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**THE
OFFICIAL GAZETTE
OF THE
COLONY AND PROTECTORATE
OF
KENYA
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Section 2 of the Principal Ordinance which it is proposed to amend —

Exemptions.

2 The provisions of this Ordinance shall not apply —

(1) Save as may be prescribed by Rules made under paragraph (c) of section 65, to any medical practitioner, apothecary, chemist or druggist who may administer or sell for purely medical purposes any bona fide medicine containing intoxicating liquor as hereinafter defined

(2) To any person selling any spirituous or distilled perfume, or perfumery

Provided that no person shall sell to a native, a Somali, a Malagasy, or a Comoro Islander, any perfume, scent or essence containing more than 10 per centum of alcohol except by virtue of a special permit which may be granted for each occasion by a district commissioner

(3) To any person, who is not licensed for the sale of intoxicating liquor for consumption on the premises, selling methylated spirits to persons other than natives, Somalis, Malagasies, or Comoro Islanders

(4) To any auctioneer selling by auction liquor in quantities not less than such as are authorized to be sold under a wholesale licence belonging to a licensed dealer upon the licensed premises of such dealer

Colony and Protectorate of Kenya

GOVERNMENT NOTICE No 608

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

R W BAKER BEALL,
Acting Clerk to the Legislative Council

A Bill to Amend the Liquor Ordinance, 1934

BE IT 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 Liquor Short title
(Amendment) Ordinance, 1938, and shall be read as one with
the Liquor Ordinance, 1934, hereinafter referred to as the No 62 of 1934
Principal Ordinance

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

(a) by inserting the words “an Abyssinian” between the
word “native” and the word “a” which appear in
the third and fourth lines of paragraph (2) thereof,

(b) by inserting the word “Abyssinians” between the word
“natives” and the word “Somalis” which appear in
the fourth line of paragraph (3) thereof, and

(c) by inserting the word “Abyssinians” between the word
“natives” and the word “Somalis” which appear in
the first line of paragraph (5) thereof

- (5) To the sale to persons, other than natives, Somalis, Malagasies, or Comoro Islanders, by a deceased person's legal personal representative of any liquor forming part of the estate of such deceased person
- (6) To any person acting under the authority of any court, or to any officer of customs in the exercise or discharge of his duties

Paragraphs (10), (13) and (15) of section 10 of the Principal Ordinance which it is proposed to amend —

Varieties of
licence

10 In regard to licences granted under this Ordinance the following definitions and provisions shall apply —

Temporary
liquor licence

- (10) (a) A Temporary Liquor Licence shall authorize the holder thereof, being also a holder of a general retail liquor licence, to sell liquor by retail at any place (other than at the premises specified in such general retail liquor licence) of recreation or public amusement or other assembly for the period during which such recreation or amusement continues, subject to such restrictions and conditions as the district commissioner authorizing the issue of the licence may think fit
- (b) No certificate from a licensing court shall be required in respect of the grant of such licence
- (c) The licence shall specify the name of the applicant, the place for which such temporary licence is granted the number of days and the hours during which the sale thereunder is authorized and such restrictions and conditions as the district commissioner may impose Provided that the number of days mentioned in such licence shall not exceed three
- (d) The officer issuing the licence shall give notice to the police officer in charge of the district in which the place for which such licence has been granted is situate of the grant of any temporary liquor licence and the particulars thereof
- (13) (a) A Canteen Liquor Licence shall authorize the sale of liquor by retail on any premises set apart as a canteen, club, institute, mess, or other similar institution for the use of members or their guests of His Majesty's Navy, His Majesty's Army, the Royal Air Force, the King's African Rifles or the

3 Section 10 of the Principal Ordinance is hereby amended—

Amendment of
section 10 of
the Principal
Ordinance

(a) by substituting the word “seven” for the word “three” which appears in the last line of sub-paragraph (c) of paragraph (10) thereof,

(b) by inserting the words and comma “the Kenya Regiment (Territorial Force),” between the word “Force” and the word “the” which appear in the seventh line of sub-paragraph (a) of paragraph (13) thereof,

(c) by deleting from paragraph (15) thereof the words and figures “Defence Force Ordinance, 1927” and substituting therefor the words and figures “Kenya Regiment (Territorial Force) Ordinance, 1937, or of the Kenya Defence Force Ordinance, 1937”, and

No 4 of 1937

No 5 of 1937

(d) by deleting the words and numbers “No 12 of 1928” which appear as a marginal note to paragraph (15) thereof

Kenya Police Force, the Kenya Defence Force and the Kenya Naval Volunteer Reserve. Such licence shall authorize the sale of liquor to members (including honorary members) only of the canteen, club, institute, mess or other similar institution for consumption on the licensed premises only.

