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An Ordinance to make provision for a system of County Local Government in the Rural Areas of the Colony and for matters incidental thereto and connected therewith

GOVERNMENT NOTICE NO 101

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

J H BUTTER,
Acting Clerk to the Legislative Council

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**A BILL ENTITLED
AN ORDINANCE TO MAKE PROVISION FOR A SYSTEM OF COUNTY LOCAL GOVERNMENT IN THE RURAL AREAS OF THE COLONY AND FOR MATTERS INCIDENTAL THERETO AND CONNECTED THEREWITH**

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

Short title

1. This Ordinance may be cited as the Local Government (County Councils) Ordinance, 1952, and shall come into operation upon such date as the Governor may, by notice in the Gazette, appoint

Interpretation

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

No 12 of 1950

“African district council” means an African district council established under the African District Councils Ordinance,

“building” includes any erection of whatsoever material and in whatsoever manner constructed, and any part of a building,

“clerk” means the person for the time being lawfully acting as clerk of a council,

Cap 136

“Commissioner” means the Commissioner for Local Government appointed under the provisions of section 108 of the Municipalities Ordinance,

Cap 140

“county division” and “county district” have the meanings respectively assigned to them by paragraph (b) of subsection (1) of section 4 of this Ordinance,

20

“district council” means a district council constituted under the provisions of the Local Government (District Councils) Ordinance,

25

“district” means the area placed under the jurisdiction of a district council,

“council” means the council of a county, county district or county division,

“inspector” means an inspector appointed under the provisions of section 122 of this Ordinance,

“land” includes any interest in land, any buildings on land, land covered with water and any easement or right in, to 5 or over land,

“local authority” means a municipal council or municipal board, an African district council or the council of a county, county district or county division,

“magistrate” means a magistrate of the first or second 10 class,

“medical officer of health” includes an assistant medical officer of health,

“Member” means the Member of the Executive Council of the Colony for the time being responsible for local government,
15

“municipality” means a municipality as defined by the Municipalities Ordinance,

Cap 136

“municipal board” means a municipal board constituted under the provisions of the Municipalities Ordinance,

Cap 136

20 “municipal council” means a municipal council constituted under the provisions of the Municipalities Ordinance,

Cap 136

“native areas” means the native lands, the native reserves, the temporary native reserves and the native leasehold areas as defined in the Native Lands Trust Ordinance, and the
25 native settlement areas the boundaries of which are set out in the Ninth Schedule to the Crown Lands Ordinance,

Cap 100

Cap 155

“occupier” includes any person in actual occupation of land or premises without regard to the title under which he occupies, and, in the case of premises sub-divided and let to 30 lodgers or various tenants, includes also the person receiving the rent payable by the lodgers or tenants whether on his own account or as agent for any person entitled thereto or interested therein,

“officer” includes a servant,

35 “owner”, in the case of freehold land, means the person (other than His Majesty) owning such land, and in the case of any land held under a lease for a period of not less than ten years, or for the natural life of any person, or which is re-

newable from time to time at the will of the lessee indefinitely
40 or for periods which together with the first period thereof amount in all to not less than ten years, means the person holding such land under such lease and includes any agent who receives rents or profits from any such person and also any superintendent, overseer or manager of any such lessee

45 in respect of the holding on which he resides as such superintendent, overseer or manager,

“public place” includes any road, street thoroughfare, foot-pavement, footpath, sidewalk, lane, square, open space, garden, park or enclosed space vested in a council under this
50 Ordinance,

“public road” means a public road as defined by the Public Roads and Roads of Access Ordinance,

Cap 229

“public vehicle” includes any cab, cart, omnibus, ricksha, trolley or other vehicle standing or plying for hire in any
55 public place,

“Road Authority” means the Road Authority established under the provisions of the Road Authority Ordinance, 1950,

“street” means any highway road or sanitary lane, or any land reserved for a highway, road or sanitary lane and includes any bridge footway, square, court, alley or passage, whether a thoroughfare or not,
60

"street trading" includes the hawking of newspapers matches, flowers and other articles, the distribution of hand-bills or other advertisements and shoe-blacking and any other like occupation carried on in any public place, and "street trader" includes any person who engages in any such occupation so carried on, 5

Cap 133

"township" means an area declared or deemed to be declared as a township under the provisions of the Townships Ordinance

**PART I—ESTABLISHMENT OF COUNTY COUNCILS 10
COUNTY DISTRICT COUNCILS AND COUNTY
DIVISIONAL COUNCILS**

Schemes of county administration

3. (1) At any time after the coming into operation of this Ordinance a district council may prepare and submit to the Member a scheme (hereinafter referred to as a "scheme of 15 county administration") for constituting the district, together with the areas of any townships or trading centres which in the opinion of the district council may conveniently be administered with the district, an administrative county and for administering the local government of the administrative 20 county

