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GOVERNMENT NOTICE NO. 467

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 NATIVE
FOODSTUFFS ORDINANCE, 1944**

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

Short title

No. 3 of 1944

Amendment of section 3 of the principal Ordinance

Repeal and replacement of section 5 of the principal Ordinance

Offences and penalties

Amendment of section 6 of the principal Ordinance

1. This Ordinance may be cited as the Native Foodstuffs (Amendment) Ordinance, 1950, and shall be read and construed as one with the Native Foodstuffs Ordinance, 1944 (hereinafter referred to as the principal Ordinance)

2. Section 3 of the principal Ordinance is amended in 5 the following respects—

(a) by substituting for the words and colon “he may issue a proclamation for any of the following purposes” the words “he may by order”, and

(b) by substituting for the word “Prohibiting” where it ¹⁰ occurs in paragraphs (a), (b), (c) and (d) the word “prohibit”

3. There shall be substituted for section 5 of the principal Ordinance the following section—

5 Any person who acts in contravention of or fails 15 to comply with any order or notice issued under this Ordinance shall be guilty of an offence and shall, upon conviction, be liable to a fine of fifty pounds or to imprisonment for six months or to both such fine and such imprisonment and in addition the court may order any 20 native foodstuffs in respect of which the offence was committed to be confiscated and disposed of in such manner as the court thinks fit

4. There shall be substituted for the words “a proclamation” where it occurs for the second time in the proviso to section 6 of the principal Ordinance the words “an order”

MEMORANDUM OF OBJECTS AND REASONS

This Bill will amend the Native Foodstuffs Ordinance, 1944 (referred to as the principal Ordinance), in two main respects, namely—

(a) by amending section 3 so as to provide that the instrument whereby the Member for Agriculture and Natural Resources exercises any of the powers conferred upon him by the section shall be an order instead of a proclamation. It is considered that the power to issue proclamations should be exercisable only by the Governor (*Clause 2*),

(b) by amending section 5 so as to confer power on a court to order the confiscation of any native foodstuffs in respect of which an offence has been committed. It is considered that such a power is necessary as an added deterrent (*Clause 3*)

Clause 4 of the Bill makes a small consequential amendment to the proviso to section 6 of the principal Ordinance

It is not expected that the provisions of this Bill, if enacted, will result in any additional expenditure of public moneys

Nairobi,
27th April, 1950

K K O'CONNOR,
Attorney General

GOVERNMENT NOTICE No 468

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 PROVIDE FOR THE GRANT AND REGULATING OF PENSIONS, GRATUITIES AND OTHER ALLOWANCES IN RESPECT OF THE PUBLIC SERVICE OF OFFICERS UNDER THE GOVERNMENT OF KENYA**

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 Pensions Ordinance, 1950, and shall, except as provided in section 17 of this Ordinance, be deemed to have come into operation on the 1st January, 1946 Short title and commencement
- 5 2. (1) In this Ordinance, unless the context otherwise requires— Interpretation
- “pensionable office” means—
- 10 (a) in respect of service under the Government an office which has been declared by the Governor in Council by a notification published in the Gazette to be pensionable under this Ordinance with effect from such date, whether before or after the date of publication, as may be specified in the notification, and any such notification may from time to time be amended, added to, or revoked, by another notification so made and published
- 15 Provided that where by virtue of any such amendment or revocation any office ceases to be a pensionable office, then so long as any person holding that office at the time of the amendment or revocation continues therein, the office shall, as respects that person, continue to be a pensionable office,
- 20 (b) in respect of other public service, an office which is for the time being a pensionable office under the law or regulations in force in such service,
- 25 “pensionable emoluments”—
- 30 (A) in respect of service under the Government subsequent to the 31st December, 1945, includes salary and personal allowance, but does not include duty allowance, house allowance, entertainment allowance or any other emoluments whatever
- 35 (B) for the purpose of calculating the aggregate pensionable emoluments of officers in respect of service under the Government prior to the 1st January, 1946, means—
- 40 (a) in the case of an officer who prior to the 1st January, 1946, held a pensionable office in which he had been confirmed the emoluments which were pensionable under the European Officers' Pensions Ordinance, 1927, or the Non-European Officers' Pensions Ordinance, 1932, as the case may be, and
- 45 (b) in the case of an officer who prior to the 1st January, 1946, held a non-pensionable office or a pensionable office in which he had not been confirmed—
- 50 (i) the emoluments of the office which would have been pensionable emoluments under the European Officers' Pensions Ordinance, 1927, or the Non-European Officers' Pensions Ordinance 1932, as the case may be,

if the office had been a pensionable office and the officer had been confirmed therein,

(ii) if the officer does not come within the provisions of the immediately preceding subparagraph, the salary of the officer together with any house allowance for which he may have been eligible under the terms and conditions of his appointment,⁵

(C) in respect of other public service, means emoluments which count for pension in accordance with the law ¹⁰ or regulations in force in such service,

“salary” means the salary attached to a pensionable office or, where provision is made for taking service in a non-pensionable office into account as pensionable service, the salary attached to that office,¹⁵

“personal allowance” means a special addition to salary granted personally to the holder for the time being of the office and which is specifically stated to be pensionable,

“Colonial Superannuation Scheme” means the Scheme to establish a fund to provide service pensions and gratuities and ²⁰ pensions to dependants on a contributory basis for Colonial Research and allied services,

“Public service” means service in a civil capacity under the Government of Kenya or the Government of any other part of His Majesty’s dominions or of any British protectorate or protected state or mandated or trust territory administered by the Government of any part of His Majesty’s dominions, or of the New Hebrides or the Anglo-Egyptian Sudan, or service which is pensionable under the Teachers’ (Superannuation) Act, 1925, or any Act amending or replacing the same, or under the Colonial Superannuation Scheme, or in a Colonial University College or pensionable employment under a local authority in the United Kingdom, or in such other service as the Secretary of State may determine to be “public service” for the purpose of any provision of this ³⁵ Ordinance, and, except for the purposes of computation of pension or gratuity and of section 9 of this Ordinance, includes service as a Governor-General, Governor or High Commissioner in any part of His Majesty’s dominions, any British protected state or protectorate, any mandated or trust ⁴⁰ territory administered by the Government of any part of His Majesty’s dominions, or the Anglo-Egyptian Sudan,

“other public service” means public service not under the Government,

“service of the Government” or “service under the Government” means public service in a civil capacity under the Government,⁴⁵

“wife” includes in the case of an officer under whose religion or tribal custom polygamy is lawful any person to whom the officer is lawfully married in accordance with the ⁵⁰ tenets of that religion or tribal custom, and in any such case, the amount of any pension, gratuity or other allowance for which a wife is eligible under this Ordinance shall be divided equally among all such wives during the period in which there is more than one wife eligible therefor, and “widow” shall be ⁵⁵ construed accordingly

(2) For the avoidance of doubts it is hereby declared that where an officer has been confirmed in a pensionable office and is thereafter appointed to another pensionable office then, unless the terms of such appointment otherwise require, such ⁶⁰ last mentioned office is, for the purpose of this Ordinance, an office in which he has been confirmed

(3) Where it appears to the Governor that there is no satisfactory proof of the correct age of an officer or of any child, then the Governor may, upon such evidence as he may think fit, presume the age of the officer or of any child, and such presumed age shall be taken to be the correct age of the officer or of any child for the purposes of this Ordinance

3. (1) Pension, gratuities and other allowances may be granted by the Governor in Council, in accordance with the regulations contained in the First Schedule to this Ordinance, to officers who have been in the service of the Government

Pensions
regulations

(2) The regulations contained in the First Schedule to this Ordinance may from time to time be amended, added to, or revoked, by regulations made by the Governor in Council with the sanction of the Secretary of State, and all regulations so made shall be laid before the Legislative Council and published in the Gazette

(3) Whenever the Governor in Council is satisfied that it is equitable that any regulations made under this section should have retrospective effect in order to confer a benefit upon or remove a disability attaching to an person that regulation may be given retrospective effect for that purpose

Provided that no such regulation shall have retrospective effect unless it has received the prior approval of the Legislative Council signified by resolution

25 (4) Any pension or gratuity granted under this Ordinance shall be computed in accordance with the provisions in force at the actual date of an officer's retirement

(5) All regulations made under this section shall have the same force and effect as if they were contained in the First Schedule to this Ordinance

4. There shall be charged on and paid out of the general revenues of the Colony all such sums of money as may from time to time be granted by way of pension, gratuity or other allowance, in pursuance of this Ordinance

Pensions, etc
to be paid
out of the
general revenue

35 5. (1) No officer shall have an absolute right to compensation for past services or to pension, gratuity or other allowance, nor shall anything in this Ordinance affect the right of the Crown to dismiss any officer at any time and without compensation

Pensions, etc
not of right

40 (2) Where it is established to the satisfaction of the Governor in Council that an officer has been guilty of negligence, irregularity or misconduct, the pension, gratuity or other allowance, may be reduced or altogether withheld

6. No pension, gratuity or other allowance, shall be granted under this Ordinance to any officer except on his retirement from the public service in one of the following cases—

Circumstances
in which
pension may
be granted

(a) on or after attaining the age of fifty-five years or, in special cases with the approval of the Secretary of State, fifty-years,

(b) in the case of transfer to other public service, in circumstances in which he is permitted by law or regulations of the service in which he is last employed to retire on pension or gratuity,

50 (c) on the abolition of his office,

(d) on compulsory retirement for the purpose of facilitating improvement in the organization of the department to which he belongs, by which greater efficiency or economy may be effected,

on medical evidence, to the satisfaction of the Governor in Council or the Secretary of State, that he is incapable by reason of any infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent. 5

(f) in the case of service under the Government, on removal on the ground of inefficiency as provided in this Ordinance, or in the case of transfer to other public service, on removal on the ground of inefficiency under a corresponding provision in any ¹⁰ law or regulation relating to the grant of pensions in respect of public service,

(g) on retirement in circumstances not mentioned in the preceding paragraphs of this section, rendering him eligible for a pension under the Pensions (Governors ¹⁵ of Dominions, etc) Acts, 1911 to 1947, of the United Kingdom or any Act of the United Kingdom amending or replacing those Acts

Provided that a gratuity may be granted to a female officer, in accordance with the provisions of ²⁰ this Ordinance, who resigns on or with a view to marriage or is required to retire on account of her marriage, notwithstanding that she is not otherwise eligible under this section for the grant of any pension, gratuity or other allowance. 25

7. Where an officer is removed from his office on the grounds of his inability to discharge efficiently the duties thereof, and a pension, gratuity, or other allowance, cannot otherwise be granted to him under the provisions of this Ordinance, the Governor in Council may, if he considers it ³⁰ justifiable, having regard to all the circumstances of the case, grant such pension, gratuity or other allowance, as he thinks just and proper, not exceeding in amount that for which the officer would be eligible if he retired from the public service in the circumstances described in paragraph (e) of section 6 ³⁵ of this Ordinance

8. It shall be lawful for the Governor in Council to require an officer to retire from the service of the Government—

(a) at any time after he attains the age of fifty-five years or, in special cases with the approval of the Secretary of State, fifty years, 40

(b) in the case of a female officer, on account of her marriage

9. (1) Except in cases provided for by sub-section (2) of this section, a pension granted to an officer under this Ordinance shall not exceed two-thirds of the highest pensionable emoluments drawn by him at any time in the course of his service under the Government. 45

(2) An officer who has been granted a pension in respect of other public service shall not at any time draw from the funds of the Colony an amount of pension which, when added to the amount of any pension or pensions drawn in respect of other public service, exceeds two-thirds of the highest pensionable emoluments drawn by him at any time in the course of his public service. 55

Provided that where an officer receives in respect of some period of public service both a gratuity and a pension the amount of such pension shall be deemed for the purpose of this sub-section to be the amount which he would have received if he had not received a gratuity. 60

(3) Where the limitation specified by sub-section (2) of this section operates, the amount of the pension to be drawn

Retirement for inefficiency

Compulsory retirement

Maximum pension

from the funds of the Colony shall be subject to the approval of the Secretary of State, in order that it may be determined with due regard to the amount of any pension or pensions to be drawn in respect of other public service

5 (4) For the purposes of this section an additional pension granted in respect of injury shall not be taken into account, but where the officer is granted such an additional pension under this Ordinance, the amount thereof together with the remainder of his pension or pensions shall not exceed five-sixths
 10 of his highest pensionable emoluments at any time in the course of his public service

10. (1) Every pension granted under this Ordinance shall be subject to the condition that unless or until the officer attains the age of fifty years, he may, if physically fit for service, be called upon by the Secretary of State to accept an office, whether in the service of the Government or in other public service, not less in value, due regard being had to circumstances of climate, than the office which he held at the date of his retirement, and where a pensioner so called upon 20 declines to accept such office, the payment of his pension may be suspended until he has attained the age of fifty years

Liability of pensioners to be called upon to take further employment

(2) The provisions of sub-section (1) of this section shall not apply in any case where the Governor in Council, being of opinion that the officer is not qualified for other employment in the public service or that there is reason to expect that he can be shortly re-employed therein, otherwise directs

11. Where an officer to whom a pension has been granted under this Ordinance is appointed to another office in the public service, the payment of his pension, or any part 30 thereof, may, with his consent, if the Governor in Council thinks fit, be suspended during the period of his re-employment

Suspension of pensions on re-employment

12. A pension, gratuity, or other allowance granted under this Ordinance shall not be assignable or transferable 35 except for the purposes of satisfying—

Pension, etc., not to be assignable

(a) a debt due to the Government, or
 (b) an order of any court for the payment of periodical sums of money towards the maintenance of the wife, or former wife, or minor child of the officer to whom the pension, gratuity or other allowance has 40 been granted

and shall not be liable to be attached, sequestered, or levied upon, for or in respect of any debt or claim whatever except a debt due to the Government

45 13. (1) Where any person to whom a pension or other allowance has been granted under this Ordinance is adjudicated bankrupt or is declared insolvent by judgment of any competent court, then such pension or allowance shall forthwith cease

Pensions, etc. to cease on bankruptcy

50 (2) Where any officer is adjudicated bankrupt or declared insolvent by judgment of any competent court either—

(a) after retirement in circumstances in which he is eligible for pension, gratuity or other allowance under this Ordinance, but before the pension, gratuity or other allowance is granted, or

55 (b) before such retirement, and he has not obtained his discharge from bankruptcy or insolvency at the date of retirement,

then, in the former case, any pension or other allowance eventually granted to him shall cease as from the date of adjudication or declaration (as the case may be) and, in the

latter case, the pension or other allowance may be granted, but shall cease forthwith and not become payable, and in either case the gratuity may be granted but shall not be paid to him

(3) Where a pension or other allowance ceases or where any gratuity is not paid, by reason of this section, it shall be lawful for the Secretary of State, or, if the person in question is resident in the Colony, the Governor from time to time during the remainder of such person's life, or during such shorter period or periods, either continuous or discontinuous, 10 as the Secretary of State or the Governor (as the case may be) thinks fit, to direct all or any part of the moneys to which such person would have been entitled by way of pension, gratuity or other allowance, had he not become bankrupt or insolvent, to be paid to, or applied for, the maintenance or 15 benefit of all or any, to the exclusion of the other or others, of the following, that is to say, such person and his wife, child, or children, or such other dependants as the Governor may determine, in such proportion and manner as the Secretary of State or the Governor (as the case may be) thinks proper, 20 and such moneys shall be paid or applied accordingly

(4) Moneys applied for the discharge of debts of the person whose pension or other allowance has ceased, or whose gratuity has not been paid, by reason of this section, shall, for the purposes of this section, be regarded as applied for his 25 benefit