(b) If a district commissioner is satisfied that the profits derived by any such canteen, club, institute, mess or other similar institution from the sale of liquor are devoted solely to the benefits of the funds of such canteen, club, institute, mess or other similar institution, he may, notwithstanding the provisions of this Ordinance, issue a Canteen Liquor Licence free of charge.

(c) A district commissioner may, without requiring the certificate of any licensing court, issue a Canteen Liquor Licence or a Camp Canteen Liquor Licence, to such person as the officer commanding the force or regiment in respect of which the licence is required shall nominate.

Camp Canteen
liquor licence

No 12 of 1928

(15) A Camp Canteen Liquor Licence shall be valid for the duration of a training camp held under the provisions of the Defence Force Ordinance, 1927, or for seven days, whichever period is the shorter, and shall authorize the sale of liquor at the camp for consumption in the camp.

Provisional
licences

Section 19 of the Principal Ordinance which it is proposed to amend —

19 (1) Any person interested in any premises about to be constructed or in course of construction for the purpose of being used for the sale of intoxicating liquors for consumption on the premises, may apply to the licensing court for the provisional grant of a licence in respect of such premises, and the licensing court, if satisfied with the plans submitted to it of such premises and if satisfied that if such premises had been actually constructed in accordance with such plans it would on application have granted such a licence in respect thereof, may make a provisional grant.

(2) A provisional grant shall not be of any validity until it has been declared to be final by the district commissioner of the district wherein a licensing court is appointed to be held.

5 Section 20 of the Principal Ordinance is hereby amended—

Amendment of
section 20 of
the Principal
Ordinance

(a) by deleting from sub-section (1) thereof the words
“The Governor may, if he thinks fit, also authorize
the holding of a special meeting of any licensing
court ”,

(b) by re-numbering sub-section (2) thereof as “(3)”, and

(c) by inserting therein the following new sub-section as
sub-section (2) thereof —

“(2) The Governor may in any case, if he thinks
fit, authorize the holding of a special meeting of any
licensing court and shall, when required so to do
and upon payment of the sum of fifteen pounds by
the applicant, authorize the holding of a special
meeting of the licensing court ”

6 Section 22 of the Principal Ordinance is hereby amended—

Amendment of
section 22 of
the Principal
Ordinance

(a) by inserting the words “or who desires to obtain a
provisional licence under the provisions of section
19 of this Ordinance” between the word “person,”
and the word “shall” which appear in the sixth line
of sub-section (1) thereof, and

(b) by inserting the words “or for the ratification of a
temporary transfer of a licence granted under section
32 or 32A of this Ordinance or of an authority to
remove a licence from licensed premises to other
premises granted under section 33 of this Ordinance”
between the word “licence” and the word “no”
which appear in the second line of sub-section (2)
thereof

court at the next meeting or any adjournment thereof on payment of such sum, not exceeding one hundred and fifty shillings, as he may impose, and upon such terms as to notice as he may prescribe

Every application for a licence shall bear a stamp of ten shillings affixed by the applicant and cancelled by the district commissioner

For the purposes of this sub-section an application for a Railway Restaurant and Liquor Licence shall be made to the District Commissioner, Nairobi, and for this purpose "the court" shall mean the court for the licensing area within which Nairobi is situate

(2) In the case of an application for the renewal of a licence no notice need be given, but no such application shall be considered by the licensing court unless such application is made on the first day of the meeting of such court

Sub-section (3) of section 26 of the Principal Ordinance which it is proposed to amend —

(3) (a) Every applicant for a new licence shall, save as herein provided, appear in person before the licensing court and shall prove to the satisfaction of such licensing court that there is a real necessity for the provision being made for the sale of intoxicating liquor in the particular locality in which the premises, in respect of which the application is made, are situate. Such applicant may be called upon by the court to answer on oath such questions as it may think necessary. Provided that it shall be lawful for the applicant and any applicant for removal, transfer or renewal of a licence to be represented at the hearing by an advocate

(b) The licensing court may, however, require the attendance of the person applying for the renewal of a licence or the responsible manager of the premises in respect of which the licence is applied for, and may call upon such person or manager to answer on oath such questions as the court may think necessary and relevant to the inquiry at issue

Section 31 of the Principal Ordinance which it is proposed to amend —

Persons to
whom a licence
shall not be
granted

31 It shall not be competent for the licensing court to grant a new licence or the transfer of a licence to any person—

(1) who, in this Colony or elsewhere, has had a sentence of imprisonment imposed upon him for the commis-