(2) A scheme of county administration may be prepared and submitted to the Member by two or more district councils acting jointly and such scheme may constitute one or more administrative counties 25

(3) The Member may, at the request of two or more district councils, appoint not more than three persons to consider the circumstances of the districts concerned and to prepare and submit to him a scheme of county administration on behalf of such district councils 30

Contents of schemes

4. (1) A scheme of county administration shall—
(a) define the boundaries of the administrative county and, if the district council think fit, divide the administrative county into wards,
(b) divide the administrative county into so many administrative areas to be known as townships, urban districts and rural districts (hereinafter referred to as "county districts") as in the opinion of the district council are necessary for the effective and convenient administration of the local government of the 40 administrative county and if the district council think fit, into administrative areas consisting of two or more county districts (hereinafter referred to as "county divisions") and assign names to such county districts and county divisions, 35 45

(c) provide for the constitution of a county council, consisting of—

- (i) councillors nominated by the councils of the county districts or county divisions within the administrative county from amongst their 50 members in such numbers and in such manner as the scheme may prescribe,
- (ii) European councillors in such number as the scheme may prescribe, but not being more than two-thirds of the whole number of councillors, 55 elected in accordance with rules made under the provisions of this Ordinance

Provided that a scheme of county administration made in respect of the Nyanza District may, in addition, make provision for such

- number of elected Asian members as the district council think fit,
- (iii) not more than three councillors appointed by the Member,
 - 5 (iv) an administrative officer or other representative of the Government, to be nominated by the Member,
 - 10 (v) one representative of any municipal council or municipal board, whose area is surrounded or bordered by the administrative county, to be nominated by the Member with the approval of the municipal council or municipal board, as the case may be, and
 - 15 (vi) councillors appointed pursuant to any agreement made with a municipal council or municipal board under section 5 of this Ordinance,
 - (d) provide for the constitution of county district councils consisting of councillors wholly elected or wholly appointed or partly elected and partly appointed in accordance with the provisions of this Ordinance,
 - (e) provide, if the district council think fit, for the constitution of county divisional councils, consisting of—
 - (i) councillors nominated by the councils of the county districts within the county division in such numbers and in such manner as the scheme may prescribe, and
 - (ii) not more than three councillors appointed by the Member,
 - 30 (f) where the scheme provides for the constitution of county divisional councils, provide for the distribution of local government functions between the county council, county district councils and the county divisional councils and for contributions by the county council to the expenses of the county divisional councils,
 - 35 (g) make provision for the transfer or apportionment of the assets and liabilities of the district councils and for the continued employment or compensation of officers,
 - 40 (h) appoint a day for the first election of county councillors and county district councillors, a day for the first meeting of the county council, and days for the first meetings of all county district councils and county divisional councils,
 - 45 (i) make such incidental consequential and supplemental provisions as appear to the district council to be necessary or proper for bringing the scheme into operation and giving full effect thereto

5. A scheme of county administration may provide for the inclusion of any municipality within the administrative county and for the administration of such municipality as an urban district upon such terms and conditions as may be agreed between the district council and the municipal council or municipal board

Agreements with
municipal
councils or
boards

55 6. (1) A county district council required by a scheme of county administration to be wholly elected shall consist of not less than six and not more than twelve councillors elected in accordance with rules made under the provisions of this Ordinance

Provisions as to
the constitution
of county
district councils

(2) A county district council required by a scheme to be wholly appointed shall consist of—

(a) not less than six and not more than twelve councillors to be appointed, in the first place by the Member for a term of not more than two years expiring on the 5 day of the annual meeting of the county council and on the retirement of any such councillor his place shall be filled by a councillor appointed by the county council, and

(b) not more than three councillors appointed by the 10 Member

(3) A county district council required by a scheme of county administration to be partly elected and partly appointed shall consist of—

(a) European councillors in such number as the scheme 15 may prescribe elected in accordance with rules made under the provisions of this Ordinance,

(b) councillors in such number as the scheme may prescribe appointed in the manner described in sub-section 2 (a), and 20

(c) not more than three councillors appointed by the Member

Publication and approval of schemes

7. (1) As soon as a scheme of county administration has been submitted to the Member the district council submitting the scheme shall publish in the Gazette and in a newspaper 25 circulating in their area a notice stating that the scheme has been so submitted and that a copy thereof is open to inspection at a specified place and that representations thereon may be made to the Member within four weeks after the publication of the notice 30

(2) No scheme of county administration submitted to the Member shall be of any effect unless and until it is approved by the Member, and the Member, after considering any representations with respect to the scheme which may be submitted to him may approve the scheme without modifications or with 35 such modifications as may be agreed with the district council submitting the scheme, as he may think fit

