day of December, 19
Fee paid (*in words*)

(Sh)

Date

Licensing Officer

SCHEDULE C

COLONY AND PROTECTORATE OF KENYA THE TRADERS LICENSING ORDINANCE, 1951

HAWKER'S LICENCE

(*Section 6 (2)*)

Place where issued

Licence is hereby granted to
to hawk goods in the District of the Colony
for a period of months

This licence expires on the day of ,
19

Fee paid (*in words*)

(Sh)

Date

Licensing Officer

SCHEDULE D

COLONY AND PROTECTORATE OF KENYA THE TRADERS LICENSING ORDINANCE, 1951

HAWKER'S PERMIT

(*Section 19 (2)*)

Permission is hereby granted to
of
to obtain a licence to hawk goods during the period ending 31st
December, 19 , within the district of
subject to the conditions specified in the Schedule hereto

Dated at this day of
19

Local Authority

SCHEDULE

Conditions

MEMORANDUM OF OBJECTS AND REASONS

This Bill repeals and re-enacts the Traders Licensing Ordinance (Cap 279). Since that Ordinance was enacted in 1935, conditions in the Colony have so altered that it is considered necessary that the law should be brought into line with the changes which have taken place.

The principal differences between the provisions of this Bill and those of the Ordinance which the Bill will replace are effected by—

- (a) clause 4 whereby the provision requiring certain traders to be licensed is extended to include the business of an indent agent and the business of a caterer.
- (b) clause 5 which, by *sub-clause* (3), makes it a condition precedent to the grant of a licence that—
 - (i) an applicant wishing to trade within a municipality or township shall satisfy the licensing officer that he has complied with the requirements of any by-laws relating to the carrying on of the trade to which the application relates,
 - (ii) an applicant wishing to trade in a shop to which the provisions of the Shops in Rural Areas Ordinance (Cap 115) applies shall produce a valid licence under that Ordinance,
 - (iii) an applicant wishing to trade elsewhere shall produce a valid certificate issued by the District Commissioner of the district in which his shop is situated that the premises are suitable and properly sited for the carrying on of the trade to which the application relates, and that the applicant has complied with the requirements of any by-laws of the local authority relating to the carrying on of any such trade. *Sub-clause* (4) of clause 5 provides that where a licence is refused under the provisions of *sub-clause* (3) the applicant may appeal to the Member whose decision shall be final.
- (c) clause 7 which, by *sub-clause* (3), empowers a licensing officer in respect of any shop for which the maximum fee for a trading licence has not been paid, to require any insurer of goods on hand in such shop to disclose the value for which such goods were insured.
- (d) clause 17 which, by *sub-clause* (1), makes provision for the endorsement of a licence upon the licensee being convicted of certain offences, and by *sub-clause* (2) provides that an endorsement made on a licence pursuant to the order of a court shall be inserted on any renewal of such licence issued within a period of two years from the date of such endorsement, under *sub-clause* (3) if any licence is endorsed in respect of three offences within the period of two years the licence is declared to be cancelled and the licensee is debarred for a period of five years from obtaining a licence under the Ordinance.
- (e) clause 19 which requires an applicant for a hawker's licence to produce to the licensing officer a permit issued by the local authority of the district within which the applicant proposes to hawk goods specifying the district within which and the conditions subject to which the applicant may hawk goods,
- (f) clause 25 whereby the general penalty for an offence under the Ordinance has been increased to a fine not exceeding one thousand shillings or imprisonment in default of payment for a term not exceeding six months.

It is not possible to say whether any additional expenditure of public moneys will be incurred if the provisions of this Bill become law. It is proposed that a portion of the revenue from licence fees shall be applied in enforcing the provisions of the Ordinance.

Nairobi,
11th January, 1951

K. K. O'CONNOR,
Attorney General

GOVERNMENT NOTICE NO 107

The Governor in Council has approved of the following Bill being introduced into the Legislative Council

T V N FORTESCUE,
Acting Clerk to the Legislative Council

**A BILL ENTITLED
AN ORDINANCE TO AMEND THE INCREASE OF
RENT (RESTRICTION) ORDINANCE, 1949**

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

Short title

No 22 of 1949

Amendment of
section 4 of
the principal
Ordinance

1. This Ordinance may be cited as the Increase of Rent (Restriction) (Amendment) Ordinance, 1951, and shall be read and construed as one with the Increase of Rent (Restriction) Ordinance, 1949, hereinafter referred to as the principal Ordinance

2. Section 4 of the principal Ordinance is amended in the following respects—

(a) by adding at the end of sub-section (1) the words "The Governor may also in like manner appoint a Deputy Chairman of either or both such Boards", 10

(b) by substituting for sub-sections (2), (3), (4) and (5) the following sub-sections—

(2) The Chairman of each such Board shall be a barrister or a solicitor, or an advocate of the Supreme Court of Kenya, in each case of not less 15 than five years' standing, or shall be a person who has held high judicial office

(3) The Governor may, if he thinks fit, appoint—

(a) the same person to be Chairman of the 20 Central Board and of the Coast Board,

(b) the same person to be Deputy Chairman of the Central Board and of the Coast Board

(4) The Chairman or the Deputy Chairman, if any, and any two members of the Central Board or 25 of the Coast Board, as the case may be, shall constitute a quorum. All matters considered by either of the said Boards shall be decided by the votes of the majority of the Chairman or the Deputy Chairman and members present and voting, and, in the event 30 of an equality of votes, the Chairman or the Deputy Chairman, as the case may be, shall have a casting vote

(5) The Member of the Executive Council for the time being responsible for Commerce and Industry may appoint, either generally or for any particular period, a person (who need not be a member of the Central Board or the Coast Board) to act as Chairman or Deputy Chairman, as the case may be, of either of those Boards or of both, in the absence 40 or inability to act of the Chairman or Deputy Chairman respectively

3. Sub-section (3) of section 5 of the principal Ordinance is amended by substituting for the words "twenty-five shillings" the words "seventy shillings"

Amendment of
section 5 of
the principal
Ordinance

4. Sub-section (1) of section 13 of the principal Ordinance is amended by substituting for paragraph (a) thereof (as inserted by the Increase of Rent (Amendment) Ordinance, 1949) the following paragraph—

Amendment of
section 13 of
the principal
Ordinance
No 61 of 1949

5 (a) in the case of a dwelling house, by an amount not exceeding ten per centum, and in the case of business premises, by an amount not exceeding twenty per centum, of the standard rent as at the commencement of this Ordinance

10 Provided that where such rent has previously been increased under the provisions of any Rent and Mortgage Interest (Restrictions) Ordinance in force before the commencement of this Ordinance, the increase now permitted shall be limited to such sum as is required to make the total increase up to ten per centum or twenty per centum, as the case may be, of the standard rent,

15 5. There shall be inserted next after section 23 of the principal Ordinance the following new section—

Insertion of
new section in
the principal
Ordinance

20 23A (1) Where a landlord of any furnished premises wishes to remove the furniture or soft furnishings, or any of them, with which such premises were let he may, upon giving to the tenant notice of his intention so to do, remove the same or such portion of the furniture or soft furnishings to which the notice relates

Landlord may
remove
furniture, etc

25 (2) The period of any notice given under sub-section (1) of this section shall be the period (if any) specified in the lease or tenancy agreement for removal of the furniture or soft furnishings or, if no such period be specified, one month

30 (3) Where a landlord gives a notice as aforesaid which relates only to a portion of the furniture or soft furnishings the tenant may, within fourteen days after receipt of such notice, by writing under his hand require the landlord to remove within one month all the furniture and soft furnishings and if the landlord refuses or neglects so to do he shall be deemed to have withdrawn the notice

35 (4) Where a landlord removes the furniture or soft furnishings with which the premises were let furnished, or any of them, the standard rent of the premises shall be reduced—

40 (i) if the whole of the furniture or soft furnishings or both are removed, by the percentage or by the respective percentages of the value thereof which was or were added to the standard rent in accordance with paragraph (b) of the definition of standard rent in section 2 of this Ordinance,

45 (ii) if part only of the furniture or of the soft furnishings or of both is removed, by such proportion as the Board may think reasonable of the percentage or of the respective percentages of the value thereof as was added to the standard rent in accordance with the said paragraph

50 (5) In this section the expression "soft furnishings" shall be deemed to include linen, cutlery, kitchen utensils, glassware and crockery, if any

MEMORANDUM OF OBJECTS AND REASONS

Experience has shown that the Increase of Rent (Restriction) Ordinance, 1949 (hereinafter referred to as the principal Ordinance), requires considerable amendment. Some of the amendments are urgently needed and as it is not possible to introduce at the February sitting of the Legislative Council a Bill to effect all these amendments it has been decided to introduce this short Bill to make those which are of an urgent nature.

It has been found in practice that the existing words of sub-section (2) of section 4 of the principal Ordinance do not permit the appointment of a person who has held high judicial office as Chairman of a Rent Control Board when he has not the qualifications which the sub-section now requires. *Clause 2 (b)* will amend the law so as to enable this to be done.

Clause 2 will also amend sub-sections (1), (3), (4) and (5) of section 4 so as to permit the appointment of a Deputy Chairman of each Rent Control Board, to enable the same person to be appointed Deputy Chairman both of the Central and of the Coast Board, and to enable the Member to appoint a person to act either as Chairman or as Deputy Chairman in the absence or inability to act of the Chairman or Deputy Chairman respectively.

Clause 3 will amend sub-section (3) of section 5 of the principal Ordinance so as to empower the Central Board and the Coast Board to delegate their powers under the Ordinance to an administrative officer or other person authorized by the Board in respect of cases relating to dwelling houses the standard rent of which does not exceed seventy shillings. The existing power of delegation is limited to dwelling houses having a standard rent of not more than twenty-five shillings.

Opportunity has been taken to replace the proviso to paragraph (a) of sub-section (1) of section 13 of the principal Ordinance which was omitted by inadvertence when that paragraph was amended by Ordinance No 61 of 1949 (*Clause 4*).

Clause 5 will insert a new section 23A which will by sub-section (1) empower a landlord who has let furnished premises to remove the furniture upon giving the period of notice (if any) required therefor by the original contract of tenancy or, if no such provision exists in the contract, one month's notice. Sub-section (3) of the new section will enable a tenant who has received a notice from the landlord of an intention to remove only some of the furniture or furnishings to require the landlord to remove all and if he refuses or neglects to do so the landlord is deemed to have withdrawn the notice.

Sub-section (4) of the section will provide that when a landlord removes the furniture or soft furnishings or any part thereof the standard rent shall be reduced by the percentage or percentages or such proportion thereof as the Board may think reasonable of the value of the furniture or soft furnishings which was taken into account in assessing the standard rent of the premises.

It is not possible to say whether any additional expenditure of public moneys will be incurred if the provisions of this Bill become law.