7 Section 26 of the Principal Ordinance is hereby amended by inserting therein the commas and words “, other than a Wine Merchant’s and Grocer’s Liquor Licence,” between the word “licence” and the word “shall” which appear in the first line of paragraph (a) of sub-section (3) thereof

Amendment of
section 26 of
the Principal
Ordinance

8 Section 31 of the Principal Ordinance is hereby amended by inserting the words “an Abyssinian” between the word “native” and the word “a” which appear in paragraph (4) thereof

Amendment of
section 31 of
the Principal
Ordinance

sion of some crime or offence (involving moral turpitude and not of a political character) without the option of a fine and who has not received a full pardon therefor,

- (2) who, in the case of a retail licence, is not residing in this Colony,
- (3) who is under the age of twenty-one years,
- (4) who is a native, a Somali, or Malagasy, or a Comoro Islander

The premises in respect of which a licence is issued or transferred to any person disqualified under this section shall be closed for the sale of liquor by order of the district commissioner of the district in which a licensing court is appointed to be held for the licensing area in which the premises are situate, until such time as the licence is transferred

Section 32 of the Principal Ordinance which it is proposed to amend —

TRANSFER AND REMOVAL OF LICENCE

Transfer of
licence

32 The holder of a licence (other than a club licence) who, during the currency thereof, sells or disposes of his business or the house or premises in respect of which such licence was granted, may make application to the district commissioner of the district in which a licensing court is appointed to be held for the licensing area in which such premises are situate, for a temporary transfer of such licence to the purchaser of such business or to the purchaser or lessee of such premises as the case may be, and such district commissioner may, if he thinks fit and upon payment by the applicant of the sum of thirty shillings, grant a temporary transfer of such licence accordingly

Section 33 of the Principal Ordinance which it is proposed to amend —

Removal of
licensed
premises

33 The holder of any licence, who desires to remove his licence from the licensed premises to any other premises in the same licensing area, may make application to the district commissioner of the district in which a licensing court is appointed to be held for the licensing area in which the premises to which it is proposed to remove the licence are

9 Section 32 of the Principal Ordinance is hereby amended—

Amendment of
section 32 of
the Principal
Ordinance

(a) by inserting the words “after consulting the Commissioner of Police” between the word “fit” and the word “and” which appear in the tenth line thereof, and

(b) by substituting a colon for the full stop which appears at the end thereof and by adding after such colon the following proviso —

“Provided that the district commissioner shall not grant an application for a temporary transfer of a licence made within fourteen days before a meeting of such licensing court is to be held until such licensing court has concluded its sitting”

10 Section 33 of the Principal Ordinance is hereby amended—

Amendment of
section 33 of
the Principal
Ordinance

(a) by inserting the words “by the applicant” between the word “affixed” and the word “in” which appear in the fourteenth line thereof, and

(b) by inserting the words “by the district commissioner” between the word “and” and the word “at” which appear in the fifteenth line thereof

situate for permission to remove such licence, and such district commissioner, if satisfied that to wait for the next meeting of the licensing court would subject such holder to serious loss or inconvenience and if he thinks fit, after hearing any objections to such removal, may, upon a payment by the applicant of the sum of thirty shillings, authorize such removal after not less than thirty days' notice of such application has been affixed in a conspicuous place on the outside of the premises to which it is proposed to remove the licence, and at such district commissioner's office

Section 34 of the Principal Ordinance which it is proposed to replace —

Fresh application
to be made

34 Any person to whom a licence may be temporarily transferred and any person who may be authorized to remove his licence to other premises and any person to whom a provisional licence has been granted shall, at the next meeting of the licensing court, apply for a licence as if he were not a licensed person

Section 35 of the Principal Ordinance which it is proposed to replace —

Where transfer
or removal not
ratified

35 A licensing court shall not be bound to ratify a temporary transfer or removal sanctioned by a district commissioner, and, should it refuse to do so at its next meeting after considering the application made in respect thereof, such licence shall, as to the person to whom the same was originally granted or in respect of the premises originally licensed be considered to be in the same position as if no such transfer or removal has taken place, and an application for the renewal of the licence by the transferee shall at the request of the transferor be deemed and taken to be an application by him for such renewal

Provided that where the application is made in respect of a temporary transfer granted under the provisions of section 32A of this Ordinance, a licensing court may only refuse to ratify such temporary transfer if the temporary transferee is a person in respect of whom the court could have refused to renew a licence under the provisions of section 27 of this Ordinance