Councils to be bodies corporate

8. (1) Every county council shall, under the name of "The County Council of _____" be a body corporate with perpetual succession and a common seal (with power to alter 40 such seal from time to time) and shall by such name be capable in law of suing and being sued, of acquiring, holding and alienating land and, subject to the provisions of this Ordinance or of any other law for the time being in force, generally of doing and performing such acts and things as 45 bodies corporate may by law do and perform

(2) Every county district council and every county divisional council shall be a body corporate by the name by which it is described in the scheme and shall have perpetual succession and a common seal (with power to alter such seal from 50 time to time) and shall by such name be capable in law of suing and being sued, of acquiring, holding and alienating land and, subject to the provisions of this Ordinance or of any other law for the time being in force, generally of doing and performing such acts and things as bodies corporate may by 55 law do and perform

Dissolution of district councils

9. On the coming into force of a scheme of county administration—

(a) the district council submitting the scheme shall be dissolved and shall cease to exist and the Local Government (District Councils) Ordinance shall cease to apply to the district concerned, 60

(b) the Townships Ordinance shall cease to apply to any Cap 133 township included in the administrative county

10 (1) A scheme of county administration may at any time be prepared and submitted to the Member by one or 5 more county councils acting jointly with one or more district councils and such scheme may constitute one or more administrative counties and without prejudice to the provisions of sub-section (4) of section 11 of this Ordinance may revoke an existing scheme of county administration

County council
may submit
scheme jointly
with district
council

10 (2) The provisions of section 7 of this Ordinance shall apply to a scheme of county administration submitted to the Member under this section

11. (1) Not more than five years after the coming into operation of a scheme of county administration and at 15 intervals of not more than ten years thereafter the county council shall, in consultation with the councils of the county districts and of any county divisions within the administrative county and, if the county council think fit, in consultation with any municipal council or municipal board, review the circumstances of such county districts and county divisions and consider whether it is desirable to effect any of the following changes—

Periodical review
of schemes

- (a) any alteration or definition of the boundaries of any such county district or county division,
- 25 (b) the union of any such county district or county division with another such county district or county division,
- (c) the transfer of any part of any such county district or county division to another such county district or county division,
- 30 (d) the conversion of any such county district or any part thereof, if it is a rural district or a township, into an urban district, or if it is an urban district or a township, into or so as to form part of a rural district,
- (e) any alteration of the number of members of any council,
- 35 (f) the constitution of a wholly elected council in place of a council which is wholly appointed or partly appointed and partly elected,
- (g) the constitution of a partly elected and partly appointed council in place of one which is wholly appointed,
- 40 (h) the formation of any new county district or county division,
- (i) the abolition of any such county division,
- 45 (j) any change in the name of a county district council or county divisional council,

and shall send to the Member a report of the review together with proposals as to the variations, if any, in the scheme of 50 county administration which they consider desirable

(2) Without prejudice to the provisions of the foregoing sub-section, any scheme of county administration may at any time be varied by proposals made and submitted to the Member by the county council after consultation with the 55 councils of any county districts or county divisions concerned

(3) Any two or more county councils may at any time prepare and submit to the Member proposals for the variation of the schemes of county administration concerned to effect the union of the administrative counties or the alteration or 60 definition of the boundaries of the administrative counties

(4) No proposal for the variation or revocation of any provision of a scheme of county administration which was made in pursuance of an agreement between a district council and a municipal council or municipal board shall be submitted to the Member unless the council of the urban district affected shall have notified the Member of their approval of such proposal

(5) Proposals for the variation of a scheme of county administration may provide for the inclusion of the area of any municipality within the administrative county and for the *10* administration of such municipality as an urban district upon such terms and conditions as may be agreed between the county council and the municipal council or municipal board

(6) Proposals for the variation of a scheme of county administration may, if the municipal council or municipal *15* board concerned agree, include proposals for an alteration of boundaries between the municipality and the administrative county or any county district therein

(7) As soon as proposals for the variation of a scheme of county administration have been submitted to the Member, *20* the county council shall publish in the Gazette and in a newspaper circulating in the administrative county a notice stating that such proposals have been so submitted and that a copy thereof is open to inspection at a specified place and that representations thereon may be made to the Member within *25* four weeks after the publication of the notice

(8) Where proposals for the variation of a scheme of county administration are submitted to the Member under this section, the Member may vary that scheme to such extent as may be agreed with the county council *30*

PART II — MEMBERS AND MEETINGS OF COUNCILS

Term of office election and appointment of councillors

12. (1) Of the councillors elected at the first election of councillors of any council one-third, or as near as may be, shall retire on the first day of April of the year immediately following the year in which the first election is held, and one- *35* third, or as near as may be, shall retire on the first day of April next ensuing and the remaining one-third, or as near as may be, shall retire on the first day of April next again ensuing