Nairobi,
17th January, 1951

K K O'CONNOR,
Attorney General

GOVERNMENT NOTICE No 108

The Governor in Council has approved of the following Bill
being introduced into the Legislative Council

T V N FORTESCUE,
Acting Clerk to the Legislative Council

ARRANGEMENT OF SECTIONS

SECTION	SECTION
PART I—PRELIMINARY	34—Dealer's permit
1—Short title and commencement	35—Restriction on import
2—Interpretation	36—Restriction on export
PART II—GAME RESERVES ROYAL GAME, SANCTUARIES, CLOSE SEASONS CONTROLLED AREAS	37—Power of Member to restrict movement of meat
3—Game reserves	38—Animal or trophy acquired in contraven- tion of this Ordinance the property of Government
4—Royal game	
5—Local sanctuaries	
6—Close seasons	
7—Controlled areas	
PART III—HUNTING KILLING, CAPTURING AND PHOTOGRAPHING OF ANIMALS	
8—Prohibition of hunting, killing, capturing or photographing animals without a licence or permit	PART V—PREVENTION AND DETECTION OF OFFENCES AND PENALTIES
9—Restriction on assistance to hunt game animals and photographing dangerous animals	39—Production of licence or permit
10—Self defence	40—Power to enter on land
11—Protection of crops and stock	41—Power to search baggage, vehicles, premises, and to confiscate, etc
12—Licences and fees	42—Power to arrest persons suspected of an offence
13—Special licences	43—Personation of game officer, etc
14—Game Warden's permit	44—Power to act as Public Prosecutor
15—Permit to capture	45—Penalties
16—Permit to photograph a dangerous animal	46—Cancellation of licence or permit
17—Assistant's permit	47—Suspension of licence by Member
18—Hunting in native areas or Northern Province requires District Commissioner's permit	48—Obtaining licence by unqualified person an offence
19—Consent to hunt on private land required	49—Licences not transferable
20—Licence does not entitle hunting in National Parks	50—Power of court to award part of fine
21—Obligation to kill wounded animals and prohibition of cruelty and maiming	
22—Wounding of dangerous animals must be reported	
23—Obligation to keep register	PART VI—GENERAL
24—Animals to count on permit or licence	51—Employment of officers
25—Animals killed by accident or in error	52—Honorary game wardens
26—Game animals found the property of Government	53—Delegation of powers and duties by Game Warden
27—Prohibition of hunting during hours of darkness	54—Game Warden may prescribe forms to be used
28—Restrictions on use of motor-cars, air- craft and vessels	55—Duplicate of lost licence
29—Restriction on use of dogs	56—Directions to licensing officers
30—Restrictions on use of traps, snares, pits, poison, fire, etc	57—Powers of Member to alter schedules or fees and to prescribe
31—Power to prohibit methods of hunting	58—Application of Ordinance to non-game animals
PART IV—TROPHIES AND LIVE ANIMALS	59—Appeal to Member
32—Prohibition of unlawful possession of game animals or trophy or meat	60—Governor in Council may make regula- tions
33—Restriction on sale of animals, trophies or meat	61—Compliance with Arms and Ammunition Ordinance, Cap 302, required
	62—Repeal
	SCHEDULES
	I—Game Reserves, section 3
	II—Royal Game, section 4—Part I—Pro- tected throughout the Colony Part II— Protected in certain areas
	III—Game animals, Ordinary Licences, sec- tion 12
	IV—Game animals, Special Licences, sec- tion 13
	V—Register of game animals, section 23

A BILL ENTITLED
**AN ORDINANCE TO REPEAL THE GAME ORDIN-
ANCE AND TO MAKE FURTHER AND BETTER
PROVISION FOR THE PRESERVATION AND
CONTROL OF WILD ANIMAL LIFE**

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

PART I—PRELIMINARY

1. This Ordinance may be cited as the Wild Animals Protection Ordinance, 1951, and shall come into operation on a day to be appointed by the Governor by notice published in the Gazette

Short title and
commencement

Interpretation

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

“aircraft” means any type of aeroplane airship, balloon or kite, whether captive, navigable or free and whether controlled or directed by human agency or not 5

“animal” means any vertebrate animal other than a domestic animal, but does not include a human being,

“capture” includes the taking of an egg,

“competent officer” means any magistrate, justice of the peace, police officer of or above the rank of assistant inspector, forest officer of or above the rank of assistant forester or game officer, 10

“dangerous animal” means an elephant a rhinoceros a hippopotamus, a buffalo, a lion or a leopard,

“flesh” includes fat and blood 15

“forest officer” has the meaning assigned to it by the Forest Ordinance,

“game animal” means an animal specified in the Second, Third or Fourth Schedules to this Ordinance

“game officer” means the Game Warden, any European officer of the Game Department appointed under section 51 of this Ordinance and any honorary game warden appointed under section 52 of this Ordinance 20

“Game Warden” means the Game Warden appointed under section 51 of this Ordinance 25

“to hunt” includes wilfully to molest and to disturb any nest or eggs,

“Kenya National Parks’ Trustees” means the Kenya National Parks’ Trustees established under the National Parks Ordinance, 30

“licence” means a licence granted under this Ordinance

“a licence of the Class A category” means a licence, other than a licence of the Class B category, an employee’s licence and a bird licence which may be granted under section 12 of this Ordinance, 35

“a licence of the Class B category” means a licence which, under section 12 of this Ordinance may be granted to any person within one of the categories mentioned in sub-section (7) of that section,

“licensing officer” means any person appointed by the Commissioner of Inland Revenue to be a licensing officer for the purpose of this Ordinance, 40

“meat” means the meat of any game animal and includes the dried pickled or otherwise preserved flesh of such animal,

“national park” and “national reserve” have respectively the meanings assigned thereto by the National Parks Ordinance, 45

“owner” in relation to private land includes a lessee, a mortgagee in possession and any person authorized by the owner, mortgagee or lessee to act on his behalf in his absence, 50

“permit” means a permit granted under this Ordinance,

“police officer” has the meaning assigned to it by the Police Ordinance, 1948

“private land” means any land held under a conveyance, lease or licence, but does not include— 55

(a) any land being part of the native land units as defined by the Native Lands Trust Ordinance,

(b) any land being part of the lands described in the Fourth, Fifth, Sixth Eighth and Ninth Schedules to the Crown Lands Ordinance, or 60

(c) any land held under a temporary occupation licence issued under the Crown Lands Ordinance,

“subordinate officer” means any police officer below the rank of assistant inspector, any forest officer below the rank of assistant forester, any employee of the Game Department below the rank of game officer or any tribal police officer acting within the area for which he has been appointed, 65

Cap 176

Cap 215

Cap 215

No 79 of 1948

Cap 100

Cap 155

Cap 155

"tribal police officer" means a person appointed to be a tribal police officer under the Tribal Police Ordinance, 1929, No 10 of 1929

"trophy" means any horn, tooth, tusk, bone, claw, hoof, skin, hair, feather, egg or other durable part, of any game animal, whether added to or changed by the work of man or not, which is in such form as to be recognizable as a durable part of a game animal

PART II—GAME RESERVES, ROYAL GAME, SANCTUARIES, CLOSE SEASONS, CONTROLLED AREAS

10 3. (1) The areas described in the First Schedule to this Game reserves Ordinance are hereby declared to be game reserves

(2) The Governor in Council may, with the approval of the Secretary of State from time to time by Proclamation, declare any other portion of the Colony to be a game reserve, 15 and may in like manner alter the limits of, or abolish, any game reserve established under this Ordinance

(3) Save as in this Ordinance otherwise expressly provided, no person shall hunt, kill or capture any animal, or photograph any dangerous animal, within a game reserve

20 4. (4) No person, other than a person employed in the public service acting in pursuance of his duty, shall carry a fire-arm within a game reserve unless he has received permission to do so from the administrative officer in charge of such area, or from the Game Warden

25 Provided that nothing in this sub-section shall prohibit any person from carrying a fire-arm while such person is proceeding along a public road within a game reserve

(5) Any dog found at large and not under control within a game reserve may be destroyed by order of the administrative officer in charge of the area, or of a game officer

(6) Any person being within a game reserve shall conform to and obey all lawful orders and directions issued by the administrative officers in charge of the area, or by a game officer

35 (7) Any person who contravenes the provisions of sub-section (3) or sub-section (4) of this section, or who fails to comply with the provisions of sub-section (6) of this section shall be guilty of an offence against this Ordinance

4. (1) The animals specified in the Second Schedule to Royal game this Ordinance shall be known as Royal Game, and shall not be hunted, killed or captured in the areas specified therein save as in this Ordinance otherwise expressly provided

(2) Any person who hunts, kills or captures any Royal Game in contravention of the provisions of this Ordinance 45 shall be guilty of an offence against this Ordinance

5. (1) The Member may, by notice in the Gazette, declare Local sanctuaries that in any specified area (in this Ordinance called a "local sanctuary"), it shall be an offence to hunt, kill or capture any specified animal

50 (2) The area of any local sanctuary proclaimed under sub-section (1) of this section shall not exceed ten square miles

(3) Save as in this Ordinance otherwise expressly provided, no person shall hunt, kill or capture in a local sanctuary any animal in respect of which such local sanctuary has been 55 declared

(4) Any person who hunts, kills or captures any animal in contravention of sub-section (3) of this section shall be guilty of an offence against this Ordinance

Close seasons

6. (1) The Member may, by notice in the Gazette, and any such notice may be in relation to the whole Colony or to any specified part thereof, declare that during any specified period (in this Ordinance called a "close season"), it shall be an offence to hunt, kill or capture any specified animal ⁵

(2) Save as in this Ordinance otherwise expressly provided, no person shall hunt, kill or capture any animal in respect of which a close season has been declared during such close season within the area to which such close season refers

(3) Any person who hunts, kills or captures any animal ¹⁰ in contravention of sub-section (2) of this section shall be guilty of an offence against this Ordinance

Controlled areas

7. (1) The Member may, by notice in the Gazette, proclaim any area of the Colony which is not under the control of the Kenya National Parks' Trustees or a game reserve or ¹⁵ private land to be a controlled area (in this Ordinance called a "controlled area")

(2) No licence or permit granted under the provisions of this Ordinance shall entitle the licensee or permit holder to photograph, hunt, kill or capture any game animal or to assist ²⁰ any other person to photograph, hunt, kill or capture any game animal within a controlled area unless such licensee or permit holder has been granted a permit in writing so to do (in this Ordinance called a "controlled area permit")

(3) A controlled area permit shall be issued by the Game ²⁵ Warden who may in his discretion refuse to grant a controlled area permit to any person without assigning any reason for such refusal and may attach such conditions and restrictions to such permit as he may see fit

(4) The Member may, by notice in the Gazette, specify ³⁰ the fee that shall be payable in respect of a controlled area permit relating to any controlled area or any specified locality within such area or any specified animal therein, and as from the date on which such notice becomes effective such fee shall be payable for such permit All such fees shall be paid to the ³⁵ African District Council in whose district such controlled area or specified locality is situate or to such other fund as the Governor may direct

(5) Any person who—

(a) photographs, hunts, kills or captures or assists any ⁴⁰ other person to photograph, hunt, kill or capture any game animal in any controlled area without having first obtained a controlled area permit, or

(b) having been granted a controlled area permit, photographs, hunts, kills or captures or assists any other ⁴⁵ person so to do in contravention of any condition or restriction contained in such permit,

shall be guilty of an offence against this Ordinance

(6) The grant of a controlled area permit shall not exempt the holder from complying with the provisions of section ⁵⁰ 18 of this Ordinance or with the provisions of the Outlying Districts Ordinance

Cap 44

PART III—HUNTING, KILLING, CAPTURING AND PHOTOGRAPHING OF ANIMALS

8. (1) Save as otherwise expressly provided in this Ordinance no person shall— ⁵⁵

(a) hunt, kill or capture any game animal specified in the Third and Fourth Schedules to this Ordinance

except under and in accordance with the conditions of a valid licence or permit so to do granted to him under this Ordinance,

5 (b) photograph any dangerous animal except under and in accordance with the conditions of a valid permit so to do granted to him under this Ordinance

(2) Any person who hunts, kills or captures any game animal or who photographs any dangerous animal in contravention of the provisions of this Ordinance shall be guilty 10 of an offence against this Ordinance

9. (1) Save as otherwise expressly provided in this Ordinance, no person, other than an African or Somali, shall assist any other person to hunt, kill or capture any game animal, or to photograph any dangerous animal, except under and in 15 accordance with the conditions of a permit so to do granted to him under this Ordinance

(2) Any person who assists any other person to hunt, kill or capture any game animal or to photograph any dangerous animal in contravention of the provisions of this section shall 20 be guilty of an offence against this Ordinance

10. (1) Notwithstanding anything to the contrary in this Ordinance a person may kill any animal in defence of himself or in defence of any other person if immediately and absolutely necessary