(5) Where a person whose pension or other allowance has ceased, or whose gratuity has not been paid, by reason of this section, obtains his discharge from bankruptcy or insolvency, it shall be lawful for the Secretary of State, or, 30 if such person is resident in the Colony, the Governor, to direct that the pension or other allowance shall be restored and the gratuity, or so much thereof (if any) as remains after deducting any payments made under sub-section (3) of this section, paid as from the date of such discharge or any later date, and 35 the pension or other allowance shall be restored, and the gratuity or such remainder thereof (if any) paid, accordingly

Pensions, etc
may cease on
conviction

14. (1) Where any person to whom a pension or other allowance has been granted under this Ordinance is sentenced to a term of imprisonment by any competent court for any 40 offence, such pension or allowance shall, if the Secretary of State or, if such person is resident in the Colony, the Governor, so directs, cease as from such date as the Secretary of State or the Governor (as the case may be) determines

(2) Where any officer is sentenced to a term of imprisonment by any competent court for any offence after retirement in circumstances in which he is eligible for pension, gratuity or other allowance under this Ordinance but before the pension, gratuity or other allowance is granted, then—

(a) the provisions of sub-section (1) of this section shall 50 apply as respects any pension or other allowance which may be granted to him, and

(b) the Secretary of State, or if such person is resident in the Colony, the Governor, may direct that any gratuity which may be granted to him shall not be 55 paid

(3) Where a pension or other allowance ceases, or a gratuity is not paid, by reason of this section, it shall be lawful for the Secretary of State or the Governor (as the case may be) to direct all or any part of the moneys to which such person 60 would have been entitled by way of pension, gratuity or other allowance, but for the provisions of this section, to be paid or

applied in the same manner in all respects as provided in section 13 of this Ordinance, and such moneys shall be paid or applied accordingly

(4) Where any person whose pension or other allowance ceases, or whose gratuity is not paid, by reason of this section, after conviction at any time receives a free pardon, the pension or allowance shall be restored with retrospective effect, or his gratuity shall be paid, but in determining whether arrears of such pension or allowance are payable to such person and in computing the amount thereof and the amount of any gratuity, account shall be taken of all moneys paid or applied under sub-section (3) of this section

15. Where any person to whom a pension or other allowance has been granted under this Ordinance, otherwise than under section 17 thereof, becomes either a director of any company the principal part of whose business is in any way directly concerned with the Colony, or an officer or servant employed in the Colony by any such company, without the prior permission in writing of the Governor, such pension or allowance shall cease if the Governor so directs

Provided that it shall be lawful for the Governor, on being satisfied that the person in respect of whose pension or other allowance any such direction has been given has ceased to be a director of such company, or to be employed as an officer or servant of such company in the Colony, as the case may be, to give directions for the restoration of such pension or allowance, with retrospective effect, if he thinks fit, to such a date as he may specify, and the pension or other allowance shall be restored in accordance with any such directions

30 16. (1) Where an officer holding a pensionable office who is not on probation or agreement, or an officer holding a non-pensionable office to which he has been transferred from a pensionable office in which he has been confirmed, dies while in the service of the Government, it shall be lawful for the Governor in Council to grant to his legal personal representative a gratuity of an amount not exceeding his annual pensionable emoluments

(2) Where an officer who is receipt of a pension or other allowance under this Ordinance and on whose death while in the service of the Government the Governor in Council might have granted a gratuity under sub-section (1) of this section dies after retirement from such service, it shall be lawful for the Governor in Council to grant to the legal personal representative of such officer a gratuity of an amount not exceeding the annual pensionable emoluments of such officer from which gratuity shall be deducted the amount of any pension, gratuity or other allowance already paid to such officer under this Ordinance or in respect of any public service

(3) For the purposes of this section "annual pensionable emoluments" means—

- (a) in the case of an officer who died prior to the date of the enactment of this Ordinance, the pensionable emoluments of the officer immediately prior to the date of his death, and
- (b) in the case of an officer who died on or after the date of the enactment of this Ordinance, the emoluments which would be taken for the purpose of computing any pension or gratuity granted to the officer if he had retired on the date of his death in the circumstances described in paragraph (e) of section 6 of this Ordinance

Pensions, etc
on accepting
certain
appointments

Gratuity
where an
officer dies

(4) This section shall not apply in the case of the death of any officer where benefits corresponding to the benefits granted by this section are payable under the Colonial Super-annuation Scheme in respect of such death

No 13 of 1926

No 7 of 1925

Pensions to dependants when an officer is killed on duty

(5) Notwithstanding anything to the contrary in the Estate Duty (Consolidation) Ordinance, 1926, or the Public Trustees Ordinance, 1925, no gratuity granted under this section shall be subject to the payment of estate duty or of any fees or charges to the Public Trustees

17 (1) Where an officer dies as a result of injuries received—

(a) in the actual discharge of his duty, and

(b) without his own default, and

(c) on account of circumstances specifically attributable to the nature of his duty, while in the service of the Government it shall be lawful for the Governor in Council to grant, in addition to the grant, if any, made to his legal personal representative under section 16 of this Ordinance—

(i) if the deceased officer leaves a widow, a pension to her, while unmarried and of good character, at a rate not exceeding ten-sixtieths of his annual pensionable emoluments at the date of the injury or fifteen pounds a year, whichever is the greater,

25

(ii) if the deceased officer leaves a widow to whom a pension is granted under paragraph (i) of this sub-section and a child or children, a pension in respect of each child, until such child attains the age of twenty-one years, of an amount not exceeding one-eighth of the pension specified in such paragraph,,

(iii) if the deceased officer leaves a child or children, but does not leave a widow or no pension is granted to the widow, a pension in respect of each child, until such child attains the age of twenty-one years, of double the amount specified in paragraph (ii) of this sub-section,

(iv) if the deceased officer leaves a child or children, and a widow to whom a pension is granted under paragraph (i) of this sub-section, and the widow subsequently dies, a pension in respect of each child as from the date of the death of the widow and until such child attains the age of twenty-one years, of double the amount specified in paragraph (ii) of this sub-section,

(v) if the deceased officer does not leave a widow, or if no pension is granted to the widow, and if his mother was wholly or mainly dependent on him for her support, a pension to the mother, while of good character and without adequate means of support, of an amount not exceeding the pension which might have been granted to his widow

Provided that—

55

(A) a pension shall not be payable under this sub-section at any time in respect of more than six children, and where there are more than six children in respect of whom, but for this proviso, a pension would be payable, then the amount payable in respect of six

children shall be divided equally among all such children during the period in which there are more than six children of pensionable age,

5 (B) in the case of a pension granted under paragraph (v) of this sub-section, if the mother is a widow at the time of the grant of the pension and subsequently remarries such pension shall cease as from the date of the remarriage, and if it appears to the Secretary of State or, if such person is resident in the Colony, the Governor, at any time that the mother is adequately provided with other means of support, such pension shall cease as from such date as the Secretary of State or the Governor, as the case may be, may determine,

10 (C) a pension granted to a female child under this section shall cease upon the marriage of such child under the age of twenty-one years

(2) For the purposes of this section—

20 (i) an officer who dies as a result of injuries received while travelling by air in pursuance of official instructions shall be deemed to have died as the result of injuries received—

(a) in the actual discharge of his duty, and

25 (b) on account of circumstances specifically attributable to the nature of his duty,

(ii) an officer proceeding by a route approved by the Governor to or from the Colony at the commencement or termination of his service therein, or of a period of secondment, duty, or leave therefrom, who dies as the result of damage to the vessel, aircraft or vehicle in which he is travelling, or of any act of violence directed against such vessel, aircraft or vehicle, shall, if the Governor in Council is satisfied that such damage or act is attributable to circumstances arising out of any war in which His Majesty may be engaged, be deemed to have died as the result of injuries received—

(a) in the actual discharge of his duty, and

(b) without his own default, and

30 (c) on account of circumstances specifically attributable to the nature of his duty

(3) In the case of an officer not holding a pensionable office, the expression "pensionable emoluments" in this section means the emoluments enjoyed by him which would have been pensionable emoluments if the office held by him had been a pensionable office

35 (4) For the purposes of this section the expression "child" includes—

40 (a) a posthumous child,

(b) a step-child or illegitimate child born before the date of the injury and wholly or mainly dependent upon the deceased officer for support and

45 (c) an adopted child, adopted in a manner recognized by law before the date of the injury and wholly or mainly dependent upon the deceased officer for support

(5) This section shall not apply in the case of the death of any officer—

50 (a) if his dependents, as defined in any Ordinance in force relating to Workmen's Compensation are entitled to

compensation under any such Ordinance or to compensation under any such Ordinance where no pension is paid under this section, or

(b) where benefits corresponding to the benefits granted by this section are payable under the Colonial Super-⁵ annuation Scheme in respect of such death

(6) This section shall be deemed to have come into operation on the 8th day of May, 1942

**Application of
Ordinance**

18. The provisions of this Ordinance shall apply—

(a) to every officer appointed to the service of the Government on or after the 3rd September, 1948, otherwise than on transfer from other public service,

(b) subject to the provisions of the Second Schedule to this Ordinance, to every officer—

(i) transferred to the service of the Government on ¹⁵ or after 3rd September, 1948, from other public service,

(ii) in the service of the Government prior to 3rd September, 1948, who, in accordance with Government Secretariat Circular No 68 of the ²⁰ 1st October, 1948, elected or is deemed to have elected for the new terms of service contained in such circular and any amendments thereto,

(iii) transferred from the service of the Government to other Public Service before the 1st January, ²⁵ 1946, who retires from the public service subsequent to that date

(c) to every officer to whom Government Secretariat Circular No 69 of the 1st October, 1948, and any amendments and additions thereto, applies. ³⁰

**Power to
amend Second
and Third
Schedules**

19. (1) If any difficulty arises in bringing into operation any of the provisions of the Second Schedule to this Ordinance or in giving effect to the purposes thereof, the Governor in Council may by order made with the sanction of the Secretary of State amend, add to, or revoke, any of the provisions of the ³⁵ Second Schedule or the Third Schedule to this Ordinance for the purpose of removing the difficulty, or of conferring a benefit upon, or removing a disability attached to, any officer or class of officer

Provided that no such order shall be made later than the ⁴⁰ 31st December, 1951

(2) Any order made under this section may be given retrospective effect to a day not earlier than the date of the commencement of this Ordinance

Provided that no such order shall retrospective effect ⁴⁵ unless it has received the prior approval of the Legislative Council signified by resolution

(3) All orders made under this section shall be laid before the Legislative Council

**Questions
under Ordinance
to be determined
by the Governor
in Council**

20. Where any question exists in relation to any matter ⁵⁰ arising under this Ordinance such question may be determined by the Governor in Council subject, however, to the approval, either generally or in any particular case, of the Secretary of State

**Special provi-
sions relating
to age of
retirement**

21. (1) Subject to the provisions of sub-sections (2) and ⁵⁵ (3) of this section, the following provisions shall have effect until the 31st December, 1951—

(a) for the words "fifty-five years or, in special cases with the approval of the Secretary of State, fifty years" in

- 5
- paragraph (a) of section 6 of this Ordinance, there shall be substituted the words "forty-five years",
 (b) for the words "fifty-five years or, in special cases with the approval of the Secretary of State, fifty years" in paragraph (a) of section 8 of this Ordinance, there shall be substituted the words "forty-five years",
 10 (c) for the word "fifty" on the two occasions in which it occurs in sub-section (1) of section 10 of this Ordinance, there shall be substituted the words "forty-five"

15 (2) The Governor in Council may, on or before the 31st December, 1951, by order made with the approval, to be signified by resolution, of the Legislative Council, declare that to have effect until such date as may be specified in such order

20 (3) Where an officer has attained the age of 45 years and has commenced his leave prior to retirement before the provisions of sub-section (1) of this section cease to have effect, then such provisions shall continue to apply to him notwithstanding that the date of his retirement falls after the date on which the provisions of that sub-section cease to have effect

25 22. Without prejudice to any of the provisions of the Second Schedule to this Ordinance—

Repeal.

- (a) the European Officers Pensions Ordinance, 1927, and the Non-European Officers Pensions Ordinance, 1932 are repealed,
 25 (b) the European Officers Pensions (Consolidation) Regulations, 1930, and all amendments thereto are revoked

No 11 of 1927
No 53 of 1932

FIRST SCHEDULE

REGULATIONS FOR THE GRANTING OF PENSIONS, GRATUITIES AND OTHER ALLOWANCES TO OFFICERS

Part I—Preliminary

1 These Regulations may be cited as the Pensions Regulations, Short title 1950

2 In these regulations, unless the context otherwise requires— Interpretation
 "pensionable service" means service which may be taken into account in computing pension under these regulations,
 "qualifying service" means service which may be taken into account in determining whether an officer is eligible by length of service for pension or gratuity

Part II—Officers without other Public Service

3 Save when the Governor in Council in any special case otherwise directs, this Part of these regulations shall not apply in the case of any officer transferred to or from the service of the Government from or to other public service except for the purpose of determining whether such officer would have been eligible for pension or gratuity, and the amount of pension or gratuity for which the officer would have been eligible, if the service of the officer had been wholly under the Government

Application of Part II

4 Subject to the provisions of the Ordinance and of these regulations, every officer holding a pensionable office in the service of the Government, who has been in such service in a civil capacity for ten years or more, may be granted on retirement a pension at the annual rate of one six-hundredth of his pensionable emoluments for each complete month of his pensionable service;

Pensions to whom and at what rates to be granted

5 Every officer, otherwise qualified for a pension, who has not been in the service of the Government in a civil capacity for ten years, may be granted on retirement a gratuity not exceeding five times the annual amount of the pension which, if there had been no qualifying period, might have been granted to him under regulation 4 of these regulations

Gratuities where length of service does not qualify for pension

Marriage
gratuities

6 Where a female officer holding a pensionable office in which she has been confirmed in the service of the Government and having not less than five years pensionable service resigns from the service of the Government on or with a view to marriage or is required to retire from the service of the Government on account of her marriage, and is not eligible for the grant of any pension or otherwise eligible for gratuity under this Part of these regulations, she may be granted, on production within six months after her resignation or retirement, or such longer period as the Governor may in any particular case allow, of satisfactory evidence of her marriage, a gratuity not exceeding one-twelfth of a month's pensionable emoluments for each complete month of pensionable service in the service of the Government or one year's pensionable emoluments, whichever is the less

*Part III—Transferred Officers*Application of
Part III

7 This Part of these regulations shall apply only in the case of an officer transferred to or from the service of the Government from or to other public service

Interpretation

8 In this Part and in Part IV of these regulations—

“scheduled Government” means the Government of any territory, or any authority, mentioned in the Schedule to these regulations, the Government of Ceylon in respect of any officer appointed to the service of that Government prior to the 4th February, 1948, the Government of Palestine in respect of any officer appointed to the service of that Government prior to the 15th May, 1948, and the High Commissioner for Transport in Kenya and Uganda in respect of any officer appointed to the service of that authority prior to 1st May, 1948,

“service in the group” means service under the Government and under a scheduled Government or scheduled Governments

Pension for
service wholly
within the group

9 (1) Where the other public service of an officer to whom this Part of these regulations applies has been wholly under one or more scheduled Governments and his aggregate service would have qualified him had it been wholly in the service of the Government for a pension under the Ordinance, he may, on his retirement from the public service in circumstances in which he is permitted by the law or regulations of the service in which he is last employed to retire on pension or gratuity, be granted in respect of his service under the Government a pension of such an amount as bears the same proportion to the amount of pension for which he would have been eligible had his service been wholly under the Government, as the aggregate amounts of his pensionable emoluments during his service under the Government bears to the aggregate amounts of his pensionable emoluments throughout his service in the group

(2) In determining for the purposes of this regulation the pension for which an officer would have been eligible if his service had been wholly under the Government—