(2) The order of retirement of councillors under sub-section (1) shall be determined by lot *40*

(3) After the first election of councillors an annual election shall be held upon the first day of March in every year for the purpose of electing councillors to replace those elected councillors whose terms of office expire on the first day of April in that year *45*

(4) The councillors elected at every such annual election shall hold office for a period of three years

(5) The term of office of the first county councillors appointed by the county district councils and county divisional councils in the administrative county shall be not less than *50* two and not more than three years and the term of office of each such councillor shall expire on the day of the annual meeting of the council appointing him

(6) The term of office of county councillors appointed by county district councils and county divisional councils in the *55* administrative county (other than the first such councillors) shall be three years and shall expire on the day of the annual meeting of the council appointing them and their places shall be filled by newly-appointed councillors who shall come into office on that day *60*

(7) The term of office of county district councillors appointed by the county council shall be three years and they shall retire together in every third year on the day of the annual meeting of the county council and their places shall be filled by the newly-appointed councillors who shall come into office on that day

(8) The term of office of councillors appointed by the Member (other than the first councillors appointed to a council) shall be three years and on the retirement of any such councillor his place shall be filled by a councillor appointed by the Member

13. The Governor in Council shall make rules generally for the holding of elections and for all matters connected therewith, and in particular for all or any of the following purposes that is to say—

Rules for
elections

(a) for prescribing the procedure for the nomination of candidates,

(b) for prescribing the method of filling casual vacancies,

(c) for regulating the procedure in regard to the preparation of voters' rolls, and for the making and disposing of claims and objections,

(d) for regulating the procedure in regard to the taking of polls at contested elections under this Ordinance,

(e) for prescribing such forms as he may think necessary to be used in connexion with the matters dealt with in the Part of this Ordinance and any rules made thereunder,

(f) for prescribing the oaths to be taken by councillors,

(g) for prescribing penal provisions relating to elections,

(h) for providing for the filling of vacancies by nomination in the event of failure to fill such vacancies by election

14. (1) The chairman of a county council shall be elected at the first meeting of the county council, and thereafter annually by the county council from among the county councillors

Chairmen of
councils

(2) The election of the chairman shall be the first business transacted at the annual meeting of the county council

(3) In the case of an equality of votes, the person presiding at the meeting shall have a casting vote

(4) The chairman shall, unless he resigns or ceases to be qualified or become disqualified, continue in office until his successor is elected

(5) The county council may pay to the chairman such allowance as they think reasonable

(6) The chairman of a county divisional council or county district council shall be elected at the first meeting of the council and thereafter annually by the council from among the councillors of the county division or county district

(7) The election of the chairman shall be the first business transacted at the annual meeting of the council

(8) In the case of an equality of votes, the person presiding at the meeting shall have a casting vote

(9) The chairman shall, unless he resigns or ceases to be qualified or becomes disqualified, continue in office until his successor is elected

(10) On a casual vacancy occurring in the office of chairman of a council, an election to fill the vacancy shall be held not later than the next ordinary meeting of the council held after the date on which the vacancy occurs, or if that meeting is held within fourteen days after that date, then not later than the next following ordinary meeting of the council

Vice-chairmen
of councils

15. (1) A council may elect a member of the council to be vice-chairman of the council

(2) The vice-chairman shall, unless he resigns or ceases to be qualified or becomes disqualified, hold office until immediately after the election of a chairman at the next annual meeting of the council

(3) Subject to any standing orders made by the council, anything authorized or required to be done by the chairman may be done by the vice-chairman

15

Resignation and
re-election

16. A councillor elected or appointed to any office under this Ordinance may at any time resign his office by writing signed by him and delivered to the clerk of the county council and his resignation shall take effect upon the receipt by that officer of such notice of resignation

20

A councillor ceasing to hold any office to which he is elected or appointed under this Ordinance shall, unless he is not qualified or is disqualified be eligible for re-election

Days and hours
of meetings

17. (1) A council shall in every year hold an annual meeting and at least three other meetings, which shall be as near 25 as may be at regular intervals, for the transaction of general business

(2) The annual meeting of the county council shall be held on the thirtieth day of April at such hour as the county council may fix, or if no hour is so fixed, at twelve noon

30

(3) The annual meeting of a county district council or county divisional council shall be held on such day within fourteen days after the first day of April as the county district council or county divisional council may fix, at such hour as the council may fix, or if no hour is so fixed, at twelve noon

35

(4) The other meetings shall be held at such hour and on such other days before the annual meeting next following as the council at the annual meeting decide, or by standing order determine

(5) The chairman of a council may at any time and shall 40 within twenty-one days of receiving a request in writing signed by not less than one-third of the councillors call a meeting of the council