25 Provided that nothing in this sub-section shall be deemed to exonerate any person who, at the time of killing any animal in self defence or in defence of any other person, was committing any offence against this Ordinance

(2) The provisions of section 24 of this Ordinance shall 30 apply to any game animal killed in accordance with the provisions of sub-section (1) of this section

35 (3) Except as provided by sub-section (3) of section 32 of this Ordinance, or by section 24 of this Ordinance, when any game animal is killed in accordance with the provisions of sub-section (1) of this section, such animal and any trophy or meat thereof shall be the property of the Government

40 (4) When any animal is killed in accordance with the provisions of sub-section (1) of this section and any trophy or meat of such animal is declared by sub-section (3) of this section to be the property of Government the person killing such animal shall make a report of the facts at the earliest possible moment after the killing of such animal to the nearest competent officer and shall hand over to the Game Warden such trophies or meat as the Game Warden may direct

45 (5) Any person who fails to comply with the provisions of sub-section (4) of this section shall be guilty of an offence against this Ordinance

50 (1) Notwithstanding anything to the contrary in this Ordinance, any occupier of land or his servant or any owner of crops or stock or his servant, may, in necessary for the protection of his land, crops or stock, hunt and kill any game animal which is causing material damage or loss to his land or to any crops or stock thereon

55 (2) Except as provided by sub-section (3) of section 32 of this Ordinance, when any animal mentioned in the Second or Fourth Schedule to this Ordinance is killed pursuant to the provisions of sub-section (1) of this section, any trophy and meat of such animal shall be the property of the Government, and shall be dealt with as the Game Warden may direct

Restriction on assisting to hunt game animals and photographing dangerous animals

Self defence

Protection of crops and stock

(3) When any animal mentioned in the Second or Fourth Schedule to this Ordinance is killed pursuant to the provisions of sub-section (1) of this section, the person killing such animal shall make a report of the facts at the earliest possible moment after the killing of such animal to the nearest competent officer and shall hand over to the Game Warden such trophies and meat as the Game Warden may direct

(4) Any person who fails to comply with any of the provisions of sub-section (3) of this section shall be guilty of an offence against this Ordinance

10

**Licences
and fees**

12. (1) Subject to the provisions of this section and to any directions issued by the Member under section 56 of this Ordinance a licensing officer may, in his discretion, grant, or may refuse without assigning any reason for his refusal, any of the licences mentioned in Part I of the Third Schedule to this Ordinance upon payment of the appropriate fee specified in relation to such licence in the said Schedule

(2) Subject to the provisions of this Ordinance and to the conditions of the licence—

(a) a full licence shall entitle the licensee, for the period of one year from the date of the grant of such licence, to hunt and kill an animal specified in the first column of Part II of the Third Schedule to this Ordinance in the locality and to the number specified respectively in the second and third columns of such Schedule,

(b) a fourteen-day licence shall entitle the licensee to hunt and kill an animal specified in the first column of Part II of the Third Schedule to this Ordinance in the locality and to the number specified respectively in the second and fourth columns of such Schedule,

(c) a private land licence shall entitle the licensee for the period of one year from the date of the grant of such licence, with the consent of the owner of any private land to hunt and kill on such private land an animal specified in the first column of Part II of the Third Schedule to this Ordinance in unlimited numbers,

(d) an employee's licence may be granted only to the owner of private land and shall entitle any African or Somali employee of such owner who shall be named in the licence for the period of one year from the date of the grant of such licence, to hunt and kill on the land of his employer any animal specified in the first column of Part II of the Third Schedule to this Ordinance in unlimited numbers,

45

(e) a bird licence shall entitle the licensee, for the period of one year from the date of the grant of such licence, to hunt and kill any bird specified in the first column of Part II of the Third Schedule to this Ordinance in the locality and to the number specified respectively in the second and fifth columns of such Schedule,

and the provisions of paragraphs (a), (b), (c), (d) and (e) shall be deemed to be incorporated as conditions of the licence to which each such paragraph is respectively related

(3) No person shall during the period of the validity of any full licence held by him be granted another full licence or a fourteen day licence

(4) Subject to the provisions of sub-section (5) of this section, no person shall be granted a full licence or a fourteen-day licence until a period of at least six months has elapsed since the expiry of any previous fourteen-day licence held by him

(5) Any person who has been granted a fourteen-day licence may, within six months from the date of expiry of such licence, obtain the grant of a full licence by payment of the difference between the fee payable for a fourteen-day licence and the fee payable for a full licence. Such full licence shall expire one year from the date of the commencement of the fourteen-day licence by reason of which such full licence was obtained under this section, and any animal killed under the fourteen-day licence shall be deemed to have been killed under the full licence and shall count on that licence

(6) A private land licence may be converted at any time during its validity, into a full licence by payment of the difference between the fee payable for a private land licence and the fee payable for a full licence. Such full licence shall expire one year from the date of the commencement of the private land licence so converted

(7) A licence of the Class B category shall be granted only to a person who—

(a) normally resides in the Colony, or

(b) is an officer employed in the public service of the Protectorate of Uganda or the Trust Territory of Tanganyika, or

(c) is an officer on the active list of His Majesty's armed forces

Provided that no African or Somali shall be granted any such licence unless he has obtained the prior permission in writing of the Game Warden

(8) No person shall be granted a full licence of the Class A category or a fourteen-day licence of such category unless he has obtained the prior permission in writing of the Game Warden

13. (1) Subject to the provisions of this section and to any directions issued by the Member under section 56 of this Ordinance, a licensing officer may, in respect of an animal specified in Part I of the Fourth Schedule to this Ordinance, in his discretion grant to the holder of a full licence, or may refuse without assigning any reason for his refusal, any of the special licences mentioned in Part II of the said Schedule upon payment of the appropriate fee therein specified

Special licences

(2) During the period of the validity of any one full licence a special licence shall not be granted to any person in respect of more than—

(a) two elephants,

(b) two rhinoceros,

(c) two giraffes,

- (d) one leopard,
- (e) one lion,
- (f) one cheetah
- (g) two ostriches
- (h) three colobus monkeys.
- (i) three blue monkeys

5

(3) No special licence shall be granted under this section except upon production by the applicant of a full licence granted to him under section 12 of this Ordinance and upon the grant of any special licence the licensing officer shall *10* endorse on such full licence particulars of the special licence granted

(4) Every special licence granted under this section shall remain valid until the animal the hunting and killing of which it authorizes has been killed or deemed to have been killed *15* under sub-section (6) of this section or until the expiration of the licensee's full licence in relation to which such special licence was granted whichever shall first occur

(5) A special licence granted under this section shall be in the prescribed form and shall entitle the licensee, subject *20* to the provisions of this Ordinance and to the conditions of the licence, to hunt and kill the animal specified in such special licence on land other than private land or, with the consent of the owner thereof, on private land

(6) For the purposes of a special licence under this section *25* if an elephant or rhinoceros is wounded and escapes it shall be deemed to have been killed

(7) Any person who kills any animal the hunting and killing of which is the subject of a special licence granted under this section, or who is deemed by sub-section (6) of this *30* section to have killed any such animal, shall make a report to the Game Warden as soon as is reasonably practicable thereafter, stating the number of the licence authorizing the hunting and killing of the animal, the date on which and the place at which the animal was killed or deemed to have been killed *35* and, if the animal was killed the weights of every tusk of ivory or rhinoceros horn, as the case may be, obtained from the animal

Game Warden's
permit

14. (1) Notwithstanding anything to the contrary in this Ordinance the Game Warden, with the approval of the Member, may, in his discretion, grant to any person, or may refuse without assigning any reason for his refusal, a permit (in this Ordinance called "a Game Warden's permit") which shall entitle such person, subject to the provisions of sections 18, 19 and 20 of this Ordinance, to hunt and kill any animal in *45* any place, at any time and by any means.

(2) A Game Warden's permit shall be subject to whatever conditions the Game Warden may impose in his absolute discretion

(3) There shall be paid for a Game Warden's permit such *50* fee, if any, as the Game Warden may, at the time of the grant of such permit, fix

(4) Save as may be expressly provided by the conditions of such permit, the holder of a Game Warden's permit shall

be subject to the provisions of this Ordinance and any holder of a Game Warden's permit who fails to comply with any of the conditions of such permit or of the provisions of this Ordinance, if liable thereto shall be guilty of an offence against
5 this Ordinance

15. (1) Notwithstanding anything to the contrary in this Ordinance the Game Warden may in his discretion grant to any person, or may refuse without assigning any reason for his refusal, a permit (in this Ordinance called "a permit to capture") which shall entitle such person, subject to the provisions of sections 18, 19 and 20 of this Ordinance, to hunt and capture any game animal

(2) Such permit shall be valid for such period as the Game Warden may in his discretion determine, and shall be
15 subject to whatever conditions the Game Warden may impose in his absolute discretion

(3) There shall be paid for a permit to capture such fee, if any, as the Game Warden may, at the time of the grant of such permit, fix

20 (4) Save as may be expressly provided by the conditions of such permit, the holder of a permit to capture shall be subject to the provisions of this Ordinance, and every holder of a permit to capture who fails to comply with any of the conditions of such permit or of the provisions of this Ordinance, if
25 liable thereto, shall be guilty of an offence against this Ordinance.

16. (1) No person may photograph any dangerous animal unless he has been granted by the Game Warden a permit (in this Ordinance called "a permit to photograph a dangerous animal") entitling him to photograph such dangerous animal

(2) The Game Warden may grant or refuse such permit in his discretion and need not assign any reason for his refusal and such permit shall be subject to whatever conditions the Game Warden may in his absolute discretion impose

35 (3) A permit to photograph a dangerous animal shall not entitle the holder to photograph such animal in a game reserve unless it has been endorsed by the Game Warden as valid for use in such game reserve

(4) Nothing in this Ordinance shall be deemed to require 40 a person to obtain a permit to photograph a dangerous animal—

(a) if he is the holder of any licence or permit granted to him entitling him to hunt and kill or capture that animal, or

45 (b) if such person does not approach to within a distance of one hundred yards of such animal, or

(c) if such animal is within a national park or a national reserve

(5) Any person who photographs a dangerous animal in 50 breach of any of the provisions of this section or who being the holder of a permit to photograph a dangerous animal fails to comply with any of the conditions of such permit shall be guilty of an offence against this Ordinance

Assistant's
permit

17. (1) The Game Warden may in his discretion grant to any person, or may refuse without assigning any reason for his refusal, a permit (in this Ordinance called "an assistant's permit") which shall, subject to the provisions of this section, entitle such person to assist the holder of a licence or permit to hunt, kill, capture or photograph any animal which such holder of a licence or permit is entitled to hunt, kill, capture or photograph under his licence or permit

(2) An assistant's permit shall not entitle the person to whom it is granted to shoot at any animal except when immediately and absolutely necessary in defence of himself or of any other person, or to prevent the escape of an animal already wounded

(3) If the holder of an assistant's permit kills or wounds any animal which he is not entitled under this Ordinance to hunt and kill, such animal shall be deemed to have been killed or wounded by the person whom he is assisting, and if a licence or permit held by the person whom he is assisting, entitles such person to hunt and kill an animal of that species, such animal shall be deemed to have been hunted and killed under the licence or permit of the person he is so assisting

Provided that nothing in this sub-section shall be deemed to exonerate the holder of an assistant's permit from any breach of the provisions of sub-section (2) of this section

(4) Except in the case of an assistant's permit entitling a person to assist the holder of a full or a fourteen-day licence of Class A, an assistant's permit shall be issued without any charge. There shall be charged for an assistant's permit entitling a person to assist the holder of a full or fourteen-day licence of Class A such fee as may be prescribed

30

(5) An assistant's permit shall be subject to whatever conditions the Game Warden may impose in his absolute discretion and be valid for such period as the Game Warden may determine

Provided that an assistant's permit for which a fee has been charged under sub-section (4) of this section shall be valid for a period of one year from the date upon which it was granted

(6) Any holder of an assistant's permit who fails to comply with any of the conditions of such permit shall be guilty of an offence against this Ordinance

Hunting in
native areas or
Northern
Province requires
District
Commissioner's
permit

18. (1) No licence or permit granted under this Ordinance shall entitle the licensee or permit-holder to hunt, kill or capture any game animal other than a bird specified in the Third Schedule to this Ordinance, or to assist any other person to hunt, kill or capture any such animal in any district in any native land unit, native reserve, native leasehold area, or in the Northern Province, unless such licensee or permit-holder has also been granted a permit in writing (in this Ordinance called "a District Commissioner's permit") by the administrative officer concerned permitting him to hunt, kill or capture in such district or Province

(2) The fee for a District Commissioner's permit shall be such fee, if any, as may be prescribed and a fee may be prescribed either in respect of such permits generally or in any specified area or district. Any such fees shall be paid to the African District Council concerned or into any other fund which the Governor may direct

(3) (a) An administrative officer may at his discretion grant or refuse to grant a District Commissioner's permit to any person without assigning any reason for such refusal, and may attach such conditions as he thinks fit to any such permit granted by him

(b) Any person who has been refused a District Commissioner's permit, or is aggrieved by the conditions attached to such permit, may appeal to the Member whose decision shall be final.