11 Section 34 of the Principal Ordinance is hereby repealed and the following section is substituted therefor —

Repeal and replacement of section 34 of the Principal Ordinance

“34 Any person to whom a licence may be temporarily transferred and any person who may be authorized to remove his licence to other premises under the provisions of sections 32, 32A or 33 of this Ordinance, as the case may be, shall at the next meeting of the licensing court apply for the ratification of such temporary transfer or of such authority to remove”

Application for ratification of temporary transfer or authority to remove

12 Section 35 of the Principal Ordinance is hereby repealed and the following section is substituted therefor —

Repeal and replacement of section 35 of the Principal Ordinance

“35 The provisions of this Ordinance (other than the provisions of sub-section (1) of section 22) relating to applications for and the grant of new licences shall apply to an application for ratification made under the provisions of section 34 of this Ordinance, but in the event of the licensing court refusing to ratify the temporary transfer or authority to remove, as the case may be, of a licence, such licence shall, as to the person to whom the same was originally granted or in respect of the premises originally licensed, be considered to be in the same position as if no such transfer or removal had taken place

Procedure in ratification of transfer

Provided that where the application is made in respect of a temporary transfer granted under the provisions of sections 32 and 32A of this Ordinance, a licensing court may only refuse to ratify such temporary transfer, if the temporary transferee is a person in respect of whom the court could have refused to renew a licence under the provisions of section 27 of this Ordinance”

Section 39 of the Principal Ordinance which it is proposed to amend —

Native not to
be supplied

39 (1) No person shall sell, barter, give or otherwise supply to any native, Somali, Malagasy, or Comoro Islander, any intoxicating liquor. Provided that liquor may be supplied to a native, a Somali, a Malagasy, or a Comoro Islander, for medicinal purposes (save as may be prescribed by Rules made under paragraph (c) of section 65 of the Ordinance) or sacramental use, and in such case the burden of proof shall be upon the person who supplied the liquor to show that it was required for such purpose

(2) Any person contravening the provisions of this section shall on conviction be liable —

(a) For a first offence to a fine not exceeding one hundred and fifty pounds, and in default of payment to imprisonment for a term not exceeding six months

(b) For a second offence to a fine of not less than seventy-five pounds, but not exceeding two hundred pounds, and in default of payment to imprisonment for a period not exceeding twelve months, or to both such fine and such imprisonment

(c) For a third or any subsequent offence to imprisonment for a period of not less than two years and not exceeding three years, and in addition to such imprisonment at the discretion of the court to a fine not exceeding twelve hundred pounds, and in default of payment to imprisonment for a further period not exceeding two years

(3) In any summons or charge for an offence against the provisions of this section, it shall not be necessary to set out the names of the natives, Somalis, Malagasies, or Comoro Islanders, to whom intoxicating liquor is alleged to have been sold, bartered, given or otherwise supplied, but it shall be sufficient to allege that such sale, barter, gift or supply was effected to natives, Somalis, Malagasies, or Comoro Islanders as the case may be. Provided that nothing in this sub-section contained shall render it unnecessary to set out accurately in such charge all other material particulars of the charge

13 Section 39 of the Principal Ordinance is hereby amended—

Amendment of
section 39 of
the Principal
Ordinance

- (a) by inserting the word “Abyssinian” between the word “native” and the word “Somali” which appear in the second line of sub-section (1) thereof,
- (b) by inserting the words “an Abyssinian” between the word “native” and the word “a” which appear in the fourth line of sub-section (1) thereof, and
- (c) by inserting the word “Abyssinians” between the word “natives” and the word “Somalis” wherever those words appear in sub-section (3) thereof

(4) Any holder of a licence who is convicted of contravening the provisions of sub-section (1) of this section shall, in addition to any other penalty, forfeit his licence, and in such case no licence shall at any time thereafter be granted to such person unless and until he shall have received a free pardon for such conviction

Section 41 of the Principal Ordinance which it is proposed to amend —

Habitual
drunkard or
native not to
obtain liquor

41 (1) No habitual drunkard or native, Somali, Malagasy, or Comoro Islander shall obtain by purchase or barter or be in possession of any intoxicating liquor

Penalty

(2) Any person contravening the provisions of this section shall on conviction be liable to imprisonment for a period not exceeding six months

Section 42 of the Principal Ordinance which it is proposed to amend —

Onus of proof
as to whether
a person is a
native or not

42 If, in any proceedings under sections 39 or 41 of this Ordinance, there shall be any question as to whether any person is or is not a native, or a Somali, or a Malagasy, or a Comoro Islander, the onus shall be upon the accused to show that he is not a native, or a Somali, or a Malagasy, or a Comoro Islander, as the case may be