Notices of
meetings

18. (1) The clerk of the council shall give at least one week's notice in writing to each of the councillors specifying 45 the time and place appointed for and the business proposed to be transacted at a meeting of a council

Provided that the accidental omission to serve such notice on any councillor shall not affect the validity of any meeting

(2) Except in the case of business required by this Ordinance to be transacted at the annual meeting of the council, no business shall be transacted at a meeting of a council other than that specified in the notice relating thereto

Absence of
councillors from
meetings

19. (1) Any councillor who, without having first obtained leave from the council—

55

(a) absents himself from three consecutive ordinary meetings of the council, or fails to attend any meeting of the council for a period of two months whichever period is the longer, or

- (b) not being an *ex-officio* member of any committee, absents himself from three consecutive meetings of any committee of the council of which he is a member,
- 5 shall become disqualified from continuing to be a councillor, and the clerk shall, at the next ordinary meeting of the council after such absence by a councillor, report the same to the council and the council shall thereupon declare the seat of such councillor to be vacant
- 10 (2) Where a county councillor, having obtained leave from the council, leaves the Colony intending to be absent for not more than eight months, the council may co-opt a person, not being a member of such council, to discharge the duties of the absent councillor during his absence from the Colony
- 15 (3) Where a councillor of a county district council or county divisional council, having obtained leave from the council, leaves the Colony intending to be absent for not more than eight months, the county council may appoint a fit and proper person not being a member of the county district 20 council or county divisional council concerned, to discharge the duties of the absent councillor during his absence from the Colony
- (4) If any councillor is absent from the Colony for a period exceeding eight months his seat shall then become 25 vacant
- 20.** Every meeting of a council shall be open to the public and the Press Meetings to be public
- Provided that this section shall not apply to any committee of a council or to a committee of the whole council
- 30 **21.** (1) The names of the councillors present at a meeting of a council shall be recorded Record of attendance and quorum
- (2) Save as otherwise provided by this Ordinance all acts, matters and things authorized or required to be done by a council, and all questions that may come before them, shall 55 be done and decided by the majority of the members present and voting thereon at any meeting at which there are present not less than one-half of the members or such larger proportion thereof as such council may from time to time by standing order fix
- 40 **22.** (1) At every meeting of a council the chairman, or in his absence the vice-chairman, shall preside In the absence of the chairman and of the vice-chairman the councillors present shall elect a chairman from amongst themselves to preside at such meeting, and such election shall, in the event of 45 equality of votes for two or more candidates be determined by lot Chairman to preside and have a casting vote
- (2) In the case of an equality of votes the chairman of the meeting shall have a second or casting vote
- 23** Minutes of the proceedings of every meeting of a 50 council and of any committee thereof shall be regularly entered in books kept for that purpose, and such minutes shall be confirmed at the same or the next meeting Such minutes, when signed by a member describing himself as or appearing to have been chairman of the meeting at which the minutes 55 are confirmed, shall, in the absence of proof of error, be deemed to be a correct record of the proceedings of the meeting of which they purport to be the minutes Minutes to be kept and signed
- 24.** Whenever the minutes of the proceedings of a meeting have been recorded and confirmed, such meeting shall, 60 until the contrary is proved, be deemed to have been duly convened and held, and all the members present at such meeting Meetings deemed to be duly held

shall be deemed to have been duly qualified, and, in the case of proceedings so recorded of a committee, the committee shall, until the contrary is proved, be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minutes

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Minutes to be open to inspection

25. The minutes of the proceedings of a council shall at all reasonable times be open to the inspection of any ratepayer or voter of the area of the council, and any such ratepayer or voter may obtain a copy thereof or an extract therefrom on payment of such fee (if any) as may be prescribed by such ¹⁰ council

Adjournment of meetings

26 The members present at any meeting may from time to time adjourn such meeting and if at any meeting a sufficient number of members are not present to exercise the powers vested in a council, the members present or, if there ¹⁵ be no members present, the clerk shall adjourn the meeting and may appoint for the adjourned meeting such day and hour as may be considered suitable

Standing orders

27 Subject to the provisions of this Ordinance and to the approval of the Member a council may make standing ²⁰ orders for the regulation of their proceedings and business and may vary or revoke any such orders

Validity of acts of council and officers

28. All otherwise lawful acts of a council or of any person acting as chairman or member or as the clerk or any other officer of such council as the case may be shall, notwithstanding that it be discovered that there was some defect in the election or appointment of any such person or that he was disqualified, be as valid and effectual as if such person had been duly elected or appointed and qualified

Authentication and execution of documents

29. (1) Every order, notice or other document requiring ³⁰ authentication by a council shall be deemed to be sufficiently authenticated if signed by the clerk or by any other officer of such council, duly authorized in that behalf by any resolution or standing order of the council