10 (4) Any person who has been refused a District Commissioner's permit by an administrative officer of any district or Province shall if he applies for such a permit to any other administrative officer of that district or Province disclose the fact of such refusal

15 (5) A District Commissioner's permit shall not be deemed to exempt the person to whom it is granted from compliance with the provisions of the Outlying Districts Ordinance

Cap 44

(6) Any person who—

20 (a) hunts, kills or captures or assists any other person to hunt, kill or capture, any game animal in contravention of the provisions of this section,

(b) having been granted a District Commissioner's permit fails to comply with any of the conditions attached to such permit, or

25 (c) applies for a District Commissioner's permit in contravention of the provisions of sub-section (4) of this section,

shall be guilty of an offence against this Ordinance

19. (1) No person, other than the owner, shall hunt, kill or capture any game animal on private land except with the

Consent to hunt
on private land
required

30 consent of the owner of such private land

(2) Any person who hunts, kills or captures any game animal in contravention of the provisions of sub-section (1) of this section shall be guilty of an offence against this Ordinance

20. (1) No licence or permit granted under this Ordinance shall entitle any person to hunt, kill, capture or photograph any animal in a national park or in a national reserve

Licence does
not entitle
hunting in
national parks

35 (2) Any licensee or permit-holder being within a national park or in a national reserve shall be subject to all the provisions of the National Parks Ordinance, and any regulations made thereunder which are applicable to such national park or national reserve, and shall conform to and obey all lawful orders and directions issued by an administrative officer in charge of such area or by an officer in the service of the Kenya National Parks' Trustees or by a game officer

Cap 215

40 (3) Any person being within a national park or national reserve shall be subject to the provisions of this Ordinance, unless the provisions of this Ordinance conflict with any of the provisions of the National Parks Ordinance, in which case the provisions of the National Parks Ordinance shall prevail.

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Cap 215

(4) Except as is provided by sub-section (3) of this section, any person who, in a national park or national reserve, contravenes or fails to comply with any of the provisions of this Ordinance or of any proclamation or notice made thereunder or who commits a breach of any condition or restriction subject to which any licence or permit has been granted under this Ordinance, or who fails to comply with any lawful order given to him by any person pursuant to any power conferred by this Ordinance shall be guilty of an offence against this Ordinance

Obligation to kill wounded animal and prohibition of cruelty and maiming

21. (1) Any person who in any circumstances whatsoever wounds any animal and fails without reasonable cause to make every endeavour at the first possible opportunity to kill such animal, and any person accompanying or assisting such person who holds a valid licence or permit entitling him to hunt and kill an animal of such species or who holds an assistant's permit, who fails without reasonable cause to use every endeavour at the first possible opportunity to assist such person to kill such animal shall be guilty of an offence against this Ordinance 10

(2) Any person who, in any circumstances whatsoever, causes unnecessary or undue suffering to any animal shall be guilty of an offence against this Ordinance

(3) Any person who is in possession of, or who has in his control or keeping, any live animal which has been maimed or mutilated shall be guilty of an offence against this Ordinance 15

Wounding of dangerous animals must be reported

22. (1) Every person who in any circumstances whatsoever, wounds but does not kill a dangerous animal shall make a report (in this Ordinance called a "danger report") as soon as may be practicable after the failure of his efforts to kill such animal has resulted in the loss of such animal to an administrative officer of the district or area in which the wounding occurred and, wherever possible, to a game officer 20

(2) A danger report shall specify the animal wounded, the time, date and place at which it was wounded, the type of wound and the weapon by which it was inflicted, the efforts made to kill the animal after it was wounded, the time and place at which the animal was lost and any other information which might be of use in locating or identifying the animal 25 30

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(3) If an animal is wounded but not killed in a demarcated forest or forest area as defined in the Forest Ordinance, a danger report shall also be made to the forest officer in charge of the area in which the wounding occurred

(4) If the animal wounded but not killed is an elephant or rhinoceros a danger report shall in addition be made to the Game Warden 35

(5) Where any elephant or rhinoceros is found dead and the Game Warden is satisfied that it is an animal which was wounded but not killed by a licensee or permit-holder entitled to hunt and kill such an animal and that such licensee or permit-holder— 40

(a) made the requisite danger reports, and

(b) after wounding the animal, used every endeavour to kill it, 45

he may, at his discretion, direct that any trophies of such animal be delivered to such licensee or holder of a permit

(6) A danger report shall whenever possible be made in person by the person who wounded the animal or by a person accompanying or assisting him at the time when such wounding took place 50

(7) Every person who fails to make any danger report required by this section or who does not make such danger report as soon as may be practicable after the loss of the animal shall be guilty of an offence against this Ordinance and upon conviction shall be imprisoned for a period not exceeding six months and in addition shall be liable to a fine not exceeding five thousand shillings, and any trophies of such animal, if the animal is found dead, shall be the property of the Government and shall be dealt with as the Game Warden may direct. 55 60

23. (1) Any person who has been granted a licence under the provisions of section 12 or 13 of this Ordinance, shall keep a register, in the form specified in the Fifth Schedule to this Ordinance, of all game animals killed by him, or deemed to have been killed by him under sub-section (5) of section 13 of this Ordinance, and shall record in such register any dangerous animal wounded and lost

Obligation to
keep register

Provided that it shall not be necessary to record in such register—

- 10 (a) the killing of any bird specified in the Third Schedule which may be killed in unlimited numbers, or
 (b) any animal, other than an animal mentioned in the Second or Fourth Schedules killed on private land

(2) Any person who has been granted a permit under the provisions of sections 14, 15, 16, 17 or 34 of this Ordinance shall keep a register in such form and containing such particulars as may be required by the Game Warden at the time the permit is granted

(3) Any licensee or holder of a permit granted under this Ordinance shall—

- (a) produce his register for inspection at any reasonable time upon being requested so to do by any competent officer,
 (b) furnish within a reasonable time a true copy of his register upon being requested so to do by the Game Warden
 (c) fails so to do, or
 30 (b) makes, or is privy to the making of, any false entry therein, or
 (c) fails to record therein any particulars which are required to be recorded therein, or
 (d) fails to produce his register upon the request of a competent officer, or
 35 (e) fails within a reasonable time to furnish a true copy of his register at the request of the Game Warden,
 shall be guilty of an offence against this Ordinance

24. (1) If any game animal is killed in any circumstances whatsoever or is deemed to have been killed pursuant to sub-section (6) of section 13 of this Ordinance by any licensee or holder of a permit under this Ordinance whose licence or permit entitles him to hunt and kill an animal of that species or by any person accompanying or assisting such licensee or holder of a permit, such animal shall count on such licence or permit

Animals to
count on permit
or licence

Provided however that if any person accompanying or assisting a licensee or holder of a permit is himself in possession of a licence or permit entitling him to hunt and kill an animal of the species killed by him then such animal shall count on the licence or permit of the person so accompanying or assisting

(2) Nothing in sub-section (1) of this section shall be deemed to apply to any game animal killed or wounded in accordance with the provisions of section 11 of this Ordinance

25. (1) Every person who kills a game animal by accident or in error shall as soon as may be practicable thereafter make a report of the facts to the nearest competent officer, and any

Animals killed
by accident or
in error

trophy and the meat of such animal shall be the property of Government, and shall be dealt with as the Game Warden may direct

(2) Nothing in sub-section (1) of this section shall be deemed to apply to any person killing a game animal by accident or in error if—

(a) such person is in possession of a licence or permit entitling him to kill an animal of that species and sex in the circumstances under which he killed such animal, and 10

(b) no offence against this Ordinance has been committed in relation to the killing of such animal

(3) The provisions of section 24 of this Ordinance shall apply to any game animal killed by accident or in error

(4) Any person who fails to comply with the provisions of sub-section (1) of this section shall be guilty of an offence against this Ordinance 15

Game animals found the property of Government

26. (1) Save as is provided by sub-section (3) of section 32 of this Ordinance, when any game animal is found dying or dead, or any part of any game animal is found, any trophy 20 and the meat of such animal shall be the property of the Government

(2) Nothing in sub-section (1) of this section shall apply to any animal which is found dying or dead either by a person who wounded it while hunting the animal under a licence or permit granted to him under this Ordinance or by any person accompanying or assisting such person 25

Prohibition of hunting during hours of darkness

27. (1) No person shall hunt or kill any game animal other than a bird specified in the Third Schedule to this Ordinance, during the hours of darkness, except with the permission in writing of the Game Warden which he may, in his discretion, grant or may refuse without assigning any reason for his refusal 30

(2) Nothing in sub-section (1) of this section shall apply to the hunting or killing of any game animal on private land by or with the consent of, the owner of such private land 35

(3) Any person who hunts or kills any game animal in contravention of the provisions of sub-section (1) of this section shall be guilty of an offence against this Ordinance

(4) In this section the expression "hours of darkness" means the period between one half-hour after sunset and one half-hour before sunrise 40

Restrictions on use of motor-cars, aircraft and vessels

28. (1) No person shall approach in a motor vehicle or aircraft to within five hundred yards of any game animal for the purpose of hunting, killing or capturing such animal 45

(2) No person shall use an aircraft for the purpose of locating a game animal in the course of hunting or killing such animal

(3) No person shall use a motor vehicle or mechanically propelled vessel or aircraft in such manner as to drive or stampede any game animal for any purpose whatsoever 50

(4) No person shall shoot at any game animal from a motor vehicle or aircraft, or from within two hundred yards of a motor vehicle or aircraft

(5) No person shall shoot at any game animal from any mechanically propelled vessel while such vessel is in mechanically induced motion 55

(6) Nothing in this section shall prohibit the use of a motor vehicle, mechanically propelled vessel or aircraft for—

(a) hunting, killing or capturing any game animal on private land by, or with the consent of, the owner of such private land, or

(b) driving away any animal from any civil or licensed aerodrome by any person concerned with the maintenance of such aerodrome, or driving away any animal from an emergency aerodrome by any person when necessary to ensure the safety of any aircraft which is about to land on or take off from such emergency aerodrome

(7) Any person who contravenes any of the provisions of this section shall be guilty of an offence against this Ordinance

15 29. (1) No person shall, without the permission in writing of the Game Warden which he may, in his discretion, grant or may refuse without assigning any reason for his refusal, use dogs for the purpose of hunting, killing or capturing any game animal

Restriction on
use of dogs

(2) Nothing in sub-section (1) of this section shall prohibit the use of dogs for—

(a) hunting, killing or capturing any bird specified in the Third Schedule to this Ordinance, or