(a) in the application of regulation 19 of these regulations, his pensionable emoluments shall be determined by reference to the pensionable emoluments enjoyed by him at the date of retirement from the public service or during the three years preceding that date, as the case may be, except that where the officer is not serving in a scheduled Government at that date, the date upon which he was last transferred from the service of a scheduled Government shall be deemed to be the date of his retirement for the purposes of this sub-paragraph,

(b) no regard shall be had to an additional pension granted under regulation 23 or regulation 24 of these regulations,

(c) regard shall be had to the condition that pension may not exceed two-thirds of his highest pensionable emoluments,

(d) no period of other public service under a scheduled Government in respect of which no pension or gratuity is granted to him shall be taken into account

(3) For the purposes of this regulation the aggregate amount of an officer's pensionable emoluments shall be taken as the total amount of pensionable emoluments which he would have received or enjoyed had he been on duty on full pay in his substantive office or offices throughout his period of service in the group subsequent to the attainment of the age of twenty years

Provided that—

(a) in calculating the aggregate amount of his pensionable emoluments, no account shall be taken of any service under a scheduled Government in respect of which no pension or gratuity is granted to him,

(b) where under regulation 20 of these regulations part only of any service in a civil capacity otherwise than in a pensionable

office is taken into account as pensionable service, a proportionate part only of the officer's aggregate pensionable emoluments during that service shall be taken into account for such calculation

10 (1) Where the other public service of an officer to whom this Part of these regulations applies has not included service under any of the scheduled Governments, and his aggregate service would have qualified him, had it been wholly in the service of the Government, for a pension under these regulations, he may, on his retirement from the public service in circumstances in which he is permitted by the law or regulations of the service in which he is last employed to retire on a pension or gratuity, be granted in respect of his service under the Government a pension at the annual rate of one six-hundredth of his pensionable emoluments for each complete month of his pensionable service in the service of the Government

(2) Where the officer is not in the service of the Government at the time of his retirement in the circumstances referred to in paragraph (1) of this regulation, his pensionable emoluments for the purposes of such paragraph shall be those which would have been taken for the purpose of computing his pension if he had retired from the public service and been granted a pension at the date of his last transfer from the service of the Government

11 Where a part only of the other public service of an officer to whom this Part of these regulations applies has been under one or more of the scheduled Governments, the provisions of regulation 9 of these regulations shall apply, but in calculating the amount of pension, regard shall be had only to service in the group

12 Where an officer to whom this Part of these regulations applies retires from the public service in circumstances in which he is permitted by the law or regulations of the service in which he is last employed to retire on pension or gratuity, but has not been in the public service in a civil capacity for ten years, he may be granted in respect of his service under the Government a gratuity not exceeding five times the annual amount of the pension which, if there had been no qualifying period might have been granted to him under regulation 9, 10 or 11 of these regulations, as the case may be

13 A female officer to whom this part of the regulations applies who resigns from public service on or with a view to marriage, or is required to retire from public service on account of her marriage, and in consequence—

- (1) would, if the whole of her public service had been under the Government, have been eligible for a gratuity under regulation 6 of these regulations, and
- (2) if she is, at the date of her resignation or retirement in other public service, eligible for a gratuity under provisions corresponding to that regulation in the law or regulations of the public service in which she is last employed,

may, if she is not eligible for the grant of any pension or otherwise eligible for gratuity under this Part of these regulations, be granted a gratuity which bears to the gratuity for which she would be eligible if the whole of her public service had been in the service in which she is last employed the proportion which her service under the Government bears to her total public service

Provided that for the purpose of computing such an officer's total public service under this paragraph, no regard shall be had to any service under a Government which does not grant a gratuity to her in consequence of her resignation or retirement

Part IV—General

14 (1) Subject to the provisions of these regulations, qualifying service shall be the inclusive period between the date on which an officer begins to draw salary in respect of public service and the date of his leaving the public service, without deduction of any period during which he has been absent on leave

(2) No period which is not qualifying service by virtue of paragraph (1) of this regulation shall be taken into account as pensionable service

(3) No period during which the officer was not in public service shall be taken into account as qualifying service or a pensionable service.

Provided that notwithstanding that Palestine ceased to be a territory under British mandate on the 15th May, 1948, any officer who held office in the service of the Government of Palestine immediately prior to that date shall for the purposes of these regulations be deemed

Pension where other service not within the group

Pension where other service both within and not within the group

Gratuities where length of service does not qualify for pension

Marriage gratuities

General rules as to qualifying service and pensionable service

to continue in public service until either he is appointed to public service elsewhere, or if he is not so appointed, he retires or is removed from office

Continuity of service

15 (1) Except as otherwise provided in these regulations, only continuous service shall be taken into account as qualifying service or as pensionable service

Provided that—

(a) any break in service caused by temporary suspension of employment not arising from misconduct or voluntary resignation,

(b) in the case of an African subordinate police officer or an African subordinate prison officer, any break in service between discharge and re-enlistment which has been disregarded for the purpose of the grant of a gratuity in accordance with subsection (4) of section 20 of the Police Ordinance, 1930, or sub-rule (3) of rule 5 of the Prisons Rules, 1930, respectively, shall be disregarded for the purposes of this paragraph

(2) An officer—

(a) whose pension has been suspended under section 11 of the Ordinance or under a corresponding provision in any law or regulation relating to the grant of pensions in respect of public service, or

(b) who has retired from the public service without pension on account of ill-health, abolition of office or reorganization designed to effect greater efficiency or economy and has subsequently been re-employed in the public service, or

(c) who has left pensionable service under the Teachers (Superannuation) Act, 1925, of the United Kingdom or any act amending or replacing that Act, or under the Colonial Superannuation Scheme, or under any enactment approved by the Governor in Council for the purpose of this regulation, with a view to entering public service not being service pensionable under such Act, scheme or enactment, and has, not later than three months, or such extended period as the Governor in Council may in any particular case approve, after leaving such first-mentioned service, received any salary in respect of employment in public service not so pensionable,

may, if the Governor thinks fit, be granted the pension or gratuity for which he would have been eligible if any break in his public service immediately prior to such suspension, re-employment or employment had not occurred, such pension to be in lieu of—

- (i) any pension previously granted to him from the funds of the Colony, and
- (ii) any gratuity so granted which is required to be refunded as a condition of the application to the officer of this regulation, but additional to any gratuity so granted which is not required to be so refunded

Leave without salary

16 No period during which an officer has been absent from duty on leave without salary shall be taken into account as pensionable service unless such leave has been granted on grounds of public policy with the approval of the Secretary of State

Service in His Majesty's Forces

17 Where an officer during some period of his service has been on the active list of the Royal Navy, the Army or the Royal Air Force, and pension contributions have been paid in respect of that period from the funds of the Colony or of any scheduled Government and have not been refunded, such period shall not be taken into account as pensionable service

War service

18 (1) Where an officer who held a pensionable office serves with His Majesty's Forces in time of war (in this regulation referred to as "military service"), or in civilian employment connected with the prosecution of the war (in this regulation referred to as "civilian service"), and before so serving had been employed in the public service, then the following provisions shall have effect—

(a) during the period of such military or civilian service including in the case of—

(i) military service, any period of service with His Majesty's Forces after the termination of the war (which period shall be included in the expression "military service"),

(ii) civilian service, any period of civilian employment which may be approved by the Governor, but which in no case shall exceed six months, after the termination of the war, such employment having been prior to the termination of the war connected with the prosecution thereof (which period shall be included in the expression "civilian service"),

No 64 of 1930

such officer shall be deemed to have been on leave on full salary from the public service in which he was last employed, and to have held the substantive office last held by him in that service prior to such military or civilian service,

(b) during any period between his leaving the public service for the purpose of serving in His Majesty's Forces or in any such civilian employment and the date of his commencing such military or civilian service he shall be deemed to be on leave without salary, not granted on grounds of public policy, from the public service in which he was last employed, and to have held the substantive office last held by him in that service prior to such military or civilian service, and during any period between the termination of his military or civilian service and the date of his re-entering the public service he shall, for such purposes, be deemed to be on leave as aforesaid from the public service, and to have held the substantive office, in which he is re-employed

Provided that—

(A) This regulation shall not apply—

(i) when either period mentioned in sub-paragraph (b) of this paragraph exceeds three months, or such longer period as the Governor, with the approval of the Secretary of State, may in any special case determine, or

(ii) if the officer fails after such military or civilian service to re-enter the public service otherwise than in circumstances in which he would be permitted under the law or regulations applicable to the public service in which he is last employed prior to such military or civilian service, to retire on pension or gratuity, such circumstances arising not later than the expiration of three months, or such longer period as may be determined as aforesaid, after the termination of his military or civilian service,

(B) if during any period mentioned in sub-paragraph (a) of this paragraph the officer has qualified for pension or received emoluments in lieu of pension rights, actually in respect of military service, sub-paragraph (a) of this paragraph shall, as respects that period, have effect as if the words "leave without salary not granted on grounds of public policy" were substituted for the words "leave or full salary"

(C) if during his military or civilian service the officer is injured or killed he shall not be deemed to have been injured or killed in the actual discharge of his duty,

(D) the provisions of this paragraph which require that the officer shall be deemed to have held a specific office and to have been on leave from the public service shall not apply in respect of any period during which he has actually held any other substantive office and has been on leave from any public service

(E) the Governor in Council may in any case direct that the provisions of this regulation shall apply where the office in the public service last held by the officer prior to military or civil service was not a pensionable office

(2) In this regulation the expression "the termination of the war" means such date as the Governor in Council may declare to be the date on which the war terminated for the purposes of this regulation

19 For the purpose of computing the amount of an officer's pension or gratuity—

(a) in the case of an officer who has held the same office for a period of three years immediately preceding the date of his retirement, the full annual pensionable emoluments enjoyed by him at that date in respect of that office shall be taken,

(b) in the case of an officer who at any time during such period of three years has been transferred from one office to another, but whose pensionable emoluments have not been changed by reason of such transfer or transfers, other than by reason of the grant of any increment, the full annual pensionable emoluments enjoyed by him at the date of his retirement in respect of the office then held by him shall be taken,

(c) in other cases one-third of the aggregate pensionable emoluments enjoyed by the officer in respect of his service during the three years of his service immediately preceding the date of his retirement shall be taken

Provided that—

(i) if such one-third is less than the highest annual pensionable emoluments enjoyed by him immediately

Emoluments to
be taken for
computation of
pensions, etc

prior to any transfer within such period of three years, those pensionable emoluments shall be taken, and

- (ii) if such one-third is less than the annual pensionable emoluments which would have been enjoyed by him at the date of his retirement if he had continued to hold any office from which he has been transferred at any time during such period of three years and had received all increments which, in the opinion of the Governor, would have been granted to him, the annual pensionable emoluments which would have been so enjoyed shall be taken, and
- (iii) for the purpose of calculating pensionable emoluments under this regulation, the officer shall be deemed to have been on duty, on full pensionable emoluments, throughout such period of three years

Service otherwise than in a pensionable office

20 Only service in a pensionable office shall be taken into account as pensionable service

Provided that—

(a) where a period of continuous service in a civil capacity otherwise than in a pensionable office is immediately followed by service in a pensionable office and the officer is confirmed therein, one-half of that period, or such greater portion or the whole thereof as the Governor in Council may determine,

may be taken into account,

(b) any break in service which may be disregarded under the provisions of regulation 15 of these regulations may likewise be disregarded in determining for the purposes of the preceding proviso whether one period of service immediately follows another period of service,

(c) where an officer has been transferred from a pensionable office in which he has been confirmed to an office other than a pensionable office and subsequently retires either from a pensionable office or from such other office, his service in such other office may, with the approval of the Governor in Council, be taken into account as though it were service in the pensionable office which he held immediately prior to such transfer, and at the pensionable emoluments which were payable to him at the date of transfer

(d) where a period of service in a non-pensionable office is taken into account under this regulation, the officer shall, during that period, be deemed for the purposes of regulations 6, 23 and 24 of these regulations to be holding a pensionable office, and where that period is taken into account under proviso (c) of this regulation, to have been confirmed therein

Acting service

21 Any period during which an officer has performed only acting service in an office may be taken into account as pensionable service (subject, if the office is a non-pensionable office, to the provisions of the preceding regulation) if the period of such acting service—

- (1) is not taken into account as part of his pensionable service in other public service, and
- (2) is immediately preceded or followed by service in a substantive capacity in a pensionable office under the same government or authority,

and not otherwise

Service under age of twenty or on probation or agreement

22 Save as otherwise provided in these regulations there shall not be taken into account as pensionable service—

- (a) any period of service while the officer was under the age of twenty years, or
- (b) any period of service while he was on probation or agreement, unless without break of service he is confirmed in a pensionable office in the public service

Provided that any break of service which may be disregarded under the provisions of regulation 15 of these regulations may likewise be disregarded in determining whether the officer is confirmed in a pensionable office without break of service

Part V—Supplementary

Abolition of office and reorganization

23 If an officer holding a pensionable office retires from the public service in consequence of the abolition of his office or for the purpose of facilitating improvement in the organization of the depart-

ment to which he belongs, by which greater efficiency or economy may be effected he may—

(a) if he has been in the public service for less than ten years, be granted in lieu of any gratuity under regulation 5 or regulation 12 of these regulations, a pension under regulation 4, 9, 10, or 11 of these regulations, as the case may be, as if the words "for ten years or more" were omitted from such regulation 4,

(b) if he retires from the service of the Government, be granted an additional pension at the annual rate of one-sixtieth of his pensionable emoluments for each complete period of three years' pensionable service

Provided that—

- (i) the addition shall not exceed ten-sixtieths, and
- (ii) the addition together with the remainder of the officer's pension shall not exceed the pension for which he would have been eligible if he had continued to hold the office held by him at the date of his retirement, and retired on reaching the age at which he may be required to retire without the approval of the Secretary of State, having received all increments for which he would have been eligible by that date

24 (1) If an officer holding a pensionable office in which he has been confirmed is permanently injured—

Officers retiring
on account of
injuries

(a) in the actual discharge of his duty, and

(b) without his own default, and

(c) on account of circumstances specifically attributable to the nature of his duty,

he may—

(i) if his retirement is thereby necessitated or materially accelerated and he has been in the public service for less than ten years, be granted, in lieu of any gratuity under regulation 5 or regulation 12 of these regulations, a pension under regulation 4, 9, 10 or 11 of these regulations, as the case may be, as if the words "for ten years or more" were omitted from regulation 4,

(ii) if so injured while in the service of the Government, be granted on retirement an additional pension at the annual rate of the proportion of his actual pensionable emoluments at the date of his injury appropriate to his case as shown in the following table —

When his capacity to contribute to his own support is—

- slightly impaired, five-sixtieths
- impaired, ten-sixtieths,
- materially impaired, fifteen-sixtieths,
- totally destroyed, twenty-sixtieths

Provided that the amount of the additional pension may be reduced to such an extent as the Governor in Council thinks reasonable where the injury is not the cause or the sole cause of retirement

(2) An officer holding a pensionable office in which he has not been confirmed, or holding a non-pensionable office, and so injured while in the service of the Government may be granted on retirement a pension of the same amount as the additional pension which might be granted to him under paragraph (1) of this regulation if his office were a pensionable office and he had been confirmed therein, and the provisions of regulation 25 of these regulations shall not apply to a pension granted under this paragraph

(3) For the purposes of this regulation—

(i) an officer who is permanently injured as a result of injuries received while travelling by air in pursuance of official instructions shall be deemed to have been permanently injured—

(a) in the actual discharge of his duty, and

(b) on account of circumstances specifically attributable to the nature of his duty,

(ii) an officer proceeding by a route approved by the Governor to or from the Colony at the commencement or termination of his service therein, or of a period of secondment, duty, or leave therefrom, who is permanently injured as a result of damage to the vessel, aircraft, or vehicle in which he is travelling, or of any act of violence directed against such

vessel, aircraft, or vehicle, shall, if the Governor in Council is satisfied that such damage or act is attributable to circumstances arising out of any war in which His Majesty may be engaged, be deemed to have been permanently injured—
 (a) in the actual discharge of his duty, and
 (b) without his own default, and
 (c) on account of circumstances specifically attributable to the nature of his duty