Section 46 of the Principal Ordinance which it is proposed to amend —

Offences by
retail licence
holder rendering
licence holder
liable to
forfeiture and
penalties

46 The holder of any retail liquor licence shall be liable to forfeit such licence in addition to any other penalty by this Ordinance provided —

(1) If he permits any other person to manage, superintend or conduct the business of the licensed premises during his absence for a longer period than one month without the consent in writing of the district commissioner of the district in which the licensing court is appointed to be held for the licensing area in which the premises are situate

Any person who at any time is lawfully managing, superintending or conducting the business of the holder of any licence shall be subject and liable to the same duties, obligations and penalties as such holder. Provided that nothing herein contained shall

14 Section 41 of the Principal Ordinance is hereby amended by inserting the word "Abyssinian" between the word "native" and the word "Somali" which appear in the first line of sub-section (1) thereof

Amendment of
section 41 of
the Principal
Ordinance

15 Section 42 of the Principal Ordinance is hereby amended by inserting the words "or an Abyssinian" between the word "native" and the word "or" wherever those words appear therein

Amendment of
section 42 of
the Principal
Ordinance

16 Section 46 of the Principal Ordinance is hereby amended by deleting therefrom paragraph (1) thereof and by renumbering paragraphs (2), (3) and (4) as paragraphs (1), (2) and (3)

Amendment of
section 46 of
the Principal
Ordinance

be taken to relieve the holder of any duties, obligations or penalties to which he may by law be subject or liable

- (2) If he, whether he is present in such premises or not permits any unlicensed person to be in effect the owner or part owner of or interested in the business of the licensed premises except with the consent of such district commissioner
- (3) If he is convicted of any offence under this Ordinance and a previous conviction within the preceding twelve months of the same or any other offence under this Ordinance or three previous convictions within the preceding five years is or are proved
- (4) If he is twice convicted within the year of selling, offering or keeping for sale any adulterated liquor

17 The Principal Ordinance is hereby amended by inserting therein the following new section as section 46B — Amendment of
the Principal
Ordinance

“46B (1) The holder of any retail liquor licence shall not permit any other person to manage, superintend or conduct the business of the licensed premises except with the consent in writing of the district commissioner of the district in which the licensing court is appointed to be held for the licensing area in which the premises are situate. The district commissioner may, in his discretion, refuse to give his consent or may give his consent for such period as to him, having regard to all the circumstances of the case, may seem reasonable. The district commissioner shall upon giving his consent under the provisions of this sub-section forthwith notify the police officer in charge of the district in which the licensed premises are situate.

(2) If any such holder commits a breach of the provisions of sub-section (1) of this section he shall, in addition to any other penalty by this Ordinance provided, be liable to forfeit his licence.

(3) Any person who at any time is lawfully managing, superintending or conducting the business of the holder of any licence shall be subject and liable to the same duties, obligations and penalties as such holder. Provided that nothing herein contained shall be taken to relieve the holder of any duties, obligations or penalties to which he may by law be subject or liable.”

Section 66 of the Principal Ordinance which it is proposed to amend —

Costs incurred
in legal
proceedings

66 (1) Where any costs are incurred by the members of a licensing court in connection with legal proceedings instituted against them in their official capacity such costs shall, unless the court before which the proceedings are taken orders such costs to be borne by the opposite party, be paid by the Treasurer out of the revenues of the Colony

(2) Where any costs are awarded against the members of a licensing court in connection with legal proceedings instituted against them in their official capacity such costs shall, unless the court before which the proceedings are taken orders such costs to be paid by such members, be paid by the Treasurer out of the revenues of the Colony

18 Sub-section (1) of section 66 of the Principal Ordinance is hereby repealed and the following sub-section is substituted therefor —

“66 (1) The Attorney General or any person appointed in writing by him for that purpose may appear for and on behalf of the members of a licensing court in any legal proceedings instituted against such members in their official capacity and shall be entitled to costs in like manner and to the same extent as if he were appearing for and on behalf of the Government of the Colony in a suit instituted against the Government under the provisions of the Petitions of Right Ordinance ”

Repeal and replacement of section 66 (1) of the Principal Ordinance

Attorney General may appear for members of licensing court and be entitled to costs

Cap 17

OBJECTS AND REASONS

Clauses 2, 8 13 14 and 15 extend the provisions of the Principal Ordinance to Abyssinians in the same manner as they are applicable to natives, Somalis, Malagasies and Comoro Islanders