(2) Every contract and every instrument and document ³⁵ which a council is lawfully empowered to execute shall be sealed with the common seal of the council in the presence of the chairman and the clerk

Exemption of councillors, etc., from personal liability

30. No matter or thing done or omitted to be done and no contract entered into by a council, and no matter or thing ⁴⁰ done or omitted to be done by any councillor or officer or such council or other person acting under the direction of such council, shall, if the matter or thing was done or omitted to be done or the contract was entered into in good faith for the purpose of this Ordinance or of any by-law in force in the ⁴⁵ area of the council, subject any such person to any action, liability, claim or demand whatsoever, and any expense incurred by such council or any such person, in consequence of such action, shall be paid by such council out of their revenues

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Provided that nothing in this section shall exempt any such councillor, officer or other person aforesaid from liability to be surcharged by the inspector under the provisions of section 123 of this Ordinance

Travelling expenses of members

31. (1) A council may, from time to time, subject to the ⁵⁵ approval of the Member, vote such reasonable sums as they deem sufficient to defray the actual travelling expenses and reasonable subsistence allowances of members attending meetings of such council or of any committee thereof, or attending to any business of the council when authorized by resolution ⁶⁰ of the council to do so

(2) A member voting upon any such question shall not thereby become liable to any penalty under the provisions of section 32 of this Ordinance

(3) No expenditure by a council under this section shall be taken into account for the purpose of determining the amount of any sum payable to the council out of the public revenues of the Colony

32. (1) If a councillor has any pecuniary interest, direct or indirect, in any contract or proposed contract or other matter, and is present at a meeting of the council or of any committee thereof at which the contract or other matter is the subject of consideration, he shall at the meeting, as soon as possible after the commencement thereof, disclose the fact, and shall not take part in the consideration or discussion of, or vote on any question with respect to, the contract or other matter

Disability of
councillors for
voting on
account of
interest in
contracts, etc

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

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

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

Provided that—

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

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

(4) A general notice given in writing to the clerk by a councillor to the effect that he or his spouse is a member or in the employment of a specified company or other body, or that he or his spouse is a partner or in the employment of a specified person, shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of his interest in any contract, proposed contract, or other matter relating to that company or other body or to that person which may be the subject of consideration after the date of the notice

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

(6) If any person fails to comply with the provisions of sub-section (1) of this section he shall for each offence be liable on conviction to a fine not exceeding fifty pounds, unless he proves that he did not know that a contract, proposed contract, or other matter in which he had a pecuniary interest was 5 the subject of consideration at the meeting

(7) Any person convicted of an offence against this section shall *ipso facto* become disqualified from continuing to be a councillor and shall account to the council for any profit which may accrue to him out of such contract or matter 10

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

(9) A prosecution for an offence under this section shall 15 not be instituted except by or on behalf of the Attorney General

(10) The Member may subject to such considerations as he may think fit to impose remove any disability imposed by this section in any case in which the number of councillors so 20 disabled at any one time would be so great a proportion of the whole as to impede the transaction of business, or in any other case in which it appears to the Member that it is in the interests of the inhabitants of the area under the jurisdiction of the council that the disability should be removed 25

(11) A council may by standing orders provide for the exclusion of a councillor from a meeting of the council or of any committee thereof whilst any contract, proposed contract or other matter in which he has such an interest as aforesaid is under consideration 30

(12) A council shall not enter into a contract or conclude any other matter in which any member has a pecuniary interest direct or indirect unless public tenders have been invited in the same manner as if sub-section (2) of section 42 of this Ordinance applied to such contract or other matter 35

Restriction on advocacy against councils and committees

33. (1) No councillor shall by himself or his partner or agent act as an advocate against the council of which he is a member or against any council in the same administrative county

(2) No councillor shall by himself or his partner or agent 40 act as an advocate or representative of any other person—

- (a) before any Valuation Court appointed by any council mentioned in sub-section (1) of this section, or
- (b) before any committee of any such council appointed to consider or deal with applications for any licence or 45 certificate which the council has power to grant or issue

General power of councils to appoint committees

PART III — COMMITTEES AND JOINT COMMITTEES

34. (1) A council may appoint a committee for any such general or special purpose as in the opinion of the council 50 would be better regulated and managed by means of a committee, and may delegate to a committee so appointed, with or without restrictions or conditions, as they think fit, any functions exercisable by the council either with respect to the whole or a part of the area of the council, except the power of 55 levying a rate, or of borrowing money

(2) The number of members of a committee appointed under this section, their term of office, and the area, if any, within which the committee is to exercise its authority, shall be fixed by the council. 60

(3) A committee appointed under this section (other than a committee for regulating and controlling the finances of the council) may include persons who are not members of the council

5 Provided that at least a majority of the members of every committee shall be members of the council

(4) The provisions of sections 19, 28, 30 and 32 of this Ordinance shall apply to a person appointed to a committee under the foregoing sub-section in the same manner as they 10 apply to councillors