(4) In the case of an officer not holding a pensionable office, the expression "pensionable emoluments" in this regulation means the emoluments enjoyed by him which would have been pensionable emoluments if the office held by him had been a pensionable office

(5) Neither sub-paragraph (ii) of paragraph (1) nor paragraph (2) of this regulation shall apply in the case of an officer who in consequence of his injury is entitled—

- (a) to compensation under any Ordinance in force relating to workmen's compensation or to compensation under any such Ordinance where no pension is paid under this section, or
- (b) to benefits corresponding to the benefits granted under that sub-paragraph or paragraph, under the Colonial Super-annuation Scheme

Gratuity and reduced pension

25 Any officer to whom a pension is granted under the Ordinance may, at his option exercisable not later than the day immediately preceding the date of his retirement from the public service, or at such later date as the Governor may in any special case approve, be paid in lieu of such pension a pension at the rate of three-fourths or any greater fraction of such pension together with a gratuity equal to ten times the amount of the reduction so made in the pension

Provided that in the application of this regulation to cases where the limitation prescribed by sub-section (2) of section 9 of the Ordinance operates, the words "such pension" shall mean the amount of pension which the officer would have drawn from the funds of the Colony if he had not exercised his option under this regulation

Compassionate gratuity for non-pensionable officers

26 (1) An officer holding a pensionable office in which he has not been confirmed or holding a non-pensionable office who is not otherwise eligible for any pension, gratuity or other allowance from the funds of the Colony other than a pension under regulation 24 (2) of these regulations may, if he has been in the public service—

- (a) for not less than seven years and is removed from such service in any of the circumstances described in paragraph (c) or (d) of section 6 of the Ordinance, or
- (b) for not less than 15 years and retires from such service in any of the circumstances described in paragraph (a), (b) or (e) of section 6 of the Ordinance,

be granted a compassionate gratuity of an amount not exceeding half a month's pay for each complete year of his service under the Government which would be pensionable service if he were eligible for a pension under these regulations

Annual allowance for non-pensionable officers

(2) An officer who has been granted a gratuity under paragraph (1) of this regulation, who has been in the public service for not less than 30 years and whose salary on retirement is not more than Sh 200 per month, or such other figure as the Governor in Council may declare for the purposes of this paragraph, may, in addition to such gratuity, be granted an annual allowance at the following rates—

- (a) where the officer has been in the public service for 40 years or more, an annual allowance of Sh 360 or if he has other public service an annual allowance as bears the same proportion to an annual allowance of Sh 360 as each complete year of service under the Government which would be pensionable service if he were eligible for a pension under these regulations bears to each complete year of the public service of the officer,
- (b) where the public service of the officer is 35 years or more but less than 40 years, an annual allowance of Sh 300 or if he has other public service an annual allowance as bears the same proportion to an annual allowance of Sh 300 as each complete year of service under the Government which would be pensionable service if he were eligible for a pension under these regulations bears to each complete year of the public service of the officer,
- (c) where the public service of the officer is 30 years or more but less than 35 years, an annual allowance of Sh 240 or if he has other public service an annual allowance as bears the same proportion to an annual allowance of Sh 240 as

each complete year of service under the Government which would be pensionable service if he were eligible for a pension under these regulations bears to each complete year of the public service of the officer

(3) Where an officer holding a non-pensionable office and having not less than 15 years public service dies while in the service of the Government and his dependants are not otherwise eligible for any gratuity under the Ordinance or these regulations, it shall be lawful for the Governor in Council to grant to the dependants of such officer a gratuity of an amount not exceeding the amount which might have been granted to the officer under paragraph (1 (b) of this regulation had he retired in the circumstances set out therein at the date of his death

(4) For the purposes of this regulation—

- (a) "pay" includes the value of free quarters and any allowance which the Governor may think fit to include,
- (b) notwithstanding the provisions of regulation 15 of these regulations directions may be given by the Governor, either generally or in any particular case, for disregarding breaks in service from whatever cause and for determining the minimum number of days' work in any year which shall count as a complete year of service, and such directions shall have effect as if they were contained in these regulations,
- (c) an officer who, having held a non-pensionable office, is serving on probation in a pensionable office, shall be deemed to hold a non-pensionable office and his pay shall be deemed to be the pensionable emoluments of the pensionable office or the pay last received by him in respect of his service in a non-pensionable office, whichever is the greater

SCHEDULE

(Regulation 8)

Aden	Jamaica
Bahamas	Leeward Islands
Barbados	Malayan Establishment
Basutoland	Malayan Union
Bechuanaland Protectorate	Malta
Bermuda	Mauritius
British Guiana	New Hebrides
British Honduras	Nigeria
British Solomon Islands Protectorate	North Borneo
Cayman Islands	Northern Rhodesia
Colonial Audit Department (Home Establishment)	Nyasaland
Crown Agents for the Colonies	St Helena
Cyprus	St Lucia
Dominica	St Vincent
East Africa High Commission	Sabah
Employing authorities under the Colonial Superannuation Scheme	Seychelles
Falkland Islands	Sierra Leone
Federated Malay States	Singapore
Federation of Malaya	Somaliland
Fiji	Southern Rhodesia
Gambia	Straits Settlements
Gibraltar	Swaziland
Gilbert and Ellice Islands Colony	Tanganyika Territory
Gold Coast	Tonga
Grenada	Trinidad and Tobago
Hong Kong	Turks and Caicos Islands
	Uganda
	Union of South Africa
	United Kingdom of Great Britain and Northern Ireland
	Zanzibar

SECOND SCHEDULE

APPLICATION OF THE ORDINANCE AND REGULATIONS TO CERTAIN OFFICERS OF THE GOVERNMENT

Part I—Preliminary

1 The provisions of this Schedule shall apply to officers in the service of the Government who were in the public service prior to the 3rd September, 1948

2 In this Schedule and in the application of the Ordinance and of the regulations to any officer to whom the provisions of this Schedule apply—

"East African Dependencies" means Kenya the East Africa High Commission the Trust Territory of Tanganyika the Uganda Protec-

Application of
Schedule

Interpretation

torate, the Zanzibar Protectorate, the Nyasaland Protectorate, the Somaliland Protectorate, Northern Rhodesia and the High Commissioner for Transport in Kenya and Uganda, in respect of service prior to the 1st May, 1948,

"East African service" means service in a civil capacity under one or more of the East African Dependencies,

"elected" includes cases where an officer under the provisions of Government Secretariat Circular No 68 of 1st October, 1948, and any amendments or additions thereto, is deemed to have elected,

"new terms of service" means the new terms of service contained in Government Secretariat Circular No 68 of 1st October, 1948, and any amendments or additions thereto,

"regulations" means the Pensions Regulations, 1950, contained in the First Schedule to the Ordinance

Part II—Officers transferred other than from East African service

Application of Part II of the Schedule

Officers, transferred on or after 3rd September, 1948 or who are transferred prior to that date and who elect for new terms

3 The provisions of this Part of this Schedule shall apply only in the case of an officer who—

- (1) was transferred to the service of the Government other than from East African service before the 3rd of September, 1948, and who has elected for the new terms of service,
- (2) is transferred to the service of the Government other than from East African service on or after the 3rd of September, 1948

4 An officer to whom this Part of this Schedule applies shall be subject to the provisions of the Ordinance and of the Regulations, save that in the application of those provisions to any such officer—

- (1) if he was appointed to public service prior to the 1st January, 1930, and his public service has been wholly under one or more of the scheduled Governments and immediately prior to his appointment to the service of the Government he was eligible to have his pension calculated in accordance with a provision corresponding to that set out in this sub-paragraph, regulation 9 of the Regulations shall have effect as if a third proviso were added at the end of paragraph (3) as follows—
“(c) where it would be to the advantage of the officer, his pension in respect of his service under the Government may be calculated as if any scheduled Government in which he has served were not a scheduled Government”,
- (2) if he retires prior to the 1st January, 1949, and for the purpose of computing his pension his case falls within paragraph (c) of regulation 19 of the Regulations, then regulation 9 of the Regulations shall have effect as if there were added to sub-paragraph (a) of paragraph (2) the following proviso—
“Provided that where his pensionable emoluments are determined by reference to the pensionable emoluments enjoyed by him during the three years preceding the date of retirement from public service, then for the purpose of such determination the pensionable emoluments enjoyed by him in any former office shall be deemed to have been the pensionable emoluments of that office which he would have enjoyed had his service in such office been after the 1st January, 1946

- (3) if under the provisions of any of the enactments specified in paragraph 1 of the Third Schedule to this Ordinance he was eligible on retirement, in circumstances in which he might be granted a pension or gratuity, to have such pension or gratuity in respect of an earlier period of service under the Government calculated at the annual rate of one four-hundredth-and-eightieth of his pensionable emoluments for each complete month of pensionable service, regulation 9 of the regulations shall have effect as if there were inserted at the end of paragraph (2) thereof the following sub-paragraph—

“(e) in the application of regulation 4 of these Regulations his pension shall be computed separately—

- (i) in respect of pensionable service prior to the date on which he ceased to be eligible to have his pension or gratuity calculated at the annual rate of one four-hundredth-and-eightieth of his pensionable emoluments for each complete month of pensionable service at the aforementioned rate, and
- (ii) in respect of pensionable service on and after that date at the annual rate of 1/600th of his pensionable emoluments for each complete month of pensionable service,

and in either computation the other period of service shall be treated for the purposes of this Part of these Regulations as though it had been service under a scheduled Government ”

Part III—Officers appointed to the public service before the 3rd of September, 1948—

- (1) the whole of whose service has been under the Government,
- (2) who have been transferred to the Government from East African service

5 The provisions of this Part of this Schedule shall apply only to officers who were in the public service prior to the 3rd September, 1948, and—

- (a) the whole of whose service has been under the Government and who have elected for the new terms of service,
- (b) who have been transferred to the service of the Government from East African service prior to the 3rd September, 1948, and who have elected for the new terms of service,
- (c) who have been transferred to the service of the Government from East African service on or after the 3rd September, 1948

6 An officer to whom this Part of this Schedule applies and who prior to the 3rd September, 1948, was subject to the provisions of any of the enactments specified in paragraphs 1 to 12 of the Third Schedule to this Ordinance shall be subject to the provisions of the Ordinance and of the Regulations save that in the application of those provisions to any such officer—

Application of Part III of the Schedule

Officers with whole service in Government or transferred from East African service

- (1) if the officer under the provisions of an such enactment was eligible on retirement in circumstances in which he might be granted a pension or gratuity to have such pension or gratuity calculated in respect of his public service immediately prior to the 1st January, 1946 (and for the purpose of this paragraph the provisions of regulation 2 of the European Officers Pensions (Consolidation) Regulations, 1930, as amended by the European Officers Pensions (Amendment No 2) Regulations, 1947, shall have effect as if for the words ‘service subsequent to that date and not otherwise’ there were substituted the words “service subsequent to the 1st day of January, 1946, and not otherwise”), at the annual rate of one four hundred and eightieth of his pensionable emoluments for each complete month of pensionable service—
- (a) if he is an officer who has been transferred to the Government, regulation 9 of the Regulations shall have effect as if there were inserted at the end of paragraph (2) thereof the following sub-paragraph —
- (e) in the application of regulation 4 of these Regulations—
 - (i) his pension shall be calculated separately in respect of pensionable service prior to the 1st January, 1946, and in respect of pensionable service on or after that date, and where as a result of such separate calculation he would otherwise suffer a loss of one month’s pensionable service, then one month’s pensionable service shall be added to the period with the greatest number of residual days or, if such residual days are equal, to the period prior to the 1st January, 1946, and
 - (ii) in respect of the period prior to the 1st January, 1946, his pension shall be calculated at the annual rate of one four hundred and eightieth of his pensionable emoluments for each complete month of pensionable service and in respect of the period on or after the 1st January, 1946, his pension shall be calculated in accordance with the provisions of regulation 4 of these Regulations,
 - (iii) the sum arrived at by adding together the amounts of such separate calculations shall be the pension for which he would have been so eligible”
- (b) if he is an officer the whole of whose service has been under the Government, then in application of regulation 4 of the Regulations his pension shall be calculated

in the manner provided in sub-paragraph (e) of paragraph (2) of regulation 9 of the Regulations (inserted therein by sub-paragraph (1) (a) of this paragraph),

(2) if the officer has been transferred to the service of the Government, and under the provisions of the enactments specified in paragraph 1 of the Third Schedule to this Ordinance was eligible on retirement in circumstances in which he might be granted a pension or gratuity to have such pension or gratuity in respect of an earlier period of service under the Government (such period not being in respect of his service immediately prior to the 1st January, 1946) calculated at the annual rate of one four hundred and eightieth of his pensionable emoluments for each complete month of pensionable service, then regulation 9 of the Regulations shall have effect as if there were inserted at the end of paragraph (2) thereof the following sub-paragraph —

“(e) in the application of regulation 4 of these Regulations his pension shall be calculated separately—

(i) in respect of pensionable service prior to the date on which he ceased to be eligible to have his pension or gratuity calculated at the annual rate of one four hundred and eightieth of his pensionable emoluments for each complete month of pension service at the aforementioned rate, and

(ii) in respect of pensionable service on and after that date at the annual rate of 1/600th of his pensionable emoluments for each complete month of pensionable service,

and in either computation the other period of service shall be treated for the purposes of this Part of these Regulations as though it had been service under a scheduled Government”,

(3) if under the provisions of the enactments specified in paragraph 1 of the Third Schedule to this Ordinance the pensionable emoluments of the officer included house allowance calculated at fifteen per centum of his salary without any maximum and the officer, not having been transferred to or from the service of the Government since the 31st December, 1945, retires from an office the initial or fixed salary of which is £1,335 per annum or more, then for the purposes of ascertaining his pensionable emoluments for any calculations made in accordance with sub-paragraph (1) of this paragraph, in respect of the period prior to the 1st January, 1946, his salary during any period in which he was serving in such an office shall be deemed to be the amount resulting from the reduction by ten per centum subject to a maximum reduction of £150 of his actual salary and the addition to that figure of fifteen per centum of that reduced figure,

(4) if the officer retires prior to the 1st January, 1949, and for the purpose of computing his pension his case falls within sub-paragraph (c) of regulation 19 of the Regulations, then regulation 4 or sub-paragraph (a) of paragraph (2) of regulation 9 (as the case may be) of the Regulations shall have effect as if there were added thereto the following proviso —

“Provided that where his pensionable emoluments are determined by reference to the pensionable emoluments enjoyed by him during the three years preceding the date of retirement from public service, then for the purpose of such determination the pensionable emoluments enjoyed by him in any former office shall be deemed to have been the pensionable emoluments of that office which he would have enjoyed had his service in such office been after the 1st January, 1946

(5) if the officer under the provisions of any of the enactments specified in paragraph 1 to 8 of the Third Schedule to this Ordinance was entitled to retire after completing twenty years East African pensionable service or on or after attaining the age of fifty years, then—

(a) so long as the provisions of sub-section (1) of section 21 of the Ordinance have effect—

(i) paragraph (a) of section 6 of the Ordinance shall have effect as if there were inserted at the beginning thereof the words “on completion of twenty years East African pensionable service or”

(ii) paragraph (a) of section 8 of the Ordinance shall have effect as if there were inserted between the