Clauses 4, 6, 9, 11 and 12 clarify the procedure to be followed by persons applying for a provisional licence or for ratification of a transfer or authority to remove while Clause 18 empowers the Attorney General to appear on behalf of a licensing court and to be awarded costs

Clause 7 of the Bill is designed to give effect to a recommendation made by the Liquor Licensing Committee upon whose report published in 1934, the existing law is based. Through an oversight the necessary amendment to give effect to the recommendation was not embodied in the legislation, but the matter has again been raised and the opportunity is being taken to make the necessary amendment

The other clauses of the Bill make minor drafting amendments to the Principal Ordinance

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

GOVERNMENT NOTICE No 609

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

R W BAKER-BEALL,
Acting Clerk to the Legislative Council

**A Bill relating to the Advancement and Control of
the Pyrethrum Industry**

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

Short title
and com-
mencement

1 This Ordinance may be cited as the Pyrethrum Ordinance, 1938, and shall come into operation upon such date as the Governor may by notice in the Gazette appoint

Interpretation

2 In this Ordinance—

No 23 of 1935

“agency” means the person or body of persons from time to time appointed under the provisions of section 9 of this Ordinance and until such an appointment has been made shall mean the agency appointed under the provisions of the Sale of Pyrethrum Ordinance, 1935,

“Board” means the Board established by section 3 of this Ordinance,

“Conference” means any meeting of pyrethrum growers, licensed under the provisions of this Ordinance, convened by the Board for the purpose of the election of members of the Board in accordance with the provisions of section 3 of this Ordinance,

“Director” means the Director of Agriculture,

“export” means export from the Colony to a place outside the limits of the Protectorate of Uganda or of the Tanganyika Territory or of the Zanzibar Protectorate or of the Colony,

“Fund” means the Pyrethrum Levy Fund established by section 17 of this Ordinance,

“levy” means the levy imposed under the provisions of section 16 of this Ordinance,

“pyrethrum” means the dried flowers or dried ground flowers of the plant known botanically as *Pyrethrum cinerariifolium* or any product of such flowers,

“purchase” includes agree or contract to purchase and connotes taking delivery of the article purchased and making payment therefor within a reasonable time,

“pyrethrum grower” means any person who grows pyrethrum for sale,

“sell” includes agree or contract to sell

3 (1) There shall be established a Board, to be known as “the Pyrethrum Board”, which shall consist of —

Establishment
and constitution
of the Board

(a) one member to be appointed by the Governor,

(b) one member to be appointed by the agency,

(c) three persons licensed under the provisions of this Ordinance who shall be elected at the Conference

(2) For the purposes of electing to the Board any person referred to in paragraph (c) of sub-section (1) of this section the Board shall convene a Conference in the first half of each calendar year at such place and at such time as to the Board may seem fit. Provided that the first election of members of the Board under paragraph (c) of sub-section (1) of this section shall be made at a meeting of pyrethrum growers licensed under the provisions of this Ordinance which shall be convened by the Director within thirty days after the commencement of this Ordinance

(3) The Board shall elect a chairman and a vice-chairman annually

(4) Members of the Board, other than those referred to in paragraph (c) of sub-section (1) of this section, shall hold office during the Governor's pleasure

(5) The following provisions shall apply in respect of the members elected at each Conference and at the meeting referred to in sub-section (2) of this section —

(a) one shall retire annually,

(b) the order of retirement shall be by rotation which shall be decided by the Board by ballot,

(c) any member retiring as aforesaid shall be eligible for re-election

(6) A candidate for election shall lodge with the Secretary of the Board at least fifteen days before the date fixed for the election, a nomination paper signed by not less than five pyrethrum growers licensed under the provisions of this Ordinance

(7) In any case in which the Board is satisfied that any member of the Board is incapacitated by illness, absence or other sufficient cause from performing the duties of his office the Board may appoint some fit person to be a deputy to act for that member during such incapacity and any deputy shall, while he acts as such, have all the powers and authority of the member for whom he is so acting

Board to be a
body corporate

4 The Board shall be a body corporate having perpetual succession and a common seal, and may in its corporate name sue and be sued, and may purchase, hold and dispose of land and other property for the purposes of this Ordinance

Meetings of the
Board

5 (1) The Board shall meet not less than once in three months

(2) At all meetings of the Board four members shall form a quorum

(3) In the absence of the chairman and vice-chairman from any meeting of the Board a chairman for such meeting shall be chosen by the members present