(b) hunting, killing or capturing any game animal on private land by, or with the consent of, the owner of such private land

(3) Any person who uses a dog in contravention of the provisions of this section shall be guilty of an offence against this Ordinance

30 30. (1) No person other than the owner, or a person acting with the consent of the owner, of private land shall, except with the permission in writing of the Game Warden, set, or have in his possession for the purpose of setting, any set-gun, trap, gin, snare or net capable of killing or capturing any game animal

Restrictions on
use of traps,
snares, pits,
poison fire etc

(2) No person, other than the owner, or a person acting with the consent of the owner, of private land, shall, except with the permission in writing of the Game Warden, use fire or poison or dig pits for the purpose of hunting, killing or capturing any game animal

(3) No person shall, except with the permission in writing of the Game Warden, sell or dispose of by barter or exchange or in return for any consideration, any set-gun, trap, gin or snare capable of killing or capturing any game animal

45 45. (4) Any person who contravenes any of the provisions of this section shall be guilty of an offence against this Ordinance

31. 31. (1) The Member may, by notice in the Gazette, prohibit the hunting, killing or capturing of any animal by any specified means, weapon or missile or may by such notice impose such conditions or restrictions in respect of the use of any means, weapon or missile as he may see fit

Power to
prohibit methods
of hunting

(2) Any person who hunts, kills or captures any animal—

(a) by any means, weapon or missile the use of which has been prohibited, or

(b) in breach of any conditions or restrictions which have been imposed in respect of the use of the means weapon or missile used,

under sub-section (1) of this section shall be guilty of an offence against this Ordinance

PART IV—TROPHIES AND LIVE ANIMALS

Prohibition of
unlawful
possession of
game animals
or trophy
or meat

32. (1) No person shall be in possession of any game animal, trophy or meat, unless the possession thereof has been obtained by him in accordance with the provisions of this Ordinance

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(2) For the purposes of this section a game animal or trophy or meat shall be deemed to have been obtained by any person in accordance with the provisions of this Ordinance if no offence against this Ordinance, or against any Ordinance repealed by this Ordinance, has been committed in relation to ¹⁰ the animal, trophy or meat, and if—

(a) it was, immediately prior to the commencement of this Ordinance, lawfully in the possession of such person under the provisions of the Game Ordinance (hereby repealed), or ¹⁵

(b) it was obtained by such person under a licence or permit granted to him under this Ordinance, or

(c) it was acquired by such person as a gift, bequest or inheritance, from any person who obtained it in accordance with the provisions of this Ordinance or ²⁰ of the Game Ordinance (hereby repealed), or

(d) it was purchased by such person in accordance with the provisions of section 33 of this Ordinance, or

(e) it was obtained by such person in accordance with the provisions of section 35 or section 36 of this Ordinance, or ²⁵

(f) it was obtained by such person in accordance with the provisions of section 10 or section 11 of this Ordinance, and it is not thereby declared to be the property of the Government, or ³⁰

(g) it is possessed by such person pursuant to the provisions of sub-section (5) of section 22 or of sub-section (3) of section 38 of this Ordinance

(3) Notwithstanding anything to the contrary in this Ordinance any game animal being within a national park or ³⁵ national reserve, and any trophy or meat of any animal killed, found dead, or which died within a national park or a national reserve shall be deemed to be lawfully in the possession of the Kenya National Parks' Trustees

(4) The Game Warden may, on presentation to him of a ⁴⁰ trophy, issue a certificate of ownership in the prescribed form to any person who is in lawful possession of that trophy

(5) Any person in possession of a game animal or trophy or meat in contravention of the provisions of this section shall be guilty of an offence against this Ordinance ⁴⁵

Restriction on
sale of animals,
trophies or meat

33. (1) Notwithstanding anything in this Ordinance no person shall sell or dispose of by barter or exchange or in return for any consideration, any game animal or trophy or meat except—

(a) on the instructions of the Game Warden, or ⁵⁰

(b) under and in accordance with the conditions of a permit in writing from the Game Warden (in this Ordinance called a "sale permit"), for which no fee shall be payable

(2) Every person who sells or disposes of by barter or ⁵⁵ exchange or in return for any consideration any game animal, trophy or meat shall at the time of any such transaction deliver to the person buying or acquiring such animal, trophy or meat a sale permit in respect thereof upon which has been endorsed in ink the date of the transaction and the name of the person ⁶⁰ to whom the animal, trophy or meat is disposed of

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(3) No person shall buy or acquire by barter or exchange or in return for any consideration any game animal, trophy or meat unless at the time of the transaction he receives from the person from whom such animal, trophy or meat is being bought or acquired a sale permit in respect hereof duly endorsed in the manner required by sub-section (2) of this section

(4) Nothing in sub-sections (2) and (3) of this section shall be deemed to apply to any sale of a game animal, trophy or meat which is effected on the instructions of the Game Warden

10 (5) Every person who acts in contravention of, or fails to comply with, any of the provisions of this section shall be guilty of an offence against this Ordinance

34. (1) The Game Warden may in his discretion, grant, without charge, or may refuse without assigning any reason for his refusal, to any person a permit (in this Ordinance called a "dealer's permit") which shall entitle such person to deal in any game animal, trophy or meat as may be specified in the permit

(2) A dealer's permit shall be in the prescribed form and be subject to whatever conditions as the Game Warden may, in his absolute discretion, impose

(3) Nothing in this section shall be deemed to absolve the holder of a dealer's permit from compliance with the provisions of section 33 of this Ordinance

25 (4) Every holder of a dealer's permit who fails to comply with any of the conditions of such permit shall be guilty of an offence against this Ordinance

(5) Every person who deals in any game animal, trophy or meat otherwise than under and in accordance with the terms of a dealer's permit shall be guilty of an offence against this Ordinance

35. (1) No person shall import into the Colony any game animal, trophy or meat except—

(a) through a customs port of entry and

35 (b) he produces to the customs officer satisfactory evidence that such animal, trophy or meat has been lawfully exported from the country of origin

(2) It shall be the duty of a customs officer to detain any game animal, trophy or meat until satisfactory evidence as aforesaid is produced and if no such satisfactory evidence is produced within a reasonable time the game animal, trophy or meat shall be forfeited to the Government and disposed of as the Game Warden may direct

(3) If the country from which any game animal, trophy or meat is exported is not the country of origin it shall be sufficient if there is produced to the customs officer satisfactory evidence that such animal, trophy or meat was lawfully exported from the country of export

(4) Any game animal, trophy or meat introduced into the Colony in contravention of the provisions of this section shall be forfeited to the Government and shall be disposed of as the Game Warden may direct

36. (1) No person shall export or attempt to export any game animal, trophy or meat except—

55 (a) through a customs port of entry, and

(b) under and in accordance with the conditions of a permit from the Game Warden (in this Ordinance called an "export permit") which shall be issued free

Dealer's permit

Restriction on import

Restriction on export

of charge, and which the Game Warden, in his discretion, may grant or may refuse without assigning any reason for his refusal

(2) It shall be the duty of a customs officer to detain any game animal, trophy or meat until there is surrendered to him ⁵ an export permit in respect thereof and if an export permit is not surrendered to the customs officer within a reasonable time the game animal, trophy or meat shall be forfeited to the Government and shall be disposed of as the Game Warden may direct ¹⁰

(3) No person shall export from the Colony any live bird of a species which is found therein in a wild state except under and in accordance with the conditions of an export permit

(4) For the purposes of this section an animal which is protected in any territory contiguous to the Colony, or to the ¹⁵ Protectorate of Uganda or to the Trust Territory of Tanganyika, under any law in force in such territory relating to indigenous fauna, shall be deemed to be a game animal

(5) The provisions of this section shall not apply to any game animal, bird, trophy or meat— ²⁰

(a) in transit through the Colony if such game animal, bird, trophy or meat is accompanied by the necessary transit customs documents issued in the country of origin or of export of such game animal, bird, trophy or meat and is entered through a customs port of ²⁵ entry,

(b) if accompanied by any person who is in possession of and surrenders to a customs officer a certificate issued by a competent authority in the Protectorate of Uganda or the Trust Territory of Tanganyika ³⁰ certifying that such person is lawfully in possession of or is lawfully authorized to export such game animal, bird, trophy or meat and such person satisfies the customs officer—

(i) that the certificate was issued to such person, ³⁵
(ii) that such person is himself exporting the game animal, bird, trophy or meat from the Colony

(6) Any person who acts in contravention of or fails to comply with any of the provisions of this section shall be guilty of an offence against this Ordinance ⁴⁰

Power of Member to restrict movement of meat

37. (1) The Member may, by notice in the Gazette, prohibit the removal from any specified district or any specified area during any specified period of more than a specified quantity of meat obtained by any licensee or holder of a permit, and may attach such conditions to the movement of such meat ⁴⁵ as he may think fit

(2) Any person who moves meat in contravention of the provisions of this section or who fails to comply with any conditions attached to the movement of any such meat shall be guilty of an offence against this Ordinance ⁵⁰

Animal or trophy acquired in contravention of this Ordinance the property of Government

38. (1) Any game animal or trophy or meat which has not been obtained or acquired in accordance with the provisions of this Ordinance shall be the property of the Government

(2) Any person who kills an elephant which carries tusks ⁵⁵ weighing less than twenty-five pounds in the aggregate shall forfeit such tusks to the Government

(3) The Game Warden may, in his discretion, waive the right of the Government to the property in any game animal or trophy or meat

PART V—PREVENTION AND DETECTION OF OFFENCES AND PENALTIES

39. (1) Every licensee and every permit-holder under this Ordinance shall produce his licence or permit, and shall give his name and address in writing upon being requested so to do by any competent officer or subordinate officer

(2) Any person who without reasonable cause fails to comply with the provisions of sub-section (1) of this section, or gives a false name or address or writes his name or address illegally shall be guilty of an offence against this Ordinance

40. Any competent officer and any servant of the Game Department duly authorized in writing by the Game Warden to act under this section may enter upon any land for the purpose of carrying out the provisions of this Ordinance, or for the purpose of preventing or detecting any offence against this Ordinance

41. (1) Whenever any competent officer suspects that any person has committed or is committing an offence against this Ordinance or thinks it necessary for the purpose of verifying the register of a licensee or holder of a permit, he may inspect and search, or authorize any subordinate officer to inspect and search, any premises or tent or any baggage, package, wagon caravan, vehicle vessel or aircraft in the possession or under the control of such person, and if the competent officer or subordinate officer finds any game animal, trophy, meat or any article mentioned in sub-section (1) of section 30 of this Ordinance which appears to have been obtained or to be possessed in contravention of the provisions of this Ordinance, or finds any other article or weapon which appears to have been used or to be about to be used in contravention of the provisions of this Ordinance, such animal, trophy, meat, article or weapon may be seized and taken before a court

(2) Where it appears to the court that any offence against this Ordinance has been committed in relation to, or in connexion with, any animal, trophy, meat, article or weapon brought before the court in accordance with the provisions of sub-section (1) of this section, the court may order that such animal, trophy, meat, article or weapon shall be forfeited to, and become the property of the Government, and any such animal, trophy, meat, article or weapon shall thereafter be disposed of as the Game Warden may direct

42. (1) When any person is found committing an offence, or is reasonably suspected to have committed an offence, against this Ordinance, any competent officer or subordinate officer may demand his name and address, and if he refuses to give such information, or fails to give such information to the satisfaction of such competent officer or subordinate officer, or if such competent officer or subordinate officer has reasonable grounds for believing that unless arrested the offender will escape or cause an unreasonable amount of delay, trouble or expense in being made answerable to justice, he may arrest him forthwith

(2) Any person arrested pursuant to the provisions of sub-section (1) of this section shall be taken with all practicable speed before a court, and shall not be detained for longer than is necessary for such purpose

43. Any person who—

(a) falsely represents himself to be a game officer or a servant of the Game Department, or