- words "after" and "he" the words "the completion of twenty years East African pensionable service or after",
- (b) when the provisions of sub-section (1) of section 21 of the Ordinance cease to have effect paragraph (a) of section 6 and paragraph (a) of section 8 of the Ordinance shall have effect as if for the words "fifty-five years or, in special cases with the approval of the Secretary of State, fifty years" there were substituted the words "fifty years or on completion of twenty years East African pensionable service",
- (6) if the officer under the provisions of any of the enactments specified in paragraph 1 of the Third Schedule to this Ordinance was entitled to retire on or after attaining the age of fifty years, and has not been transferred from the service of the Government since the 31st December 1945, then, when the provisions of sub-section (1) of section 21 of the Ordinance cease to have effect paragraph (a) of section 6 and paragraph (a) of section 8 of the Ordinance shall have effect as if the words "fifty-five years or, in special cases with the approval of the Secretary of State" were deleted therefrom,
- (7) if the officer under the provisions of any of the enactments specified in paragraphs 9 to 12 of the Third Schedule to this Ordinance was entitled to retire after completing thirty years East African pensionable service, or on or after attaining the age of fifty years, then—
- (a) so long as the provisions of sub-section (1) of section 21 of the Ordinance have effect—
- (i) paragraph (a) of section 6 of the Ordinance shall have effect as if there were inserted at the beginning thereof the words "on completion of thirty years East African pensionable service or",
 - (ii) paragraph (a) of section 8 of the Ordinance shall have effect as if there were inserted between the words "after" and "he" the words "the completion of thirty years East African pensionable service or after",
- (b) when the provisions of sub-section (1) of section 21 of the Ordinance cease to have effect paragraph (a) of section 6 and paragraph (a) of section 8 of the Ordinance shall have effect as if for the words "fifty-five years or, in special cases with the approval of the Secretary of State, fifty years" there were substituted the words "fifty years or on completion of thirty years East African pensionable service"
- (8) if the officer was appointed to public service prior to the 1st January, 1930, and his public service has been wholly under one or more of the scheduled Governments and immediately prior to his appointment to the service of the Government he was eligible to have his pension calculated in accordance with a provision corresponding to that set out in this sub-paragraph, regulation 9 of the Regulations shall have effect as if a third proviso were added at the end of paragraph (3) as follows—
- "(c) where it would be to the advantage of the officer, his pension in respect of his service under the Government may be calculated as if any scheduled Government in which he has served were not a scheduled Government",
- (9) if the officer under the provisions of the enactments specified in paragraph 1 to 8 of the Third Schedule to this Ordinance was entitled to elect, and does elect, to have his pension computed in accordance with the provisions of the enactments specified in paragraph 17 of the Third Schedule to this Ordinance, then—
- (a) paragraph (3) regulation 9 of the regulations shall have effect as if the words "subsequent to the attainment of the age of 20 years" were deleted therefrom
- (b) paragraph (a) of regulation 22 of the Regulations and regulation 25 of the Regulations and sub-paragraph (8) of this paragraph shall not have effect,
- (c) sub-paragraph (1) of this paragraph shall have effect as if for the words "one four hundred and eightieth of his pensionable emoluments for each complete month" wherever they appear there were substituted the words "one fortieth of his pensionable emoluments for each complete year" and as if the words "and where as a result of such separate calculation he would otherwise suffer a loss of one month's pensionable service, then one

month's pensionable service shall be added to the period with the greatest number of residual days, or, if such residual days are equal to the period prior to the 1st January, 1946" were deleted therefrom,

- (10) if the officer under the provisions of the enactments specified in paragraphs 9 to 12 of the Third Schedule to this Ordinance was entitled to elect, and does elect, to have his pension calculated in accordance with the provisions of the enactments specified in paragraph 17 of the Third Schedule to this Ordinance, then—
 - (a) regulation 9 (3) shall have effect as if the words "subsequent to the attainment of the age of 20 years" were deleted therefrom,
 - (b) paragraph (a) of regulation 22 of the Regulations and regulation 25 of the Regulations shall not have effect,
 - (c) (i) if he is an officer who has been transferred to the Government from East African Service regulation 9 of the Regulations shall have effect as if there were inserted at the end of paragraph (2) thereof the following subparagraph—
 - "(e) in the application of regulation 4 of these regulations his pension shall be calculated as if for the words "1/600th of his pensionable emoluments for each complete month of his pensionable service" in that regulation there were substituted the words "1/50th of his pensionable emoluments for each complete year of his pensionable service",
 - (ii) if he is an officer the whole of whose service has been under the Government in the application of regulation 4 of the regulations his pension shall be calculated in the manner provided in sub-paragraph (e) of paragraph (2) of regulation 9 of the regulations (as inserted by this subparagraph),
 - (d) if the pensionable emoluments of the officer included house allowance calculated at fifteen per centum of his salary without any maximum and the officer not having been transferred from the service of the Government retires from an office the initial or fixed salary of which is £801 per annum or more, then for the purpose of ascertaining his pensionable emoluments for any calculation made in accordance with this sub-paragraph in respect of the period prior to the 1st January, 1946, his salary during any period in which he was serving in such an office shall be deemed to be the amount resulting from the reduction by ten per centum, subject to a maximum reduction of £72, of his actual salary and the addition to that reduced figure of fifteen per centum of that reduced figure

Part IV—Officers in the Service of Government who were not Eligible for Free Pension Prior to 3rd September, 1948

Application of Part IV of the Schedule

7 The provisions of this part of the Schedule shall apply to officers in the service of the Government on or after the 1st of January, 1946, who prior to the 3rd of September, 1948, had not been confirmed in offices which were pensionable under the enactments specified in paragraphs 1 or 9 of the Third Schedule to this Ordinance and who have elected for the new terms of service

Officers who were contributors to a provident fund or contributory pensions fund

8 An officer to whom this part of the Schedule applies and who was a contributor under any of the enactments specified in paragraphs 13, 14, 15 and 16 of the Third Schedule to this Ordinance shall, on being refunded any contributions (together with interest thereon) made by him under any of the said enactments prior to his attaining the age of twenty years and on surrendering all claim to any refund of contributions and to any other benefits in respect of any period after his attaining the age of twenty years and—

- (a) if his office became pensionable on or before the 3rd September, 1948, as a result of the new terms of service, the 1st day of January 1946,
- (b) if he was appointed to a pensionable office after the 3rd September, 1948, the date of appointment to that office,

be subject to the provisions of the Ordinance and of the regulations save that in the application of those provisions to any such officer—

- (1) if the officer retires prior to the 1st January, 1949, and for the purpose of computing his pension his case falls within paragraph (c) of regulation 19 of the regulations, then regu-

lution 4 or paragraph 2 (a) of regulation 9 of the regulations (as the case may be) shall have effect as if there were added thereto the following proviso —

Provided that where his pensionable emoluments are determined by reference to the pensionable emoluments enjoyed by him during the three years preceding the date of retirement from public service, then for the purpose of such determination the pensionable emoluments enjoyed by him in any former office shall be deemed to have been the pensionable emoluments of that office which he would have enjoyed had his service in such office been after the 1st January, 1946,

(2) regulation 20 of the regulations shall have effect as if a further proviso were added at the end thereof as follows —

"(e) any period of continuous service after attaining the age of 20 years during which contributions were made by the officer or by the Government under any of the enactments specified in paragraphs 13, 14, 15 and 16 of the Third Schedule to this Ordinance and any period of continuous service prior to the commencement of such contributions shall be deemed to be service in a pensionable office for the purposes of the Ordinance"

Provided that an officer who was appointed or, in the opinion of the Governor, was selected for appointment to a pensionable office prior to the 3rd September, 1948, shall not be required to surrender any claim to any refund of contributions made by him under any of the enactments referred to in this paragraph

9 An officer to whom this part of this Schedule applies who was in the service of the Government prior to the 3rd September, 1948, who elected for the new terms of service and who immediately prior to such election was not a contributor to a contributory pension fund or a provident fund under the provisions of any of the enactments specified in paragraphs 13, 14, 15 and 16 of the Third Schedule to this Ordinance, shall be subject to the provisions of the Ordinance and of the regulations, save that in the application of those provisions to any such officer—

(a) if the officer retires prior to the 1st January, 1949, and his case falls, for the purpose of computing his pension, under paragraph (c) of regulation 19 of the regulations, then regulation 4 or sub-paragraph (a) of paragraph (2) of regulation 9 (as the case may be) of the regulations shall have effect as if there were added thereto the following proviso—

"Provided that where his pensionable emoluments are determined by reference to the pensionable emoluments enjoyed by him during the three years preceding the date of retirement from public service, then for the purpose of such determination, the pensionable emoluments enjoyed by him in his former office shall be deemed to have been the pensionable emoluments of that office which he would have enjoyed had his service in such office been after the 1st January, 1946",

(b) if the officer is an officer referred to in paragraph 19 of Secretariat Circular No 68 of 1st October, 1948, regulation 20 of the regulations shall have effect as if a further proviso were added at the end thereof as follows—

"(e) Any period of continuous service after the 31st December, 1942, and after the officer has attained the age of twenty years shall be deemed to be service in a pensionable office for the purpose of this Ordinance "

Part V—Officers transferred from the Service of the Government to other East African Service prior to the 1st January, 1946

10 The provisions of this part of the Schedule shall apply to officers transferred from the service of the Government to an East African Dependency prior to the 1st January, 1946, who have elected in the East African Dependency in which they were serving on the 1st January, 1946, to be subject to new term of service which the Governor may declare for the purposes of this paragraph to be similar to the new terms of service contained in Government Secretariat Circular No 68 of the 1st October 1948, and who, without being transferred back to the Service of the Government, or outside the East African Dependencies, prior to the 1st January, 1946, retire from other public service in circumstances in which they are eligible for pension or gratuity under the regulations

Officers in the service of Government prior to 3rd September, 1948, who elect new terms and who were not eligible for pension, contributory pension or provident fund benefits

Application of Part V of the Schedule

Officers who
were pensionable
before transfer

Officers who
before transfer
were contributors
to a provident
fund or
contributory
pensions fund

Application of
Part VI of
the Schedule

Application of
Part VII of
the Schedule

- 11 An officer to whom this part of the Schedule applies shall—
 (a) if he was an officer who immediately prior to his transfer from the service of the Government held a pensionable office in which he had been confirmed, be deemed to be an officer who was transferred to the service of the Government from East African Service prior to the 3rd September, 1948 and who has elected for the new terms of service,
 (b) if he was an officer who immediately prior to his transfer from the service of the Government was a contributor under any of the enactments specified in paragraphs 13, 14, 15 and 16 of the Third Schedule to this Ordinance and who as a result of new terms of service which the Governor may declare to be similar to those contained in Secretariat Circular No 68 of 1st October 1948, has become pensionable, shall be deemed to be an officer who was in the service of Government on or after the 1st of January, 1946, and who prior to 3rd September, 1948, had not been confirmed in an office which was pensionable under the enactments specified in paragraphs 1 or 9 of the Third Schedule to this Ordinance and who has elected for the new terms of service

Part VI—Officers transferred from the service of the Government to public service outside the East African Dependencies prior to the 1st January, 1946

- 12 The provisions of this part of the Schedule shall apply only—
 (i) to officers who were transferred from the service of the Government to public service outside the East African Dependencies prior to the 1st January, 1946, and who have not subsequently been transferred back to the service of the Government, and
 (ii) to officers who were transferred from the service of the Government to the service of another East African Dependency and were subsequently transferred from such East African Dependency to service outside the East African Dependencies prior to the 1st January, 1946, and who have not subsequently been transferred back to the service of the Government
- 13 An officer to whom this Part of this Schedule applies shall continue to remain subject to the enactments specified in the Third Schedule to this Ordinance which applied to him immediately prior to his last transfer from the service of the Government

Part VII—Officers who have elected not to be subject to the new terms of service

- 14 The provisions of this Part of this Schedule shall apply only in the case of officers who have elected not to be subject to the new terms of service

- 15 An officer to whom this Part of this Schedule applies shall continue to remain subject to the enactments specified in the Third Schedule to this Ordinance which applied to him prior to his election not to be subject to the new terms of service

Provided that such an officer who is transferred on or after the 3rd September, 1948, to any other office, whether in the service of the Government or other public service shall cease to be subject to the provisions of such Ordinance and regulations and shall thereupon in respect of the whole of his service under the Government be deemed to be an officer who elected for the new terms of service

THIRD SCHEDULE

ENACTMENTS RELATING TO RETIRING BENEFITS OF OFFICERS TRANSFERRED FROM EAST AFRICAN SERVICE

- 1 The European Officers' Pensions Ordinance, 1927, of Kenya, and all amendments thereto and all regulations made thereunder
- 2 The European Officers' Pensions Ordinance, Cap 36, of Tanganyika, and all amendments thereto and all regulations made thereunder
- 3 The European Officers' Pensions Ordinance, Cap 66, of Uganda, and all amendments thereto and all regulations made thereunder
- 4 The European Officers' Pensions Ordinance, Cap 59 of Northern Rhodesia, and all amendments thereto and all regulations made thereunder
- 5 The European Officers' Pensions Ordinance, 1945, of Nyasaland, and all amendments thereto and all regulations made thereunder

- 6 The European Officers' Pension Decree, Cap 54, of Zanzibar, and all amendments thereto and all regulations made thereunder
- 7 The European Officers' Pensions Ordinance, Cap 18, of British Somaliland and all amendments thereto and all regulations made thereunder
- 8 The Kenya and Uganda Railways and Harbours European Officers' Pensions Regulations, 1932, and all amendments thereto
- 9 The Non-European Officers' Pensions Ordinance, 1932, of Kenya, and all amendments thereto and all regulations made thereunder
- 10 The Junior Officers' Pensions Ordinance, 1949, of Tanganyika, and all amendments thereto and all regulations made thereunder
- 11 The Asiatic Officers' Pensions Ordinance, Cap 8, of Uganda, and all amendments thereto and all regulations made thereunder
- 12 The Non-European Officers' Pensions Decree, 1945 (No 10 of 1945), of Zanzibar, and all amendments thereto and all regulations made thereunder
- 13 The Kenya European Civil Service Contributory Pensions Ordinance, 1946 and all amendments thereto and all regulations made thereunder
- 14 The European Civil Service Provident Fund Ordinance 1934, of Kenya, and all amendments thereto and all regulations made thereunder
- 15 The Asian Civil Service Provident Fund Ordinance, 1934, of Kenya, and all amendments thereto and all regulations made thereunder
- 16 The Government Staff Provident Fund Ordinance, 1944, of Kenya, and all amendments thereto and all regulations made thereunder
- 17 The Superannuation Acts of the United Kingdom

GOVERNMENT NOTICE No 469

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 SALES BY
AUCTION 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 Sales by Auction (Amendment) Ordinance, 1950 and shall be read and construed as one with the Sales by Auction Ordinance, hereinafter referred to as the principal Ordinance

Cap 103

2. Section 17 of the principal Ordinance is amended in 5 the following respects—

Amendment of section 17 of the principal Ordinance

(a) by renumbering the existing section as sub-section (1) of the section,

(b) by adding next after paragraph (4) of sub-section (1) (as renumbered by this section) the following as 10 paragraph (5)—

(5) Any officer of a local authority selling any property of such local authority ,

(c) by adding the following sub-section as sub-section (2)—

(2) For the purposes of this section "local authority" means—

(a) a Municipal Council or a Municipal Board established under the Municipalities Ordinance, 1928, or

No 19 of 1928

20

(b) a Council constituted under the Local Government (District Councils) Ordinance, 1928, or any Ordinance amending or replacing such Ordinance, or

No 21 of 1928

(c) an African District Council established under 25 the African District Councils Ordinance, 1950, or any Ordinance amending or replacing such Ordinance

No 12 of 1950

3. There shall be added next after section 19 of the principal Ordinance, the following new section—

Addition of new section 20 to the principal Ordinance

30

Exemption of livestock sales by Local Native Councils

20 Nothing in this Ordinance shall be deemed to apply to any duly authorized person selling livestock on behalf of an African District Council

MEMORANDUM OF OBJECTS AND REASONS

Section 4 of the principal Ordinance requires every auctioneer to take out a licence. Section 17 exempts from the necessity to take out a licence certain persons who sell particular types of property including an officer of Government selling the property of the Government. It is considered that a similar exemption ought to be created in favour of an officer of a local authority selling the property of such local authority. Clause 2 of the Bill therefore amends section 17 so as to give effect to this

Clause 3 of the Bill inserts a new section providing that the provisions of the principal Ordinance shall not apply to the sale of livestock by a duly authorized person on behalf of an African District Council. It is considered that the Ordinance, and in particular the provisions of sections 14 and 15 are unsuitable, and ought not to be applicable, to such sales of livestock.