(4) The chairman of the meeting shall have a deliberative vote, and in the case of equality of votes shall also have a casting vote. A decision of a majority of the members present and voting at a meeting of the Board shall be deemed to be the decision of the Board

(5) The chairman may in his discretion at any time convene a special meeting of the Board and shall, upon receipt of a requisition signed by two members of the Board calling upon him so to do, within one month after the date of such requisition, convene a special meeting of the Board

(6) The Board may make standing orders regulating—

(a) the conduct of its business, and

(b) the procedure for the election of members at the Conference

(7) The Director or his nominee shall have the right to attend all meetings of the Board

Annual report

6 The Board shall prepare annually a report of its operations which shall be submitted to the Conference and be published in such manner as the Governor may direct

7. No member of the Board shall be personally liable for any act or default of the Board done or omitted to be done in good faith and without negligence in the course of the operations of the Board

Liability of
members of the
Board

8 (1) Subject to the provisions of sub-section (8) of this section, no person shall, on or after the commencement of this Ordinance, grow pyrethrum for sale unless and until he is in possession of a licence issued to him for such purpose by the Director

Licensing of
pyrethrum
growers

(2) Upon receipt of an application for a licence other than an application for a licence mentioned in sub-section (3) of this section, the Director shall consult the Board, but may, in his discretion, and notwithstanding the advice of the Board to the contrary, grant or refuse the application

Provided that, where the Director intends to issue a licence notwithstanding the advice of the Board to the contrary, he shall before issuing the licence notify the Board accordingly in writing, and the Board may within ten days after the date of such notification appeal to the Governor in Council whose decision shall be final. A copy of any such appeal shall at the same time be sent to the Director who shall, upon the receipt thereof, suspend the issue of the licence pending the decision of the Governor in Council

(3) The Director shall not refuse to grant a licence under this section to any pyrethrum grower (or his successor in title) previously registered under section 4 of the Sale of Pyrethrum Ordinance, 1935, in respect of any acreage of land which is at the commencement of this Ordinance planted with pyrethrum, and shall in exercising his discretion under the provisions of sub-section (2) of this section be subject to the provisions of any rules made under this Ordinance

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(4) A fee of one hundred shillings shall be payable for such licence

(5) Every licence issued by the Director shall specify the acreage of land which the licensee is authorized to plant with pyrethrum

(6) Every licence issued under the provisions of this section shall expire on the thirty-first day of March next following the date on which it was issued

o	(7) All licence fees paid by pyrethrum growers under the provisions of this section shall be paid to the credit of the Fund
No 23 of 1935	(8) Any person who at the commencement of this Ordinance was registered as a pyrethrum grower in accordance with the provisions of section 4 of the Sale of Pyrethrum Ordinance, 1935, shall for the purposes of this Ordinance be deemed to be licensed under this Ordinance until the thirty-first day of March, 1939
Appointment of agency	<p>9 (1) The Board may, with the approval of the Governor in Council, appoint any person or body of persons to be the agency for the purposes of this Ordinance, and may in like manner revoke or vary such appointment</p> <p>(2) Any appointment made under sub-section (1) of this section, or the revocation or variation of such appointment, shall be published in the Gazette</p>
Pyrethrum to be sold to agency	10 No pyrethrum grower shall sell any pyrethrum to any person other than the agency
Agency only to purchase	11 No person other than the agency shall purchase pyrethrum for the purpose of export
Agency to purchase all pyrethrum offered	12 Subject to the provisions of any rules made under this Ordinance, the agency shall purchase all pyrethrum, offered to it by any grower, which is suitable for the purpose of preparation of an insecticide of good quality
Agency to supply East African demands	13 Subject to the provisions of any rules made under this Ordinance, the agency may sell pyrethrum in any market, whether within or without the Colony, but it shall be the first duty of the agency to supply the demands of the Colony and of the Uganda Protectorate, the Tanganyika Territory and the Zanzibar Protectorate, to the satisfaction of the Governor
Maximum price for pyrethrum powder in certain circumstances	14 The maximum price to be charged by the agency for pyrethrum powder for consumption or use within the Colony, or within the Uganda Protectorate, the Tanganyika Territory, or the Zanzibar Protectorate, shall not exceed the average overseas price for the previous three months, plus twenty per centum and the cost of gristing and packing
Appeal from agency to the Board	15 Any person aggrieved by any decision of the agency may appeal to the Board, whose decision shall be final, but nothing in this section contained shall be deemed to deprive any person of any right of action which he may have in any competent court of the Colony

16 (1) The Governor may, on the recommendation of the Board, from time to time by proclamation in the Gazette impose a levy on all pyrethrum produced in and sold in or exported from the Colony