(b) without lawful excuse, wears any uniform or carries or displays any badge, card, mark or other thing

Production of
licence or
permit

Power to enter
on land

Power to search
baggage,
vehicles,
premises, and
to confiscate, etc

Power to arrest
person suspected
of an offence

Personation
of game officer
etc

authorized by the Game Warden to be worn by a game officer or a servant of the Game Department or so nearly resembling any such uniform, badge, card, mark or other thing as aforesaid as to be calculated to deceive,

5

shall be guilty of an offence against this Ordinance

Power to act
as public
prosecutor

44. In any prosecution for an offence against this Ordinance, any game officer or any administrative officer may, subject to any directions of the Attorney General, exercise all the powers of a public prosecutor appointed under any Ordinance 10 for the time being in force in the Colony

Penalties

45. (1) Any person who is guilty of an offence against this Ordinance in relation to the killing or attempted killing of a rhinoceros, or of the unlawful possession of, or of the unlawful sale or disposal of, or of the unlawful purchase or 15 acquisition of or of the unlawful import or export of, or of any attempt to do any such unlawful act in relation to rhinoceros horn, shall upon conviction be imprisoned for a period not exceeding six months and in addition shall be liable to a fine not exceeding ten thousand shillings, and where 20 the offence relates to more than one rhinoceros in addition to such imprisonment and fine shall be liable to a further fine of three thousand shillings in respect of each additional rhinoceros

(2) Any person who is guilty of an offence against this 25 Ordinance in respect of any bird specified in the Third Schedule to this Ordinance, or of any animal not mentioned in any of the Schedules to this Ordinance shall be liable to a fine not exceeding five hundred shillings or to imprisonment for a period not exceeding two months, or to both such fine and 30 imprisonment

(3) Any person who is guilty of an offence against this Ordinance for which no penalty is expressly provided, shall be liable to a fine not exceeding five thousand shillings or to imprisonment for a period not exceeding six months, or to 35 both such fine and imprisonment, and where the offence relates to more animals than one in addition to such fine and imprisonment to a further fine in respect of each additional animal not exceeding two thousand shillings

Cancellation of
licence or permit

46. (1) The conviction of any person on or after the 40 date of the commencement of this Ordinance for an offence against this Ordinance or against the Ordinance repealed by this Ordinance shall have the effect of cancelling every licence or permit held by him as from the date of such conviction, unless the Game Warden otherwise directs

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(2) Any person who is convicted of an offence against this Ordinance, or who has been convicted of an offence against any Ordinance repealed by this Ordinance, or who has been convicted of an offence against any law for the time being in force relating to the preservation of game in the Protectorate 50 of Uganda or the Trust Territory of Tanganyika shall be disqualified from holding or obtaining any licence or permit under this Ordinance for a period of three years from the date of such conviction, unless the Game Warden otherwise directs

Suspension of
licence by
Member

47. The Member may suspend any licence or permit 55 issued under this Ordinance for such period as he may see fit and may, in his absolute discretion, refund a proportionate part of any fee paid

48. (1) Any person who for any reason is disqualified from holding any licence or class of licence or permit under this Ordinance, and who obtains or attempts to obtain such licence or class of licence or permit shall be guilty of an offence against this Ordinance

Obtaining licence by unqualified person an offence

(2) Any person who has been refused any licence or class of licence or permit under this Ordinance and who obtains or attempts to obtain such licence or class of licence or permit without disclosing to the licensing officer such refusal, shall be guilty of an offence against this Ordinance

49. (1) No licence or permit granted under this Ordinance shall be transferable

Licences not transferable

(2) Any person who gives, lends or otherwise transfers his licence or permit or any copy thereof to any other person, and any person who borrows, receives, displays or in any way uses a licence or permit or any copy thereof granted or issued to any other person shall be guilty of an offence against this Ordinance

Provided that nothing in this subsection contained shall be deemed to prohibit a person to whom an employee's licence has been granted from handing such licence to the employee whose name appears on such licence or to prohibit such employee from receiving, displaying and using such licence

50. Where in any proceedings under this Ordinance any fine is imposed, the court may award any sum not exceeding one-half of the total fine collected to be paid to any informer

Power of court to award part of fine

Provided that no such sum may be awarded to any person whose duties require him to assist in the administration of this Ordinance

30 PART VI—GENERAL

51. The Governor may appoint a Game Warden and such other officers as may be necessary for carrying into effect the provisions of this Ordinance

Employment of officers

52. The Game Warden may by notice in the Gazette appoint any person to be an honorary game warden for a period of not more than five years, and may in like manner renew such appointment for a further period of not more than five years on the expiry of each such period

Honorary game wardens

53. The Game Warden may delegate or assign to any officer appointed under section 51, or to an honorary game warden appointed under section 52 of this Ordinance any of the powers and duties conferred or imposed upon him by this Ordinance

Delegation of powers and duties by Game Warden

54. The Game Warden may by notice published in the Gazette prescribe the forms to be used for any application, permit, licence, certificate return or other document to be granted, issued or kept under the provisions of this Ordinance

Game Warden may prescribe forms to be used

55. Any licensee whose licence has been lost or destroyed may, at the discretion of the licensing officer who granted such licence, be issued with a copy of such licence upon payment of the prescribed fee

Duplicate of lost licence

56. The Member may issue directions for the guidance of licensing officers and such directions may—

Directions to licensing officer

(a) specify the qualifications which a person shall possess in order to be granted a licence of any particular type,

(b) specify the type of weapon which shall be used in hunting and killing any specified type of game animal,

(c) prohibit the granting of a licence to any person who is not in possession of, or able to obtain the lawful use of, a weapon suitable for hunting and killing any animal which the licence applied for by such person would entitle him to hunt and kill

5

(d) specify the conditions subject to which special licences generally or any designated class of special licence may be issued and limit the number of special licences which may be issued in respect of any specified animals or in respect of animals in any ¹⁰ specified area during any specified period

Powers of Member to alter Schedules or fees and to prescribe

57. (1) The Member may by notice in the Gazette—

(a) revoke, replace, amend or vary the Second, Third Fourth or Fifth Schedules to this Ordinance,

(b) prescribe anything which, being required under this ¹⁵ Ordinance to be prescribed no other authority is empowered to prescribe

(2) Any revocation, replacement amendment or variation of any of the Schedules referred to in paragraph (a) of sub-section (1) of this section shall, upon publication of the notice, ²⁰ apply to every valid licence or permit appertaining to any such Schedule

Application of Ordinance to non-game animals

58. (1) The Member may, by notice in the Gazette, declare that any provision of this Ordinance shall apply to any animal not mentioned in any of the Schedules to this Ordinance, and to any trophy or the meat of any such animal and such animal shall upon publication of such notice be deemed to be a game animal for the purposes of such provision

(2) Any person who contravenes or fails to comply with any provision of this Ordinance in respect of any animal to ³⁰ which such provision has been declared to apply by notice under sub-section (1) of this section shall be guilty of an offence against this Ordinance

Appeal to Member

59. Any person who is aggrieved by a refusal of the Game Warden or a licensing officer to grant him any licence or ³⁵ permit under this Ordinance may appeal to the Member whose decision shall be final

Governor in Council may make regulations

60. The Governor in Council may make regulations generally for better carrying out the provisions of this Ordinance and may fix penalties for the breach of such regulations ⁴⁰ not exceeding the penalties contained in this Ordinance

Compliance with Arms and Ammunition Ordinance required Cap 302

Repeal Cap 216

61. Nothing in this Ordinance shall exempt any person from compliance with the provisions of the Arms and Ammunition Ordinance

62. The Game Ordinance is repealed

45

FIRST SCHEDULE

(*Section 3*)

GAME RESERVES

1 *The Southern Reserve*

Commencing at a point on the right bank of the Ngong River where it intersects the south-western limit of the 100-feet railway reserve on L.R. No. 1140,

thence proceeding up-stream by the right bank of that river to its intersection with the eastern boundary of the Aerodrome Road,

thence southerly by that boundary of the road to its junction with the Langata Road,

thence south-westerly by the south-eastern boundary of the latter road to its junction with the Mbaga hi Road,

thence generally south-westerly by the south-eastern boundary of the latter road to its junction with the Mayadi Road

thence southerly by the eastern boundary of the latter road to the bridge over the Mbagathi River,

thence up-stream by the right bank of that river to a point near a stone beacon opposite the south-western corner of L.R. No. 7184/1

thence south-westerly by a straight line defined by beacons to the trigonometrical beacon Lamwia on the Ngong Hills,

thence north-westerly by a straight line to a trigonometrical beacon Ol Doinyo Nyukie on the summit of Mount Suswa

thence south-westerly by a straight line to Mosiro and onward by that straight line to the right bank of the Jaso Nyiro River,

thence down-stream by the right bank of that river to its intersection with the Kenya-Tanganyika boundary,

thence south-easterly by that boundary to beacon 56 (Usiri)

thence by a straight line to the source of the Rombo River,

thence down-stream by the left bank of that river to its confluence with the Tsavo River,

thence down-stream by the left bank of that river to a beacon at the southern extension of the Chyulu or Ngulia Range where the latter approaches the Tsavo River,

thence generally north-westerly by the foot of the eastern slopes of Chyulu or Ngulia Range to Mount Kchumbc,

thence north-westerly by a straight line to a beacon at the source of the Makindu River,

thence down-stream by the left bank of that river to its intersection with the south-western limit of the 100-feet railway reserve,

thence generally north-westerly by that 100 feet limit to the point of commencement

2 *The Northern Reserve*

Commencing on the bridge near Archer's Post at the intersection of the centre line of the Isiolo-Archer's Post-Ma sabit Road with the centre line of the Uaso Nyiro River,

thence up-stream by the centre line of that river to a point due south of a beacon on the north bank of the river (This beacon is near the big bend in the Uaso Nyiro River about one mile north of the junction of the Kirimun River with the Uaso Nyiro),

thence due north to that beacon,

thence northerly by a straight line for approximately one mile to a beacon on the side of and at the nearest point of the Wamba-Maralal motor road,

thence onwards by that straight line to the centre line of that motor road,

thence north-westerly by the centre line of that motor road to its intersection with the south-eastern boundary of the Maralal Trading Centre,

thence generally north-easterly, generally westerly and south-westerly by the boundary of that trading centre to its intersection with the centre line of the Maralal-Laragai motor road,

thence westerly by that centre line to its intersection with the centre line of the motor road which runs northerly to Poror and Baragoi,

thence generally northerly by that centre line to its intersection with the Sera Elbarta watercourse about half a mile north of Baragoi

thence by a straight line to the summit of Kowop,

thence by a straight line to the summit of Teleki's volcano,

thence due north by a straight line to the southern shore of Lake Rudolph,

thence easterly and northerly by that shore to a point due west of a beacon approximately three miles north of El Molo Island,

thence by a straight line to that beacon,

thence easterly by a straight line to a beacon on the western side of the Loiyangalani-Gus motor road,

thence onwards by that straight line to the centre line of that road,

thence north-easterly by that centre line to its intersection with the centre line of the Gus-Sandaslo Pass motor road,

thence south-easterly by that centre line to its intersection with the centre line of the Sirima-Kargi-Marsabit motor road,

thence generally easterly by that centre line to its intersection with the centre line of the Mega-Marsabit road,

thence generally south-easterly by that centre line to its intersection with the centre line of the Isiolo-Archer's Post-Marsabit road,

thence easterly by that centre line to its intersection with the boundary of the Marsabit Township,

thence south-easterly, easterly and northerly by the boundary of that township to its intersection with the centre line of the Marsabit-Gombo road track,

thence south-easterly by that centre line to its intersection with the boundary of the Gombo Landing Ground,

thence by a straight line to the summit of Matalamma Hill,

thence by a straight line to the waterhole at Karsa Gudas,

thence by a straight line to the summit of Ret Hill, and onwards by that straight line through a beacon on the eastern side of the Marsabit-Archer's Post-Isiolo road to its intersection with the centre line of that road,

thence generally southerly by that centre line to the point of commencement

(These boundaries are roughly delineated, bordered purple, on Boundary Plan 193/1 deposited in the Survey Records Office, Department of Lands, Mines and Surveys, Nairobi)