It is not anticipated that the provisions of this Bill, if they become law, will entail any additional expenditure of public money.

Nairobi,
22nd March, 1950

K K O'CONNOR,
Attorney General

GOVERNMENT NOTICE NO 470

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 PROVIDE FOR THE PRESERVATION OF GOOD ORDER AT PUBLIC MEETINGS AND TO PROHIBIT THE MAINTENANCE OF ORGANIZATIONS CAPABLE OF USURPING THE FUNCTIONS OF THE POLICE, AND FOR OTHER PURPOSES CONNECTED THEREWITH.

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 Public Order Short title Ordinance, 1950

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

5 “Commissioner” means the Commissioner of Police,

“meeting” means a meeting held for the purpose of the discussion of matters of public interest or for the purpose of the expression of views on such matters,

“Member” means the Member of the Executive Council 10 for the time being responsible for law and order,

“private premises” means premises to which the public have access (whether on payment or otherwise) only by permission of the owner, occupier or lessee of the premises,

“public meeting” includes any meeting in a public place 15 and any meeting which the public or any section thereof are permitted to attend, whether on payment or otherwise,

“public place” means any highway, public park or garden, any sea beach, and any public bridge road, street, lane, footway, square, court, alley or passage, whether a 20 thoroughfare or not, and includes any open space to which, for the time being, the public have or are permitted to have access, whether on payment or otherwise,

“public procession” means a procession in, to or from a public place

29 3. If the members or adherents of any association of persons, whether incorporated or not, are—

(a) organized or trained or equipped for the purpose of enabling them to be employed in usurping the functions of the police or of the armed forces of the Crown, or

(b) organized and trained or organized and equipped either for the purpose of enabling them to be employed for the use or display of physical force in promoting any political object, or in such manner as to arouse reasonable apprehension that they are organized and either trained or equipped for that purpose,

Prohibition of organizations equipped to usurp functions of police, etc

then any member or adherent of such association shall be guilty of an offence and liable to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding six months or to both such fine and imprisonment and any person who promotes or conspires with another to promote or who takes part in the control or management of the association, or in so organizing or training or equipping as aforesaid any member or adherent thereof, shall be guilty of an offence and liable to a fine of two thousand shillings or to imprisonment for a term not exceeding three years or to both such fine and imprisonment

Provided that in any proceedings against a person charged with the offence of taking part in the control or management of such an association as aforesaid it shall be a defence to that charge to prove that he neither consented nor connived at the organization, training or equipment of members or adherents of the association in contravention of the provisions of this section

(2) No prosecution under this section shall be instituted without the consent of the Attorney General

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(3) If upon application being made by the Attorney General it appears to the Supreme Court that any association is an association of which members or adherents are organized, trained or equipped in contravention of the provisions of this section, the Court may make such order as appears necessary to prevent any disposition without the leave of the Court of property held by or for the association and may direct an inquiry and report to be made as to any such property as aforesaid and as to the affairs of the association and may make such further orders as appear to the Court to be just and equitable for the application of such property in or towards the discharge of the liabilities of the association lawfully incurred before the date of the application or since that date with the approval of the Court, in or towards repayment of moneys to persons who became subscribers or contributors to the association in good faith and without knowledge of any such contravention as aforesaid, and in or towards any costs incurred in connexion with any such inquiry and report as aforesaid or in winding up or dissolving the association, and may order that any property which is not directed by the Court to be so applied as aforesaid shall be forfeited to the Crown

(4) In any criminal or civil proceedings under this section proof of things done or of words written, spoken or published (whether or not in the presence of any party to the proceedings) by any person taking part in the control or management of an association or in organizing, training or equipping members or adherents of an association shall be admissible as evidence of the purposes for which, or the manner in which, members or adherents of the association (whether those persons or others) were organized, or trained or equipped

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(5) If a Judge of the Supreme Court or magistrate is satisfied by information on oath that there is reasonable ground for suspecting that an offence under this section has been committed, and that evidence of the commission thereof is to be found at any premises or place specified in the information, he may, on an application made by a police officer of a rank not lower than that of Inspector grant a search warrant authorizing any such police officer named in the warrant together with any other persons named in the warrant and any other police officers to enter the premises or place at any time within one month from the date of the warrant,

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if necessary by force, and to search the premises or place and every person found therein and seize anything found on the premises or place or on any such person which the officer has reasonable ground for suspecting to be evidence of the commission of such an offence as aforesaid.

Provided that no woman shall, in pursuance of a warrant issued under this sub-section, be searched except by a woman.

(6) Nothing in this section shall be construed as prohibiting the employment of a reasonable number of persons as stewards to assist in the preservation of order at any public meeting held upon private premises, or the making of arrangements for that purpose or the instruction of the persons to be so employed in their lawful duties as such stewards, or their being furnished with badges or other distinguishing signs.

16 4. (1) Any person who, while present at any public meeting or on the occasion of any public procession, has with him any offensive weapon, otherwise than in pursuance of lawful authority, shall be guilty of an offence.

Prohibition of offensive weapons at public meetings and processions

(2) For the purposes of this section a person shall not be deemed to be acting in pursuance of lawful authority unless he is acting in his capacity as a servant of the Crown or of any local authority or as a police officer or as a member of a fire brigade.

5. Any person who in any public place or at any public meeting uses threatening, abusive or insulting words or behaviour with intent to provoke a breach of the peace or whereby a breach of the peace is likely to be occasioned, shall be guilty of an offence.

Prohibition of offensive conduct conducive to breaches of the peace

6. (1) The Governor in Council may from time to time by order prohibit the wearing in public places or at public meetings of—

Prohibition of uniforms, etc., in connexion with political objects

(a) uniform or any distinctive dress which signifies association with any political organization or with the promotion of any political object;

35 (b) any uniform, distinctive dress or emblem by members or adherents of any organization or association specified or described in the order, whether incorporated or not;

40 (i) when, in the opinion of the Governor in Council, members of that organization or association are organized or trained or equipped for the purpose of enabling them to be employed in usurping the functions of the police or of the armed forces of the Crown, or

45 (ii) when, in the opinion of the Governor in Council, members of that organization or association are organized or trained or equipped for the purpose of enabling them to be employed for the use or display of physical force in promoting any political or other object or in such a manner as to arouse reasonable apprehension that they are organized or trained or equipped for that purpose.

50 (2) Where any person is charged before any court with an offence under this section, no further proceedings in respect thereof shall be taken against him without the consent of the Attorney General except such as the court may think necessary by remand (whether in custody or on bail) or otherwise to secure the due appearance of the person charged, so, however, that if that person is remanded in custody he shall, after the expiration of a period of eight days from the date on which

he was so remanded, be entitled to be discharged from custody on entering into a recognizance without sureties unless within that period the Attorney General has consented to such further proceedings as aforesaid

Offences under
this Ordinance
to be cognizable

7. A police officer may arrest without warrant any person committing, or whom he has reason to suspect has committed, an offence under this Ordinance 5

MEMORANDUM OF OBJECTS AND REASONS

This Bill, for the most part, follows the provisions of the Public Order Act, 1936, which has been in force in the United Kingdom since the 1st January, 1937, and whose provisions have already been widely adopted in colonial territories

2 *Clause 3* of the Bill makes it an offence to be a member of, or to take part in the control or management of, an association which is organized or trained or equipped for the purpose of enabling its members to be employed in usurping the functions of the police or of the armed forces of the Crown, or organized, trained or equipped either for the purpose of enabling them to be employed for the use or display of physical force in promoting any political object or in such manner as to arouse reasonable apprehension that they are organized and either trained or equipped for that purpose Any prosecution under the clause is subject to the consent of the Attorney General

3 Under *Clause 4* it is an offence to carry offensive weapons at public meetings and processions, and *Clause 5* prohibits offensive conduct conducive to breaches of the peace at public meetings

4 *Clause 6* enables the Governor in Council by order to prohibit the wearing in public places or at public meetings of uniforms or distinctive dress which signify association with any political organization or with the promotion of any political object, and also enables the Governor in Council to prohibit the wearing of any uniform, distinctive dress or emblem by members or adherents of any organization specified in the order when, in the opinion of the Governor in Council, the members of that organization are organized or trained or equipped for the purpose of enabling them to be employed in usurping the functions of the police or of the armed forces of the Crown or in such manner as to arouse reasonable apprehension that they are organized or trained or equipped for that purpose

5 By *Clause 7* offences under the Ordinance are made cognizable

6 No additional expenditure of public moneys will be involved if the provisions of this Bill become law

Nairobi,
22nd April, 1950

K K O'CONNOR,
Attorney General

GOVERNMENT NOTICE No 471

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

T V N J ORTESCUE
Acting Clerk to the Legislative Council

**A BILL ENTITLED
AN ORDINANCE TO AMEND THE INTERPRETATION
AND GENERAL CLAUSES ORDINANCE, 1948**

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

1. This Ordinance may be cited as the Interpretation and General Clauses (Amendment) Ordinance, 1950, and shall be read and construed as one with the Interpretation and General Clauses Ordinance 1948 (hereinafter referred to as ^{Short title} No 32 of 1948 ^{the principal Ordinance})

2. Section 2 of the principal Ordinance is amended by substituting for the definition of "Member" the following definition —

10 "Member" means the Member of the Executive Council of the Colony for the time being responsible for the matter in question,

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

15 23A. Where by any Ordinance the Chief Secretary, the Attorney General, the Financial Secretary or a Member is empowered to exercise any power or to perform any duty, the Chief Secretary, Attorney General, Financial Secretary or Member, as the case may be, may, unless by law expressly prohibited from so doing, depute any person by name or the person for the time being holding any designated office to exercise such power or perform such duty on his behalf, subject to such conditions, exceptions and qualifications as the Chief Secretary, Attorney General, Financial Secretary or Member, as the case may be, may specify and thereupon or from the date specified by the Chief Secretary, Attorney General, Financial Secretary or Member, as the case may be, the person so deputed shall have and may exercise such power and may perform such duty subject to any conditions, exceptions and qualifications as aforesaid

MEMORANDUM OF OBJECTS AND REASONS

While there is in section 23 of the Interpretation and General Clauses Ordinance, 1948, provision whereby the Governor may delegate certain of his powers to persons deputed by him, there is no provision enabling a Member to delegate any of his statutory powers. With the development of the Member system it has become increasingly common to confer statutory powers on Members. Some of these powers are of a trivial or formal nature and do not need to be exercised by the Member personally. To relieve Members of some routine work which could well be entrusted to subordinates, it has been considered desirable that provision should be made so as to enable Members to delegate authority. It is also considered desirable that the Chief Secretary, the Attorney General and the Financial Secretary should be enabled to delegate some of their statutory powers and duties.

This Bill will, accordingly amend the Interpretation and General Clauses Ordinance, 1948, so as to insert a new section which will provide for this

The opportunity has also been taken to amend the definition of "Member" in section 2 of the Interpretation and General Clauses Ordinance, 1948, so as to render the definition more flexible and to obviate the present necessity of inserting a more specific definition of "Member" in each Ordinance in which the expression is used

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

Nairobi,
14th April, 1950

K K O'CONNOR,
Attorney General

GOVERNMENT NOTICE No 472

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 DISEASES OF
ANIMALS ORDINANCE**

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

Short title

Cap 157

Amendment of
section 4 of
the principal
Ordinance

Amendment of
section 6 of
the principal
Ordinance

1. This Ordinance may be cited as the Diseases of Animals (Amendment) Ordinance, 1950, and shall be read and construed as one with the Diseases of Animals Ordinance (hereinafter referred to as the principal Ordinance)

2. Section 4 of the principal Ordinance is amended by substituting for the words "The Governor may at any time by proclamation" the words "The Director of Veterinary Services may by notice in the Gazette"

3. Section 6 of the principal Ordinance is amended by substituting for the words "The Governor may by proclamation" the words "The Director of Veterinary Services may by notice"

MEMORANDUM OF OBJECTS AND REASONS

Section 4 of the Diseases of Animals Ordinance (referred to as the principal Ordinance) confers upon the Governor power by proclamation to declare any area to be an infected area, to alter its boundaries declare such an area free of disease and prohibit the removal of animals from any district, place or area

Section 6 of the principal Ordinance confers on the Governor power by proclamation to prohibit or regulate the importation and exportation of animals from or to any specified country

It is considered that the powers conferred by these two sections can more conveniently be exercised by the Director of Veterinary Services but, as they are required to be effected by Proclamation, and as the Governor is not empowered to delegate the power to issue a Proclamation, it is necessary to amend the sections

Clauses 2 and 3 of the Bill will accordingly amend sections 4 and 6 to provide for the powers to be exercised by the Director of Veterinary Services by notice in the Gazette

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

Nairobi,
24th February, 1950.

K K O'CONNOR,
Attorney General

GOVERNMENT NOTICE NO. 473

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 RESIDENT
LABOURERS ORDINANCE, 1937**

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

- | | | |
|----|--|--|
| 1. | This Ordinance may be cited as the Resident Labourers (Amendment) Ordinance, 1950, and shall be read and construed as one with the Resident Labourers Ordinance, 1937 (hereinafter referred to as the principal Ordinance) | Short title
No. 30 of 1937 |
| 5 | 2. There shall be substituted for section 7 of the principal Ordinance the following section— | Amendment of section 7 of the principal Ordinance
When natives or Somalis may not reside on farms |
| 10 | 7 (1) No occupier shall suffer or permit any native or Somali—

(a) to reside or remain on a farm or Railway land in contravention of the provisions of this Ordinance, or | |
| 15 | (b) to cultivate on such occupier's farm, for the use or benefit of such native or Somali or of the members of such native's or Somali's family, any area of land exceeding half an acre in extent unless such native or Somali is residing on such farm under a contract entered into with such occupier under the provisions of section 5 of this Ordinance | |
| 20 | (2) No native or Somali other than a native or Somali residing on such farm or Railway land under a contract entered into with an occupier under the provisions of section 5 of this Ordinance shall cultivate on such occupier's farm for the use or benefit of such native or Somali or of the members of his family any area of land exceeding half an acre in extent | |
| 25 | (3) No native or Somali residing on a farm under a contract entered into with the occupier under section 5 of this Ordinance shall cultivate more land than he is permitted to cultivate under his contract | |
| 30 | (4) Every native or Somali who cultivates and every occupier who suffers or permits to be cultivated by a native or Somali, any land on any farm or Railway land in contravention of the provisions of this Ordinance shall be guilty of an offence against this Ordinance and shall be liable to a fine of shillings one hundred and fifty or in default of payment to imprisonment for a term of two months and in addition shall be liable in respect of each day upon which the offence is continued after conviction to a fine of shillings one hundred | |
| 35 | 3. Sub-section (11) of section 16 of the principal Ordinance is amended by adding thereto the following as paragraph (c)— | Amendment of section 16 (11) of the principal Ordinance |
| 40 | (c) A magistrate may direct that any stock, the confiscation and sale of which he has ordered, shall be sold subject to any condition he may think fit to impose and if any person to whom such an animal has been sold fails to comply with any condition subject to which it was sold he shall be guilty of an offence against this Ordinance | |
| 45 | 4. Sub-section (1) of section 24 of the principal Ordinance is amended by inserting after the words "may be instituted by the Police" the words "or by a labour officer". | Amendment of section 24 (1) of the principal Ordinance |

MEMORANDUM OF OBJECTS AND REASONS

Section 7 of the Resident Labourers Ordinance, 1937 (referred to as the principal Ordinance) prohibits an occupier from allowing a native or Somali to cultivate on the occupier's farm more than half an acre unless such native or Somali is an adult residing on the farm under a contract entered into under section 5 of the principal Ordinance.