(2) No levy shall become operative until two months after the date of the proclamation imposing it

17 (1) There shall be established a fund, to be known as "The Pyrethrum Levy Fund", which shall consist of all moneys paid in respect of the levy and such other contributions and donations as may from time to time be made to the Fund

(2) The Fund shall be in the custody of the Treasurer, who, as soon as possible after the last day of each month, shall pay the amount of such Fund into an account opened in the name of the Board with a bank approved by the Governor, and the receipt of such bank for sums so paid shall be a full and effectual discharge to the Treasurer

(3) The Board shall apply such moneys to all or any of the following purposes —

- (a) experiment, investigation and research in connexion with the pyrethrum industry,
- (b) the cost of advertising the merits of Kenya pyrethrum and increasing its sale by efforts to extend existing markets and exploiting new markets, and any matters incidental thereto,
- (c) the employment of such staff as the Board may deem necessary for the purpose of carrying out its functions,
- (d) the payment of travelling and out-of-pocket expenses to individual members of the Board at rates to be approved by the Governor,
- (e) with the approval of the Governor in Council, to any other service which, in the opinion of the Board, is calculated to promote the welfare of the pyrethrum industry or the more economic production or preparation of pyrethrum

18 The accounts of the Fund shall be audited in such manner as the Governor may direct, and shall, as soon as may be after the close of each year, and after audit as aforesaid, be published in such manner as the Governor may direct

Levy

Pyrethrum Levy Fund

75 4

Audit and publication of accounts

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Penalty for
offences

19 Any person who is guilty of a breach of any of the provisions of this Ordinance or of any rules made under this Ordinance shall, on conviction before a magistrate of the first or second class, be liable for a first offence to a fine not exceeding one hundred pounds or to imprisonment for six months, or to both such fine and such imprisonment and for a second or subsequent offence to a fine not exceeding five hundred pounds or to imprisonment for twelve months, or to both such fine and such imprisonment

Power to
make rules

20 The Governor in Council may, after consultation with the Board, make rules for the regulation and control of the pyrethrum industry and, without prejudice to the generality of the foregoing, for all or any of the following purposes —

- (a) prescribing the conditions on which the agency may be appointed,
- (b) prescribing the duties and functions of the agency,
- (c) controlling the manufacture and sale of the products of pyrethrum flowers grown in the Colony,
- (d) regulating the distribution of the proceeds to pyrethrum growers licensed under this Ordinance of sales of pyrethrum by the agency,
- (e) providing for the submission of returns to the agency relating to the cultivation of pyrethrum and the quantities of pyrethrum which shall be available for export,
- (f) providing for the grading of pyrethrum received by the agency,
- (g) prescribing the grades of pyrethrum which shall be accepted by the agency,
- (h) prescribing the procedure for the collection of the levy,
- (i) providing for the control, and if necessary for the prohibition, of the planting of pyrethrum,
- (j) prescribing the conditions under which pyrethrum growers shall be permitted to grow and prepare pyrethrum,
- (k) prescribing the form of licence to be issued under this Ordinance,
- (l) generally for the better carrying out of the provisions of this Ordinance

Repeal

No 23 of 1935

21 The Sale of Pyrethrum Ordinance, 1935, is hereby repealed

OBJECTS AND REASONS

This Bill, which has been prepared at the request of the Advisory Board to the Agency appointed under the Sale of Pyrethrum Ordinance, 1935, re-enacts with minor amendments the provisions of that Ordinance and provides a further measure of control over the pyrethrum industry. Regulatory and control measures will be largely in the hands of a statutory Pyrethrum Board which it is proposed to establish and which is to be composed mainly of members elected annually at a conference of pyrethrum growers.

The growers of pyrethrum have come to the conclusion that the adoption by all growers of prescribed methods of planting and preparation is essential for the maintenance of the high standard quality of pyrethrum flowers for export, and they consider that in the event of over-production it will be necessary for steps to be taken to control production by the limitation of new plantings. The Bill accordingly enables appropriate action to be taken by the enactment of rules by the Governor in Council in consultation with the Pyrethrum Board.

The provision of additional services, especially for research, in order to promote the welfare of the industry is now regarded as essential and in consequence this Bill provides for the establishment of a Pyrethrum Fund which is to be administered by the Board in the interests of the industry. The Fund is to be financed in the first instance by a grower's annual licence fee of Sh 100 and provision is also made for the raising of additional funds by means of a levy, on all pyrethrum sold, which can be imposed only on the recommendation of the Board.

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