SECOND SCHEDULE

(Section 4)

ROYAL GAME

Part I—Protected Throughout the Colony

- 1 All game animals when obviously immature and all game animal mothers when accompanied by their obviously dependent young
- 2 Roan Antelope
- 3 Jackson's Hartebeeste
- 4 Hartebeeste of the sub-species Nakuru, Kenya, Neumann
- 5 Thomas' Cob
- 6 Yellow-backed Duiker
- 7 Greater Kudu, females
- 8 Eland, females
- 9 Lynx or Caracal
- 10 Bat-eared Fox
- 11 White Colobus Monkey
- 12 Aard Wolf
- 13 Pangolin or Scaly Anteater
- 14 Hyrax, all species
- 15 Herons, Egrets, Bitterns (*Ardeidae*), all species
- 16 Hammerkop (*Scopus umbretta*)
- 17 Storks (*Ciconiidae*), all species including Marabout
- 18 Ibises and Spoonbills (*Plegadidae*), all species
- 19 Flamingoes (*Phoenicopteridae*), both species
- 20 Secretary Bird (*Sagittarius serpentarius*)
- 21 Vultures (*Aegypidae*), all species
- 22 Lammergeyer (*Gypaetus barbatus*)
- 23 Verreaux's Eagle (*Aquila verreauxii*)
- 24 Martial Eagle (*Polemaetus bellicosus*)
- 25 Crowned Hawk Eagle (*Stephanoëtes coronatus*)
- 26 Long-crested Hawk Eagle (*Lophætus occipitalis*)
- 27 Fish Eagle (*Cuculus vocifer*)
- 28 Augur Buzzard (*Buteo r. augur*)
- 29 Turacos, Plantain-eaters, Louries (*Musophagidae*), all species
- 30 Ground Hornbills (*Bucorvus*), both species
- 31 Owls (*Strigidae*), all species

Part II—Protected in Certain Areas

<i>Animal</i>	<i>Area Specified</i>
1 Hippopotamus	Everywhere except in and within five miles of Lake Victoria
2 Greater Kudu, males	Everywhere except in the Northern Province and the Mukogodo Reserve and Meru District of the Central Province
3 Topi	Uasin Gishu and Trans Nzoia Districts
4 Sitatunga	Trans Nzoia District
5 Oribi, Cotton	Uasin Gishu District
6 Sable Antelope	In the area, within the Kwale District and bounded as follows — Commencing at Shumba trigonometrical beacon thence northerly, easterly and southerly by the boundary of Kwale Township to its intersection with the Kwale-Mombasa Road Reserve, thence by the northern boundary of that road reserve to its intersection with the western boundary of I.R. No 3855, thence southerly by the western boundary of L.R. No 3855 or the trigonometrical beacon Mabila, thence south-westerly in a straight line to the trigonometrical beacon Mchamvani N thence south-westerly by a straight line to the trigonometrical beacon Kidiani, thence westerly by a straight line to the trigonometrical beacon Mangwani, thence northerly by a straight line to the trigonometrical beacon Mkongani W, thence easterly by a straight line to the trigonometrical beacon Mwele Mdogo, thence by a straight line northerly to the junction of the two principal sources of the Manolo River, thence by the centre of the course of that river down-stream to its junction with the Cha Shumba River, thence by the centre of the course of the latter river down-stream to the bridge carrying the Mombasa water supply pipe line thereover, thence by a straight line south-easterly to a beacon on the southern bank of the said river, thence by a straight line south-easterly to the point of commencement
7 Impala	Kisumu, in area bounded by railway line from Kisumu station to Kibos station, thence following Kibos River to Lake Victoria, thence along shore to point of commencement.
8 Elephant	In the area within a radius of twelve miles from District Commissioner's office, Isiolo
9 Rhinoceros	In the area within a radius of twelve miles from District Commissioner's office, Isiolo
10 Lion	In the area, within the Narok District, and bounded as follows —
11 Cheetah	Commencing at the Mara River bridge, thence easterly following the line of the road through the Olyoba Gap to Lemek Trading Centre, thence in a straight line south-easterly across the Loita plains through Ol Donyo Lekanga Hill to a beacon on the Uaso Nyiro-Barkitabuk road, thence south-westerly following the line of this road to Ol Barkitabuk Trading Centre, thence due south in a straight line to a beacon on the Tanganyika Territory border where the Ol Pusimoru-Loliondo road crosses the border, thence westerly along the Tanganyika Territory border to its intersection with the Mara River, thence northerly following the Mara River to Mara River bridge, the point of commencement

THIRD SCHEDULE

(Section 12)

PART I—LICENCES

	Sh.
1 A full licence —	
(i) Class A	1,000
(ii) Class B	150
2 A fourteen-day licence —	
(i) Class A	200
(ii) Class B	40
3 A private land licence —	
(i) Class A	200
(ii) Class B	40
4 An employee's licence	40
5 A bird licence	20

PART II—GAME ANIMALS WHICH MAY BE HUNTED AND KILLED ON LICENCE

First Column	Second Column	Third Column	Fourth Column	Fifth Column
	<i>Localities in which animal may be hunted and killed (except during close seasons see section 6) and elsewhere than in—</i>			
	(1) National Parks and Reserves, Cap 215	No which may be hunted and killed under full licence	No which may be hunted and killed under 14-day licence	No which may be hunted and killed under a bird licence
	(2) Game Reserves Schedule I			
	(3) Sanctuaries section 5			
	(4) Controlled Areas, section 7			
1 Lion	Everywhere except Masai Extra Provincial District (see Second Schedule Part II)	One	None	None
2 Cheetah	do	One	None	None
3 Serval Cat	Everywhere	One	None	None
4 Hippopotamus	On Lake Victoria and within five miles thereof only (see Second Schedule, Part II)	One	None	None
5 Sable Antelope	Everywhere except Shumba Hills Reserve (see Second Schedule, Part II)	One	None	None
6 Oryx, Beisa	Everywhere	Three	One	None
7 Oryx, Callotis	Everywhere	One	None	None
8 Wildebeest	Everywhere	Three	One	One
9 Hartebeest, Coke's (other than Nakuru and Neumann's)	Everywhere	Three	One	None
10 Topi	Everywhere except Uasin Gishu and Trans Nzoia Districts (see Second Schedule, Part II)	Three	One	None
11 Hunter's Antelope	Everywhere	One	None	None
12 Buffalo	Everywhere	Three	One	None
13 Bushbuck	Everywhere	Six	Two	None
14 Sitatunga	Everywhere except Trans Nzoia District (see Second Schedule, Part II)	One	None	None
15 Lesser Kudu	Everywhere	Two	One	None
16 Greater Kudu (males only)	Only in Northern Province, Mukogodo Reserve and Meru District (see Second Schedule, Part II)	One	None	None
17 Bongo	Everywhere	One	None	None
18 Eland (males only)	Everywhere (see Schedule, Part II)	Second	One	None
19 Reedbuck, Chanler's	Everywhere	One	None	None
20 Reedbuck, Common (Ward's)	Everywhere	Four	One	None
21 Waterbuck, Defassa	Everywhere	One	None	None
22 Waterbuck, Ellipsiprymnus	Everywhere	One	None	None
23 Duiker (other than yellow-backed)	Everywhere (see Schedule, Part I)	Second	Six	Two
24 Pigmy Antelope	Everywhere	Two	One	None
25 Oribi, Haggard's	Coast Province	One	None	None
26 Oribi, Kenyæ	Central Province	One	None	None
27 Oribi, Cotton	Everywhere except in Uasin Gishu District (see Second Schedule, Part II)	Two	One	None
28 Steinbuck	Everywhere	Three	One	None
29 Klipspringer	Everywhere	One	None	None
30 Grant's Gazelle	(a) Masai Extra Provincial District	One	None	None
	(b) Coast Province	Two	None	None
	(c) Elsewhere than (a) and (b)	Three	One	None

GAME ANIMALS WHICH MAY BE HUNTED AND KILLED ON LICENCE—(Contd.)

First Column	Second Column	Third Column	Fourth Column	Fifth Column
	<i>Locality in which animal may be hunted and killed (except during close seasons, see section 6) and elsewhere than in—</i> (1) National Parks and Reserves, Cap 215 (2) Game Reserves, Schedule I (3) Sanctuaries section 5 (4) Controlled Areas, section 7	<i>No which may be hunted and killed under full licence</i>	<i>No which may be hunted and killed under 14-day licence</i>	<i>No which may be hunted and killed under a bird licence</i>
31 Thomson's Gazelle	Everywhere	None	Three	None
32 Gerenuk	Everywhere	Two	One	None
33 Impala	Everywhere except Kisumu (see Second Schedule, Part II)	Four	Two	None
34 Dikdik	Everywhere	Six	Two	None
35 Common Zebra	Everywhere	Four	One	None
36 Grevy's Zebra	Everywhere	One	None	None
37 Duck (including teal, all species)	Everywhere	Unlimited	Unlimited	Unlimited
38 Geese, all species	Everywhere	Unlimited	Unlimited	Unlimited
39 Francolins (including spur fowl), all species	Everywhere	Unlimited	Unlimited	Unlimited
40 Guinea Fowl, all species	Everywhere	Unlimited	Unlimited	Unlimited
41 Quail, all species	Everywhere	Unlimited	Unlimited	Unlimited
42 Cranes (<i>genus Balearica</i>), all species	Everywhere	Unlimited	Unlimited	Unlimited
43 Greater Bustards, i.e Northern Kori, Jackson's and Heuglin's	Everywhere	One	One	One
44 Lesser Bustards or Floricans, all species	Everywhere	Unlimited	Unlimited	Unlimited
45 Snipes and other Waders (Family <i>Scolopacidae</i>), all species	Everywhere	Unlimited	Unlimited	Unlimited
46 Plovers (Family <i>Charadriidae</i>)	Everywhere	Unlimited	Unlimited	Unlimited
47 Sand-grouse, all species	Everywhere	Unlimited	Unlimited	Unlimited
48 Pigeons and Doves	Everywhere	Unlimited	Unlimited	Unlimited
49 Grebes (Family <i>Podicipedidae</i>)	Everywhere	Unlimited	Unlimited	Unlimited

FOURTH SCHEDULE

(Section 13)

PART I—GAME ANIMALS WHICH MAY BE HUNTED AND KILLED ON SPECIAL LICENCE ONLY

- 1 Elephant (see Second Schedule, Part II)
- 2 Rhinoceros (see Second Schedule, Part I)
- 3 Giraffe
- 4 Leopard
- 5 Lion, in the Masai Extra Provincial District (see Second Schedule, Part II)
- 6 Cheetah, in the Masai Extra Provincial District (see Second Schedule, Part II)
- 7 Ostrich
- 8 Colobus Monkey, other than White Colobus Monkey (see Second Schedule, Part I)
- 9 Blue Monkey

PART II—SPECIAL LICENCES

	Sh.
1 First elephant licence	1,500
2 Second elephant licence	2,000
3 A rhinoceros licence, for each rhinoceros	300
4 A giraffe licence, for each giraffe	300
5 A leopard licence, for each leopard	200
6 A lion licence, for each lion in the Masai Extra-Provincial District	200
7 A cheetah licence, for each cheetah in the Masai Extra-Provincial District	100
8 An ostrich licence, for each ostrich	40
9 A colobus monkey licence, for each monkey	20
10 A blue monkey licence, for each monkey	20

FIFTH SCHEDULE

(Section 23)

REGISTER OF GAME ANIMALS HUNTED AND KILLED OR WOUNDED

Name of animal	Sex	Whether wounded and lost or killed	Date wounded and lost or killed	Locality	Individual weight of any tusks or rhinoceros horns obtained	Number and date of commencement of licence held

NOTE.—The attention of all licence holders is drawn to section 23 of this Ordinance, and to sub-section (3) of that section particularly

I, _____, do hereby solemnly affirm that the above is a true register in accordance with the requirements of section 23 of the Wild Animals Protection Ordinance, 1951, of all the game animals killed or deemed to have been killed and dangerous animals wounded and lost by me since the commencement and during the validity of the licence/s stated above

Address _____

Signed _____

Date _____

MEMORANDUM OF OBJECTS AND REASONS

This Bill will repeal and re-enact with important amendments the provisions of the Game Ordinance, Cap 216. An effort has been made to bring the Bill as much as possible into line with similar legislation which is being introduced in Tanganyika. As many of its provisions are concerned with the protection of animals that cannot strictly be termed game it is considered that the title ought more properly to be the Wild Animals Protection Ordinance, 1951. Experience has shown that the provisions of the existing Ordinance tend to suffer from a lack of flexibility and consequently difficulties have been experienced in its enforcement. This Bill has been drafted with a view to providing for greater elasticity in operation. The opportunity has been taken to further the policy of conferring upon the Member for Agriculture and Natural Resources powers formerly exercised by the Governor. The Member will be empowered to revoke, replace, amend or vary all the Schedules except that in which the boundaries of the game reserves are described. The Game Warden has also been granted greater powers. These provisions it is hoped will enable the operation of the Bill to keep pace with ever changing conditions, especially the rapid changes that now take place in the market value of animal products such as ivory and leopard skins.