(5) Every member of a committee appointed under this section who at the time of his appointment was a member of the council by whom he was appointed shall, upon ceasing to be a member of the council, also cease to be a member of the 15 committee

Provided that for the purposes of this sub-section a member of a council shall not be deemed to have ceased by reason of retirement to be a member of the council, if he has been re-elected or re-appointed a member thereof not later 20 than the day of his retirement

35. A county council shall at the annual meeting in every year appoint a finance committee consisting of such number of members of the council as they think fit for regulating and controlling the finances of the county council and 25 for advising the councils of the county districts and county divisions in the administrative county on the finances of such councils

County finance committee

36. (1) A county council may concur with any one or more other county councils or with a municipal council, a 30 municipal board or an African district council, and a county district council or county divisional council may concur with any one or more other county district councils or county divisional councils in the administrative county, in appointing from amongst their respective members a joint committee of those 35 local authorities for any purpose in which they are jointly interested and may delegate to the committee with or without restrictions or conditions as they think fit any functions of the local authorities relating to the purpose for which the joint committee is formed except the power of levying a rate or 40 borrowing money

Joint committees

(2) Subject to the provisions of this section, the number of members of a joint committee appointed under this section, the term of office of the members thereof, and the area within which the joint committee is to exercise its authority, shall be 45 fixed by the appointing local authorities

(3) Every member of a joint committee appointed under this section shall, upon ceasing to be a member of the local authority by whom he was appointed, also cease to be a member of the joint committee

50 Provided that for the purposes of this sub-section a member of a local authority shall not be deemed to have ceased by reason of retirement to be a member of the local authority, if he has been re-elected or re-appointed a member thereof not later than the day of his retirement

55 **37.** (1) Subject to the approval of the Member a council appointing a committee and local authorities which concur in appointing a joint committee may make, vary and revoke standing orders respecting the quorum, proceedings and place of meeting of the committee or joint committee but subject to any such standing orders the quorum, proceedings and place

Standing orders,
etc

of meeting shall be such as the committee or joint committee may determine

(2) The person presiding at a meeting of the committee or joint committee shall have a second or a casting vote

Appointment of officers

PART IV —OFFICERS

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38. (1) A county council may, subject to the approval of the Member, appoint as permanent, part-time or consulting officers, persons to be clerk, treasurer, engineer and, subject to the provisions of section 51 of this Ordinance, medical officer of health, and may pay such officers such salaries and allowances as the county council may, subject to the approval of the Member, determine ¹⁰

(2) A county council may appoint such other officers as they may consider necessary and pay to such officers such salaries, fees and allowances as they may determine ¹⁵

(3) The clerk of the county council and the other officers of the county council shall act as clerk and officers respectively of the council of every county district and county division within the administrative county and the county council may appoint such officers as may be necessary for the purpose of 20 the functions of the councils of the county districts and county divisions and may pay to such officers such salaries, fees and allowances as they may determine

(4) Subject to the approval of the Member a county council may charge, as general expenses of any county district 25 or county division, the emoluments of any officer of the county council who is employed for the whole of his time in connexion with the functions of such county district or county division, but except as aforesaid the emoluments of the officers of the county council and the administrative expenses 30 of the county council shall be charged as general expenses of the county council

(5) No person shall be appointed to any office under this section who is a member of the appointing county council or of the council of any county district or county division within 35 the administrative county or who has been a member of any such council within six months immediately preceding such appointment

(6) A person holding the post of clerk, treasurer, engineer or medical officer of health may be removed from 40 such office if such removal has been decided upon by a resolution passed by a majority of the county council, and the Member has notified to the county council his approval of the removal of such officer

Provided that the county council may suspend any such 45 officer from the duties and emoluments of his office for incapacity, neglect or misconduct pending the sanction of the Member to his removal, and in the event of such sanction being granted, such officer shall be deemed to have been removed from his office from the date of his suspension ⁵⁰

(7) The Member may, from time to time, make rules for regulating the procedure in regard to the appointment of officers by county councils and the conditions of appointment, tenure of office, qualifications and duties of such officers

Interest of officers in contracts

39. (1) No officer of a council shall in any way be concerned or pecuniarily interested in any bargain, contract, or arrangement whatsoever made by or with such council ⁵⁵

(2) Every officer who knowingly contravenes the provisions of this section, shall be guilty of an offence and shall, for

every such offence, be liable, on conviction therefor, to a fine not exceeding one hundred pounds, or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment

5 (3) Any profits, fee or reward which may have accrued to such officer, or which may accrue to him, by reason of such bargain, contract or arrangement, may be recovered by the council before any court of competent jurisdiction