It has been found that courts are reluctant to convict an occupier under this section unless it can be shown that he has actively allowed the native or Somali to cultivate in contravention of the section.

In addition, the section is defective in that although it prohibits an occupier from allowing a native or Somali to cultivate more than half an acre of land it does not expressly prohibit a native or Somali from cultivating more than half an acre of land on any occupier's land, or if he is residing on the occupier's land under a contract entered into with the occupier, more land than he is entitled under his contract to cultivate.

Clause 2 will accordingly amend section 7 of the principal Ordinance so as to remedy these defects. The amendment is of importance since it is considered necessary to do everything possible to prevent cultivation which leads to soil erosion and waste.

The opportunity has also been taken—

- (a) to amend sub-section (11) of section 16 of the principal Ordinance so as to enable a magistrate to impose conditions on the sale of any animal ordered by him to be confiscated and sold and to provide that any person failing to comply with any condition subject to which an animal bought by him was sold shall be guilty of an offence (*Clause 3*)
- (b) to amend section 24 of the principal Ordinance so as to enable a labour officer to institute proceedings for offences against the Ordinance. At present, unless specifically authorized in writing by a magistrate, a labour officer, who is chiefly responsible for enforcing the Ordinance, cannot institute such proceedings (*Clause 4*)

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

Nairobi,
21st April, 1950

K K O'CONNOR,
Attorney General

GOVERNMENT NOTICE No 474

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 PENAL CODE

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

1. This Ordinance may be cited as the Penal Code Short title (Amendment) Ordinance, 1950, and shall be read and construed with the Penal Code (hereinafter referred to as the Cap 24 principal Ordinance)

5 2. Section 57 of the principal Ordinance is amended in the following respects—

(a) by inserting after the word "Colony" where that word appears in paragraphs (i), (iv), (v), (b) and (d), and where that word first appears in paragraphs (ii) and (c), of sub-section (1) of that section, the words "or of any of the Territories".

(b) by inserting after the word "Colony" where that word appears in paragraph (iii) and secondly appears in paragraphs (ii) and (c) of sub-section (1) of that section the words "or in any of the Territories", and

(c) by adding after sub-section (2) the following sub-section—

(3) For the purposes of this section "the Territories" means the territories of Uganda, Tanganyika and Zanzibar

20 3. Section 58 of the principal Ordinance is amended by adding after sub-section (3) thereof the following new sub-sections—

(4) Any printing machine which has been, or is reasonably suspected of being, used for or in connexion with the printing or reproducing of a seditious publication may be seized or otherwise secured by a police officer pending the trial and conviction or discharge or acquittal of any person accused of printing or reproducing any seditious publication, and, when any person is convicted of printing or reproducing a seditious publication, the court may, in addition to any other penalty which it may impose, order that the printing machine on which the publication was printed or reproduced shall be either confiscated for a period not exceeding one year, or be forfeited to His Majesty, and may make such order whether or not the person convicted is, or was at the time when the publication was printed or reproduced, the owner of the printing machine. A printing machine forfeited under this sub-section shall be sold, and the proceeds less expenses shall be paid into the Treasury

(5) When a proprietor, publisher, printer or editor of a newspaper, as defined in the Book and Newspaper Registration Ordinance, is convicted of printing or publishing a seditious publication in a newspaper, the court may, in addition to any other punishment it may impose, and whether or not it has made an order under sub-section (4) of this section, make an order prohibiting any further publication of the newspaper for a period not exceeding one year

Amendment of section 57 of the principal Ordinance

Amendment of section 58 of the principal Ordinance

Cap 74

(6) The court may, at any time, on the application of the Attorney General and on taking such security, if any, for good behaviour as the court may see fit to order, revoke any order made by it forfeiting or confiscating a printing machine or prohibiting further publication of a newspaper 5

(7) A court before ordering the forfeiture or confiscation of a printing machine under this section shall be satisfied that the printing machine was the printing machine upon or by which the seditious publication was 10 printed or reproduced

(8) In any case in which a printing machine has been secured or confiscated under this section, the Commissioner of Police may, in his discretion, cause—

(a) the printing machine or any part of it to be removed 15 ,or

(b) any part of the machine to be sealed so as to prevent its use

Provided that the owner of the printing machine or his agents shall be entitled to reasonable access to it to 20 keep it in working order

(9) The Commissioner of Police or any police officer acting in pursuance of the powers conferred by this section shall not be liable for any damage caused to a printing machine, whether by neglect or otherwise, not being 25 damage wilfully caused to the machine

(10) Any person who uses or attempts to use a printing machine confiscated under sub-section (4) of this section shall be guilty of an offence and liable to imprisonment for a term not exceeding three years 30

(11) Any person who prints or publishes a newspaper in contravention of an order made under sub-section (5) of this section shall be guilty of an offence and liable to imprisonment for a term not exceeding three years

(12) In this section the expression "printing machine" 35 includes a printing press, copying press, type-setting machine, photographic, duplicating or engraving apparatus, or other machine or apparatus used for or in connexion with printing or reproducing publications, and the type, appurtenances and equipment thereof 40

4. Section 59 of the principal Ordinance is amended by substituting a colon for the full stop at the end of sub-section (1) thereof and adding a proviso as follows—

Provided that where a person—

(a) commits such an offence outside the Colony, or 45

(b) leaves the Colony within six months of committing such offence,

the prosecution for such offence may be begun within six months from the date when such person first arrives in, or returns to, the Colony after— 50

(i) committing the offence, or

(ii) leaving the Colony,

as the case may be

MEMORANDUM OF OBJECTS AND REASONS

It is not, at present, an offence for a person out of the jurisdiction to pursue a course which would amount to sedition if carried out within the jurisdiction. It is, therefore, open to a person resident in say, Uganda, to print or publish documents attacking the Govern-

Amendment of
section 59 of
the principal
Ordinance

ment of Kenya, or tending to promote disaffection among the inhabitants of Kenya, or to promote feelings of ill-will between various classes of the population of Kenya without incurring any penalty. The converse also applies, and there have been cases recently of the printing, publication or distribution of documents in Kenya which attack the Government of, and tend to stir up disaffection in, or promote ill feeling among classes of the population in, Uganda and would clearly be seditious if published in that country.

2 It is proposed, accordingly, to amend the Penal Code to provide that "a seditious intention" shall include not only an intention to excite disaffection against the Government of Kenya, or to raise discontent or disaffection amongst the inhabitants of Kenya, or to promote feelings of ill-will and hostility between different classes of the population of Kenya, but shall also include an intention to do these things with regard to the Government, inhabitants or population of any of the East African territories of Uganda, Tanganyika or Zanzibar. It is understood that Uganda has initiated similar legislation and it is hoped that Tanganyika and Zanzibar will follow.

3 The penalties at present for printing, publishing or distributing a seditious publication are, for a first offence, imprisonment for two years or a fine not exceeding £100 or both, and, for a subsequent offence, imprisonment for three years, and the forfeiture of the seditious publication. It has been found in the Colony and in other parts of the world that penalties such as these are an insufficient deterrent and are quite out of proportion to the harm which a seditious publication can cause. A real deterrent is to make it possible for the printing press or other machinery upon which the seditious publication is printed or reproduced, to be forfeited or confiscated for a period not exceeding one year at the discretion of the court. In other parts of the world where a provision for such a forfeiture is in force, it has frequently been found that when the printing press was seized, prior preparations had been made by the accused person. The machinery was found to be hired and not the property of the person convicted. To obviate defeat of the provision by such methods, it is necessary to insert words permitting the forfeiture or confiscation to take place, in the discretion of the court, whether the printing press or other machinery upon which the seditious publication is printed is, or is not, the property of the person convicted. Ancillary provisions are inserted stating what is to be done with any printing machine forfeited or confiscated under the section. Under section 59 of the Code a prosecution for an offence under section 58 must be commenced within six months after the offence is committed. In any case where the offence is committed outside the Colony, or where the accused person leaves the Colony within six months of its commission, the Bill will extend the period to six months from the date of his arrival in or return to the Colony after (a) committing the offence or (b) leaving the Colony, as the case may be.

4 It is not expected that the provisions of this Bill, if they become law, will result in any additional expenditure of public moneys.

Nairobi,
26th April, 1950

K K O'CONNOR,
Attorney General

GOVERNMENT NOTICE No 475

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 LOCAL
GOVERNMENT (DISTRICT COUNCILS)
ORDINANCE, 1928**

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 Local Government (District Councils) (Amendment) Ordinance, 1950, and shall be read and construed as one with the Local Government (District Councils) Ordinance, 1928 (hereinafter referred to as the principal Ordinance) 5

No 21 of 1928

2. Section 4 of the principal Ordinance is amended by substituting for the semi-colon at the end of paragraph (6) thereof a full stop and by deleting paragraph (7)

Amendment of section 4 of the principal Ordinance

3. Section 49 of the principal Ordinance is repealed

4. There shall be substituted for section 91 of the ~~10~~ principal Ordinance the following section—

Amendment of section 91 of the principal Ordinance

91 (1) Notwithstanding anything in this Ordinance contained, if any abnormal or extraordinary expenditure over and above expenditure common to the whole district is incurred by the Council in respect of some particular ~~15~~ area of rateable property for any purpose which the Council is authorized to carry out, the Council may determine, subject to the provisions of this section, that such abnormal or extraordinary expenditure shall be in whole or in part a special charge upon the rateable ~~20~~ property or some portion thereof within such particular area, to the exclusion of the rest of the district and may determine the amount of the special rate and the persons by whom and the times at which such special rate shall be payable 25

Special rates

(2) The Council shall before imposing any such special rate—

(a) pass a resolution by a majority of existing councillors of the Council at a meeting held not less than fourteen days after notice shall have ~~30~~ been given at a meeting of the Council of an intention to move for the imposition of such rate,

(b) publish daily in three issues of one or more newspapers (if any) circulating in the district an ~~35~~ advertisement describing shortly the purpose of the expenditure which it is proposed to incur, the area of land which it is proposed shall be specially rated, and the proportions (if any) according to which it is proposed that such ~~40~~ special rate should be imposed, and naming a place where full particulars of the proposed expenditure and of the area which it is proposed shall be specially rated may be seen at all reasonable hours 45

(3) If any person interested as owner, lessee, or occupier of any land which it is proposed shall be specially rated objects to the proposed expenditure or to

the imposition of any such special rate or to the proportion according to which it is proposed to impose the same, or to the exclusion of any other property from the area of land proposed to be specially rated, and serves written notice of such objection on the Council at any time within fourteen days after the last publication of the advertisement mentioned in sub-section (2) of this section, the Council shall not be entitled to proceed with the imposition of the special rate without the sanction of the Governor in Council unless such objection be withdrawn

(4) The Governor in Council may, after making due inquiry, for which purpose he may appoint a person or persons to hold a local investigation, make an order empowering the Council to proceed with the imposition of the special rate in the manner proposed by the Council, or subject to such conditions and modifications as he may think fit

(5) For the purpose of imposing any special rate the Council if it proposes to impose a rate by reference to unimproved value shall deduct from the value of the rateable property on which such rate is to be imposed, as appearing in the valuation roll, such part thereof as represents the value of improvements and shall impose such rate on the value of such property, after deduction as aforesaid, instead of on the full value thereof

(6) If at any time within the period allowed under sub-section (3) of this section for serving notice of objection on the Council with reference to the imposition of the special rate a majority of the owners of the rateable property on which it is proposed to impose such special rate shall sign and cause to be transmitted to the Clerk to the Council a petition to the Council, praying that the proposals for the imposition of the special rate set forth in the advertisement with reference thereto be entirely abandoned the Council shall not proceed further therewith but the same shall forthwith be abandoned, and the Council shall not again initiate proceedings for the imposition of a special rate for the particular purpose in question until after the expiry of a period of six months from the date when such petition for abandonment is received by the Clerk to the Council

(7) If it shall appear that the amount received or to be received by way of a special rate imposed to meet expenditure for any purpose is in excess of the amount of such expenditure, the Council shall refund to persons who have paid such rate, or remit in favour of persons liable to pay the same, a proportionate part thereof, so that the total amount received or to be received by the Council may be approximately equal to such expenditure

50 5. Section 115 of the principal Ordinance is amended by deleting sub-section (2) and by renumbering sub-section (3) as sub-section (2)

Amendment of
section 115 of
the principal
Ordinance

MEMORANDUM OF OBJECTS AND REASONS

In sections 16 and 17 of the Local Government (Rating) Ordinance, 1928, which applies only to municipalities established under the Municipalities Ordinance, 1928, there exists provision whereby if any abnormal or extraordinary expenditure is incurred by a municipality for some authorized purpose in respect of a particular area of rateable property over and above the expenditure common to the whole municipality, the Municipal Council or Board is empowered to impose on the rateable property in that particular area a special rate to cover the whole or part of such abnormal or extraordinary expenditure. That Ordinance is not applicable to District Councils and a District Council cannot invoke its provisions. As it is considered desirable that a District Council should have a similar power, this Bill will amend

the Local Government (District Councils) Ordinance, 1928 (hereinafter referred to as the principal Ordinance) by adding to it a provision on the lines of sections 16 and 17 of the Local Government (Rating) Ordinance, 1928, which will provide for the imposition of a special rate in the circumstances, and subject to the conditions and safeguards therein provided (*Clause 4*)

The opportunity has also been taken to delete from the principal Ordinance the provisions therein relating to division of districts into road areas. These provisions have not been used and are not required. As a consequence, *Clause 3* of the Bill repeals section 49 of the principal Ordinance which provided for the appointment of a Road Area Committee, and *Clause 5* repeals sub-section (2) of section 115 of the principal Ordinance, which required separate accounts of revenue and expenditure in respect of each road area.

It is not expected that the provisions of this Bill if it becomes law will result in any additional expenditure of public moneys.

Nairobi,
21st April, 1950

K K O'CONNOR,
Attorney General

GOVERNMENT NOTICE NO 476

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 NATIVE
POLL TAX (MUNICIPALITIES) ORDINANCE,
1948**

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 Native Poll Tax (Municipalities) (Amendment) Ordinance, 1950, and shall be read and construed as one with the Native Poll Tax (Municipalities) Ordinance, 1948 (hereinafter referred to as the principal Ordinance)

No 91 of 1948

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Amendment of
section 3 of
the principal
Ordinance

2. Sub-section (3) of section 3 of the principal Ordinance is amended by inserting next after the words "Local Native Council" the words "the Native Trust Fund established under the Native Trust Fund Ordinance, 1942,"

MEMORANDUM OF OBJECTS AND REASONS

This Bill will amend the Native Poll Tax (Municipalities) Ordinance, 1948, so as to enable the Member for Finance to authorize the payment, out of the revenues of the Colony of moneys derived from poll tax collected under the Ordinance, to the Native Trust Fund. The reason for the amendment is that it is desired to increase the funds available to the Trustees of the Native Trust Fund for financing African primary education within the Municipalities.