The Bill will, it is hoped, effect a strengthening of the law and enable the authorities to take adequate steps to preserve the fast disappearing fauna for which the Colony is world famous, and which is one of its best capital assets.

Part II of the Bill contains provisions relating to game reserves, royal game, sanctuaries, close seasons and controlled areas.

Clause 3 will declare the game reserves.

Clause 4 will declare certain game animals listed in the Second Schedule to be Royal game. These animals are those which are mentioned in the First Schedule to the existing Ordinance. The new Schedule is divided into two parts. In Part I are listed animals which are protected throughout the Colony and in Part II animals which are protected in certain areas only.

Clause 5 will enable the Member to declare local sanctuaries in which specified animals may not be hunted. Protection is now given by the method of inclusion in Schedule I. This often proved cumbersome and the new section will provide a quick and easy way of protecting small areas such as lakes and beauty spots.

Clause 6 and *clause 7* which is new, will enable the Member to declare close seasons and controlled areas and thus to regulate and keep hunting within reasonable proportions in the most popular hunting areas. *Clause 7* will enable the local inhabitants to obtain financial benefit from the hunting of animals in that provision is made for the fees charged for a controlled area permit to be paid to the African District Council or into such other fund as the Governor may direct.

Part III contains provisions relating to the hunting, killing, capturing and photographing of animals.

Clause 12 will provide for the types of licence and the fees to be paid for them Under the existing Ordinance licences were divided into two classes known as visitors and residents Under the new Bill there will be two classes, Class A and Class B The fees for a licence under Class A have been reduced from fifteen hundred to one thousand shillings as the variety of animals that can be hunted on such licences has been diminished and certain animals, for instance, lion in Masai, and leopard, can now only be hunted under a special licence Sub-clause (3) which is new, has been introduced because under the existing law there is nothing to prevent anyone taking out two licences simultaneously

Clause 13 which substantially reproduces the provisions of section 14 of the existing Ordinance whereby the holder of a full licence may obtain a special licence to hunt certain specified animals, has been amended so as to include in the schedule of animals which may only be hunted on a special licence, lion, leopard and cheetah in the Masai district The fees for the first elephant and the first rhinoceros have been increased Sub-clause (6) which will provide that an elephant or rhinoceros which is wounded and escapes is deemed to have been killed, is important, as during the past year at least forty elephant and twelve rhinoceros were wounded and have not been recovered It is considered that this provision will tend to ensure that a hunter makes every effort to kill an animal and not run the risk merely of wounding it.

Clause 14 which replaces section 10 of the existing Ordinance provides for the issue of a Game Warden's permit instead of a Governor's permit In the past the exercise of the power of the Governor to grant such a permit was always delegated to the Game Warden and it is considered that it is desirable that such a permit should be granted by him

Clause 16 will make it unlawful for a person to photograph a dangerous animal without a permit from the Game Warden The purpose of this clause is to stop people from approaching too closely to dangerous animals and thereby sometimes obtaining an excuse to shoot in self defence Such a permit will not be required to photograph an animal in a national park or national reserve

Clause 17 which provides for the issue of an assistant's permit amends the existing law in two respects, namely—

- (a) all such permits must now be issued by the Game Warden. Formerly an assistant's permit cost ten shillings and was issued by any revenue clerk as a matter of course and this led to abuses,
- (b) a fee of two hundred shillings will be charged for an assistant's permit to assist a holder of a Class A, which is in effect a visitor's, licence This will place a professional hunter in a different category to any other holder of an assistant's permit.

Clause 18 will require in addition to any other licence or permit under the Ordinance a special permit from the district commissioner to hunt in the native areas and the Northern Province This clause will place the native lands on the same footing as private land While it overlaps the provisions of clause 7 which relates to controlled areas it is considered to be a most necessary provision

Clause 21 which reproduces in a considerably tightened form the provisions of section 31 of the existing Ordinance will, it is hoped, discourage a hunter from failing to make a very reasonable effort to kill an animal which he has wounded Sub-clause (3) will, it is hoped, prevent people mutilating captive animals in order to prevent their escape

Clause 22, which is new, makes it an offence to fail to report the wounding of a dangerous animal This offence is considered so serious as to warrant punishment by imprisonment without the option of a fine The consequences of failing to report the wounding of a dangerous animal are potentially so grave that the most deterrent form of punishment is considered essential

Part IV contains provisions dealing with trophies and live animals

Clause 32 will prohibit the possession of any game animal, trophy or meat unless the possession has been obtained in accordance with the provisions of the Ordinance Sub-clause (2) will define the circumstances in which a person shall be deemed to have any animal, trophy or meat in his possession in accordance with the Ordinance and sub-clause (3) will provide that animals and trophies in a national park or national reserve shall be deemed to be lawfully in the possession of the Kenya National Parks' Trustees.

Clause 33 which replaces section 36 of the existing Ordinance will prohibit the sale or other disposal of any game animal, trophy or meat except on the instructions of, or pursuant to a permit from, the Game Warden Sub-clause (2) and sub-clause (3) place on the seller the duty to endorse on the permit the date of the sale and the name of the buyer and on the buyer the duty to get from the seller the permit duly endorsed

Clause 34, which is new, prohibits any person from dealing in any game animal, trophy or meat unless he obtains a dealer's permit from the Game Warden. There are numerous shops which deal in such things and it is considered desirable to have some power to control such dealing

Clause 37, which is new, will enable the Member by notice in the Gazette to restrict the movement of game meat. The manufacture and sale of biltong has in certain countries led to the virtual extinction of game. The yearly invasion of certain areas of the Colony by hunters whose object is not sport but the manufacture of biltong renders such a provision necessary. The exercise of these powers will also, it is hoped, tend to eliminate the commercial aspect of big game hunting.

Part V contains provisions relating to the prevention and detection of offences and penalties

Clause 45 provides penalties for contravening the Ordinance. The fines have been substantially increased as experience has shown that the very considerable profits which can be made on the sale of ivory and horn render the existing penalties much less effectual as a deterrent than they should be.

Clause 46 reproduces, with amendment, section 53 of the existing Ordinance. The amendment is contained in sub-clause (2) which will provide that disqualification from taking out or obtaining any other licence for a period of three years after conviction will be automatic unless the Game Warden otherwise directs. Under the existing provision disqualification only occurred if the Governor so directed. The result was that it was possible for a convicted person to take out a new licence before the Governor had directed and communicated disqualification.

Clause 47, which is new, will enable the Member to suspend any licence or permit issued under the Ordinance. Such a clause is considered necessary in order to prevent a person who is the holder of a current and unfilled elephant licence, on being prosecuted for a game offence, prolonging the hearing by asking for unnecessary witnesses whose attendance it will take a long time to procure so as to give him time to fill his elephant licence before conviction.

Part VI contains provisions of a general nature

Clause 56 will enable the Member to issue directions to licensing officers in relation to the exercise of their functions under the Ordinance. At present the control exercised by licensing officers is not always adequate to ensure the proper working of the Ordinance.

Clause 59, which is new, provides for an appeal to the Member by any person aggrieved by a refusal of the Game Warden or a licensing officer to issue a licence to him.

Clause 61 will make it clear that the obtaining of a licence or permit under this Ordinance does not exempt a person from the necessity to obtain an arms licence under the Arms and Ammunition Ordinance.

It is not expected that any additional expenditure of public moneys will be incurred if the provisions of this Bill become law.

Nairobi,
18th January, 1951

K K O'CONNOR,
Attorney General

GOVERNMENT NOTICE NO 109

The Governor in Council has approved of the following Bill being introduced into the Legislative Council

T V N FORTESCUE,
Acting Clerk to the Legislative Council

**A BILL ENTITLED
AN ORDINANCE TO AMEND THE INCOME TAX
ORDINANCE**

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 Income Tax (Amendment) Ordinance, 1951, and shall be read and construed as one with the Income Tax Ordinance (hereinafter referred to as the principal Ordinance) and shall be deemed to have come into operation on the 1st day of January, 1951 and shall apply to assessments for the year of assessment commencing on the 1st day of January, 1951, and each subsequent year of assessment

Short title and commencement
Cap 254

2. There shall be substituted for the words "four shillings" which occur in sub-section (2) of section 27 of the principal Ordinance the words "five shillings"

Amendment of section 27 of the principal Ordinance

3. There shall be substituted for the words "four shillings" which occur in sub-section (3) of section 29 of the principal Ordinance the words "five shillings"

Amendment of section 29 of the principal Ordinance

15 4. There shall be substituted for the words "four shillings" which occur in sub-section (1) of section 30 of the principal Ordinance the words "five shillings"

Amendment of section 30 of the principal Ordinance

5. Where under section 29 or section 30 of the principal Ordinance tax has been deducted from any debenture interest or mortgage interest paid to a person, other than an individual, not resident in the Colony, or to an agent of such a person, since the 31st day of December, 1949, at a rate of less than five shillings on every pound of such interest, the Commissioner may, by notice in writing, require the person who paid such interest to deduct from any future payment of any such interest the amount of tax by which any such deductions were less than the deductions of tax at the rate of five shillings on every pound and to account for any tax so deducted as if it had been deducted under the provisions of section 29 or section 30 of the principal Ordinance

Deduction of tax from debenture or mortgage interest

MEMORANDUM OF OBJECTS AND REASONS

This Bill will amend section 27 of the Income Tax Ordinance (Cap 254) (hereinafter referred to as the principal Ordinance) so as to provide that the rate of tax payable by any person other than an individual shall be five shillings in the pound instead of four shillings (*clause 2*)

Clauses 3 and 4 will make minor consequential amendments to sections 29 and 30 and *clause 5* will make special provisions enabling the Commissioner of Income Tax to require a person who has deducted tax at the old rate from any debenture or mortgage interest paid to a person other than an individual during 1950, to deduct from any future payment of any such interest the amount of tax representing the difference between the amount actually deducted and the amount which would have been deducted at five shillings in the pound. Such a provision is necessary since as, the tax will apply to the 1951 year of assessment it will be deductible from income for 1950.

No additional expenditure of public moneys will be incurred if the provisions of this Bill become law

Nairobi,
22nd December, 1950

K K O'CONNOR,
Attorney General