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

Nairobi,
28th April 1950

K K O'CONNOR,
Attorney General

GOVERNMENT NOTICE No 477

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

T V N FORSCUE,
Acting Clerk to the Legislative Council

**A BILL ENTITLED
AN ORDINANCE TO AMEND THE REGISTRATION
OF DOCUMENTS 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 Registration of Documents (Amendment) Ordinance, 1950 and shall be read and construed as one with the Registration of Documents Ordinance (hereinafter referred to as the principal Ordinance)

Short title

Cap 144

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

Insertion of new section 15A in the principal Ordinance Power to cancel registration

10 15A If the registration of any document has been obtained by fraud, mistake or misrepresentation or the document is forged or the document or the execution thereof is contrary to law, the registration of such document shall be forthwith cancelled by the registrar

Amendment of section 18 of the principal Ordinance

15 3. Section 18 of the principal Ordinance is amended by adding at the end thereof the following new paragraph—

(4) Register of reasons for cancellation of the registration of a document

4. There shall be inserted after section 31 of the principal Ordinance the following new section —

Insertion of new section 31A in the principal Ordinance Registrar cancelling the registration shall record his reasons

20 31A Every registrar cancelling the registration of a document shall make an order of cancellation and record his reasons for such order in the book prescribed in section eighteen and shall indorse the words "registration cancelled" on the document, and, upon the application of any person executing or claiming under the document, shall, without payment and unnecessary delay, give him a copy of the reasons so recorded

Amendment of section 32 of the principal Ordinance

25 5. Section 32 of the principal Ordinance is amended by substituting for the words "An appeal shall lie against an order of refusal" the words "An appeal shall lie against an order of refusal or of cancellation"

30 6. There shall be substituted for sub-section (1) of section 33 of the principal Ordinance to the following sub-section —

Repeal and replacement of section 33 (1) of the principal Ordinance Appeal from Principal Registrar to Supreme Court

(1) When the Principal Registrar —

35 (a) has refused to register a document presented to him for registration or has cancelled the registration of any such document, or

40 (b) has, pursuant to section 32 of this Ordinance, refused to direct a registrar to register a document or to re-register a document the registration whereof such registrar has cancelled,

45 any person claiming under such a document, or his representative, assignee or agent may, within thirty days after the making of the order of refusal pursuant to section 31 of the Ordinance or of the order of cancellation pursuant to section 31A of this Ordinance, institute in the

Supreme Court a suit for a decree directing that the document be registered or re-registered, as the case may be, in such office, and, notwithstanding anything in this Ordinance, the document shall be receivable as evidence in such suit

MEMORANDUM OF OBJECTS AND REASONS

While the Registration of Documents Ordinance empowers the registrar to refuse to register a document in certain circumstances it does not contain any provision empowering the registrar to cancel the registration of a document the registration of which has been obtained by fraud, mistake or misrepresentation or where the document is discovered to be forged or the document or its execution is found to be contrary to law. *Clause 2* inserts in the principal Ordinance a new section 15A which will provide for this.

Clause 3 makes a consequential amendment to section 18 whereby the registrar is required to keep a register of reasons for the cancellation of the registration of a document.

Clause 4 will insert a new section in the principal Ordinance requiring a registrar when he cancels the registration of a document to make an order of cancellation and to record his reasons therefor in the book prescribed by section 18. The new section will also require the registrar to endorse on the document the words "registration cancelled" and upon application by any person who executed or who claims under the document, to supply a copy of the recorded reasons for cancellation.

Clause 5 amends section 32 of the principal Ordinance so as to provide that an appeal shall lie against an order of cancellation of a document.

Clause 6 makes consequential amendments to section 33 of the principal Ordinance whereby an appeal will lie from the decision of a Principal Registrar cancelling the registration of a document or refusing to order a registrar to re-register a document the registration whereof such registrar has cancelled.

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

Nairobi,
28th April, 1950

K K O'CONNOR,
Attorney General

GOVERNMENT NOTICE NO 478

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 BIRTHS AND
DEATHS REGISTRATION ORDINANCE, 1928**

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

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| <p>1. This Ordinance may be cited as the Births and Deaths Registration (Amendment) Ordinance, 1950, and shall be read and construed as one with the Births and Deaths Registration Ordinance, 1928 (hereinafter referred to as the principal Ordinance)</p> <p>2. Section 2 of the principal Ordinance is amended by substituting for the definition of "police officer" the following definition—</p> <p>"police officer" means a police officer in charge of a police station being of or above the rank of inspector as defined in section 2 of the Police Ordinance, 1948,</p> <p>3. There shall be substituted for section 17 of the principal Ordinance the following section—</p> <p>17 (1) A Registrar shall, upon production to him at the time of registering a death, of—</p> <ul style="list-style-type: none"> (a) a medical certificate in the prescribed form as to the cause of death, or (b) a notice in writing in the prescribed form signed by a medical practitioner stating that a medical certificate as aforesaid has been signed by him, or (c) a death report in the prescribed form upon which a magistrate or police officer has certified that the death is not one to which section 384 or section 385 of the Criminal Procedure Code applies, <p>issue a written permit authorizing the interment or other disposal of the body of the deceased person</p> <p>(2) Where a person registering a death does not produce to the Registrar any of the instruments mentioned in sub-section (1) of this section, he Registrar shall forthwith fill up, so far as the particulars thereby required are ascertainable by him, the form of death report referred to in paragraph (c) of sub-section (1) of this section and forward the same to the nearest magistrate or police officer who shall, if, after making the inquiries required by sub-section (1) of section 18 of this Ordinance, he is satisfied that the case is not one to which section 384 or 385 of the Criminal Procedure Code applies, make in the form prescribed the report required by sub-section (2) of section 18 of this Ordinance</p> <p>4. Sub-section (2) of section 18 of the principal Ordinance is amended by substituting for the words "section 141 or section 143 of the Criminal Procedure Code" the words "section 384 or section 385 of the Criminal Procedure Code".</p> | <p>Short title
No 2 of 1928</p> <p>Amendment of section 2 of the principal Ordinance
No 79 of 1948</p> <p>Repeal and replacement of section 17 of the principal Ordinance
Registrar to issue burial permits</p> <p>Amendment of section 18 (2) of the principal Ordinance</p> |
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MEMORANDUM OF OBJECTS AND REASONS

Representations have been made that the procedure under the Births and Deaths Registration Ordinance, 1928 (referred to as the principal Ordinance), leading up to the issue by the Registrar of Births and Deaths of a permit to bury a dead body is unnecessarily cumbersome. At present if, because no medical practitioner attended the deceased, the person reporting the death is unable to produce a death certificate or a notice from a medical practitioner to the effect that he has signed such a death certificate, it is necessary for the person registering the death to go first to the Registrar who must then direct him to the nearest police officer or magistrate for inquiries to be made to decide whether it is a case in which an inquest ought to be held, and if it is not such a case to report to the Registrar to that effect.

Clause 2 of this Bill will amend section 17 of the principal Ordinance so as to provide that the Registrar may issue a permit for interment on production to him either as heretofore, of a medical certificate or a notice from the medical practitioner that such a certificate has been signed or of a new document now to be known as a "death report", the form of which will be prescribed by rules. This will contain details of the deceased and a statement as to the apparent cause of death. This report may be signed by anyone, whether medically qualified or not but must before it can be acted upon be certified by a police officer or magistrate as hereinafter mentioned. It is intended that persons such as the Superintendent of a Native Location or the local Health Visitor will fill up and sign such a report which would then be taken to the nearest magistrate or police officer in charge of a police station being of or above the rank of inspector for him to endorse thereon whether or not it is a case in which he considers an inquest should be held. Thereafter the person reporting the death would present the death report to the Registrar who may thereupon issue a permit to bury the body. If a person attends on the Registrar to register a death and does not produce either a death certificate or a notice that such certificate has been signed or the death report referred to above, the Registrar is required to fill up, so far as he is able, the form of death report and forward it to the nearest magistrate or police officer as aforesaid for his report pursuant to section 18 (2) of the principal Ordinance.

The opportunity has also been taken to amend sub-section (2) of section 18 of the principal Ordinance so as to substitute the correct references to sections of the Criminal Procedure Code.

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

Nairobi,
27th April, 1950

K K O'CONNOR,
Attorney General

GOVERNMENT NOTICE No 479

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

T V N FORFESCU,
Acting Clerk to the Legislative Council

**A BILL ENTITLED
AN ORDINANCE TO AMEND THE POLICE
ORDINANCE, 1948**

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

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| <p>1. This Ordinance may be cited as the Police (Amendment) Ordinance, 1950, and shall be read and construed as one with the Police Ordinance, 1948 (hereinafter referred to as the principal Ordinance)</p> <p>5 2. Section 24 of the principal Ordinance is amended by deleting the words "which have been issued to him"</p> <p>10 3. There shall be substituted for sub section (1) of section 27 of the principal Ordinance the following sub-section—
 (1) Any police officer may stop and detain any person whom he—
 (a) sees doing any act or thing, or
 (b) sees in possession of any thing or
 (c) suspects of doing any act or thing or of being in possession of anything,</p> <p>15 4. There shall be substituted for the proviso to sub-section (1) of section 33 of the principal Ordinance the following proviso—
 Provided that—
 (a) if such property is liable to rapid decay, or if such magistrate is of the opinion that its immediate sale would be to the benefit of the owner of such property, he may direct it to be sold, or, if he deems it advisable so to do, he may cause such property to be destroyed, and
 (b) if such property is a firearm or ammunition such magistrate may order that it shall be disposed of in such manner as the Commissioner may direct</p> <p>20 5. Sub-section (1) of section 34 of the principal Ordinance is amended by inserting next after the words "police officer" where such words first occur the words "of or over the rank of Assistant Inspector or any police officer in charge of a police station"</p> <p>25 6. Section 41 of the principal Ordinance is amended in the following respects—
 (a) by substituting for paragraph (17) the following—
 (17) strikes or uses or offers violence to any person in his custody,
 (b) by substituting for the word "unlawful" in paragraph (22) the word "improper", and
 (c) by substituting the words "having been unlawfully confined," in paragraph (36) the words "without lawful excuse"</p> | <p>Short title
No 79 of 1948</p> <p>Amendment of section 24 of the principal Ordinance
Replacement of sub-section (1) of section 27 of the principal Ordinance</p> <p>Amendment of sub section (1) of section 33 of the principal Ordinance</p> <p>Amendment of sub section (1) of section 34 of the principal Ordinance</p> <p>Amendment of section 41 of the principal Ordinance</p> |
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Amendment of
section 43 (2) of
the principal
Ordinance

Amendment of
section 48 of
the principal
Ordinance

Addition of
new section in
the principal
Ordinance

Prohibition
against police
officer being
member of
trade union

Replacement
of section 60 of
the principal
Ordinance

Unlawful
possession of
articles supplied
to a police
officer and
personation

7. Sub-section (2) of section 43 of the principal Ordinance is amended by substituting for the words "after inquiring into the matter" the words "after making or directing such inquiry into the matter as he thinks fit"

8. Section 48 of the principal Ordinance is amended by substituting for the words "being not more than one half" the words "being not less than one half"⁵

9. There shall be inserted next after section 50 of the principal Ordinance the following new section—

50A (1) It shall not be lawful for any police officer **10** to be or to become a member of—

(i) any trade union, or any body or association affiliated to a trade union, or

(ii) any body or association the objects or one of the objects of which is to control or influence **15** conditions of employment in any trade or profession, or

(iii) any body or association the object or one of the objects of which is to control or influence the pay, pensions or conditions of service of the **20** Force other than any body or association which may be constituted and regulated pursuant to regulations made under this Ordinance

(2) Any police officer who contravenes the provisions of this section shall be disqualified from continuing to **25** be a police officer and if any police officer continues to act as such after becoming so disqualified he shall forfeit all rights to any pension or gratuity and be disqualified from being thereafter employed as a police officer

(3) If any question arises as to whether any body **30** is a trade union or an association to which this section applies, the question shall be decided by the Member, whose decision shall be final and conclusive

10. There shall be substituted for section 60 of the principal Ordinance the following section—**35**

60 (1) Any person, not being a police officer, who—

(a) is found in possession of any article which has been supplied to a police officer for use in the execution of his duty, or

(b) is found in possession of any medal or decoration **40** granted to any police officer for gallantry, service or good conduct,

and who fails to account satisfactorily for his possession thereof shall be guilty of an offence against this Ordinance

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(2) Any person who without lawful authority—

(a) purchases or receives any article which has been supplied to a police officer for use in the execution of his duty or any medal or decoration granted to any police officer for gallantry, service or good conduct, or

(b) aids or abets any police officer in selling or disposing of any article, medal or decoration referred to in paragraph (a) of this sub-section, or

(c) puts on the dress or assumes the name, designation or description of any police officer, or

(d) acts as or personates any police officer, shall be guilty of an offence against this Ordinance.

- 11.** Sub-section (4) of section 61 of the principal Ordinance is amended by substituting for the words "it would be a good defence" where they occur the word "it shall be a defence" Amendment of sub-section (4) of section 61 of the principal Ordinance
- 5 12.** There shall be inserted next after section 61 of the principal Ordinance the following new section— Addition of new section in the principal Ordinance
- 61A** Any person who— Penalty for persons causing disaffection, etc
- (a)** causes, or attempts to cause or does any act calculated to cause disaffection amongst police officers,
- (b)** induces, or attempts to induce, or does any act calculated to induce any police officer to commit any breach of discipline,
- shall be guilty of an offence against this Ordinance and shall be liable upon conviction to imprisonment for a term not exceeding two years or to a fine not exceeding one thousand shillings or to both such fine and imprisonment, and in addition, if a police officer, he shall forfeit all rights to pension or gratuity and be disqualified thereafter from being a police officer
- Provided that where the conviction was under paragraph (b) of this section and the person convicted was a police officer and was not sentenced to imprisonment without the option of a fine, the Commissioner may, if he thinks fit, pay to him the whole or any part of any deductions which have been made from his pay

MEMORANDUM OF OBJECTS AND REASONS

This Bill will amend the Police Ordinance, 1948 (hereinafter referred to as the principal Ordinance) in a number of respects which experience has shown to be desirable

Clause 2 will amend section 24 of the principal Ordinance by deleting the words "which have been issued to him". As the section now stands it is open to the construction that in preventing an escape or in other circumstances specified in the section, a police officer may only use arms which have been issued to him personally. This was not the intention of the section

Clause 3 will correct an error in the setting out of section 27 (1) of the principal Ordinance and make it clear that the power to require production of licences or to stop and search vehicles applies to paragraphs (a) and (b) as well as to paragraph (c) of the sub-section

Clause 4 of the Bill will amend the proviso to section 33 (1) of the principal Ordinance so as to enable a Magistrate to order an unclaimed firearm to be disposed of at the direction of the Commissioner. This will enable firearms to be destroyed if such a method of disposal is considered desirable

Clause 5 will amend section 34 (1) so as to restrict the right of police officers to take finger-prints to police officers of or over the rank of Assistant Inspector or police officers in charge of police stations

Clause 6 will amend section 41 in certain minor respects designed to clarify the meaning of paragraphs (17), (22) and (36)

Clause 8 will amend the proviso to section 18 so as to correct a typographical error by substituting the word 'less' for the word "more"

Clause 9 which follows provisions in force in the United Kingdom and in certain Colonial territories will insert a new section 50A which will render it unlawful for a police officer to become a member of a trade union or of any association one of whose objects is to control or influence the pay, pensions or conditions of service of the Force except one constituted by regulations made under the principal Ordinance. This exception is intended to make it possible for a Police Federation to be formed in the future if such course appears to be justified

Clause 10 will amend section 60 of the principal Ordinance so as to make it an offence to wear the dress or assume the name, designation or description of a police officer, or to act as, or personate a police officer. The opportunity has been taken to redraw the section so as to clarify its meaning.

Clause 12 which also follows similar provisions existing in other police enactments, will insert a new section 61A making it an offence for any person to cause or attempt to cause disaffection amongst police officers or induce or attempt to induce any police officer to withhold his services or to commit a breach of discipline.

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

Nairobi,
21st April, 1950

K K O'CONNOR,
Attorney General