(4) An officer of a council shall not, under colour of his 10 office or employment, exact or accept any fee or reward whatsoever other than his proper remuneration

40. (1) A county council shall, in the case of an officer employed by them who by reason of his office or employment is likely to be entrusted with the custody or control of money, 15 and may in the case of any other officer employed by them, either require him to give, or themselves take, such security for the faithful execution of his office and for his duly accounting for all money or property which may be entrusted to him, as the council think sufficient

20 (2) A county council may, in the case of a person not employed by them but who is likely to be entrusted with the custody or control of money or property belonging to the council, take such security as they think sufficient for the person duly accounting for all such money or property

25 (3) A county council shall, in the case of persons not employed by them, and may in any other case, defray the cost of any security given or taken under this section, and every such security shall be produced to the inspector at the audit of the accounts of the council

30 41. (1) Every officer employed by a county council shall at such times during the continuance of his office, or within three months of his ceasing to hold it, and in such manner, as the council direct, make out and deliver to the council, or as they direct, a true account in writing of all money and 35 property committed to his charge, and of his receipts and payments, with vouchers and other documents and records supporting the entries therein, and a list of persons from whom or to whom money is due in connexion with his office, showing the amount due from or to each

40 (2) Every such officer shall pay all money due from him to the treasurer of the county council

(3) If any such officer—

(a) refuses or wilfully neglects to make any payment which he is required by this section to make, or

45 (b) after three days' notice in writing signed by the clerk of the county council and given or left at his last known place of residence or postal address, refuses or wilfully neglects to make out or deliver to the council, or as they direct, any account or list which he is required by this section to make out and deliver, or any voucher or other document or record relating thereto, or to give satisfaction respecting it to the council or as they direct,

a magistrate of the first class having jurisdiction within the 55 administrative county may, on complaint, by order require him to make such payment or delivery or to give such satisfaction

(4) If any person fails to comply with an order made under sub-section (3) of this section he shall be guilty of an 60 offence and shall be liable to a fine of shillings or to imprisonment for months or to both such fine and imprisonment

Security to be given by officers

Accountability of officers

(5) Nothing in this section shall affect any remedy by action against any such officer or his surety, except that the officer shall not be both sued by action and proceeded against under sub-section (3) for the same cause

PART V—POWERS AND DUTIES
Powers of Councils Generally

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Contracts

42. (1) A council may enter into contracts necessary for the discharge of any of their functions

(2) No contract for the supply of goods or materials, or for the execution of works, or for the performance of services 10 which the council are empowered to carry out, the amount of which exceeds one hundred and fifty pounds, shall be made except after public tender, of which at least fourteen days' notice shall be given in the Gazette and in one newspaper circulating in the administrative county, or, if there be no such 15 newspaper, by exhibiting a notice in a conspicuous place at or near the public entrance to the offices of the council

Provided that a council need not accept the lowest or any tender

(3) A council may enter into contracts with the Government 20 for the purpose of any work or service for which the Government is responsible within or adjacent to the area under the jurisdiction of the council

(4) All contracts lawfully made under the provisions of this section shall be valid and binding on such council and 25 their successors and all other parties thereto, their heirs, successors, or legal representatives, as the case may be

Acquisition of
and dealings in
land

43. (1) A council may for the purpose of any of their functions, by agreement acquire, whether by way of purchase, 30 lease, gift, or exchange, any land, whether situate within or without the area of the council

(2) A council may, subject to the approval of the Member, apply to the Government for any land required for the purpose of any of their functions to be acquired compulsorily for and on behalf and at the expense of the council, and any such purpose shall be deemed to be a public purpose within the meaning of the Indian Land Acquisition Act, 1894, or any enactment replacing the same 35

(3) A council may, with the consent of and subject to 40 any conditions imposed by the Member, acquire by agreement, whether by way of purchase, gift, lease, or exchange, any land, whether situate within or without the area of the council for the purpose of any of their functions, notwithstanding that the land is not immediately required for that purpose

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(4) Any land acquired under sub-section (3) may, until it is required for the purpose for which it was acquired, be held and used for the purpose of any of the functions of the council

(5) Any land belonging to a council and not required for 50 the purpose for which it was acquired may be appropriated for any other purpose approved by the Member

Provided that the appropriation of land by a council shall be subject to any covenant or restriction affecting the use of the land in their hands

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(6) On the appropriation of land under sub-section (5) of this section such adjustment shall be made in the accounts of the council as the Member may direct

(7) A council may let any land which they may possess—

(a) with the consent of the Member for any term,

(b) without the consent of the Member, for a term not exceeding seven years

(8) A council may, with the consent of the Member—

(a) sell any land which they may possess and which is not required for the purpose for which it was acquired or is being used,

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(b) exchange any land which they may possess for other land, either with or without paying or receiving any money for equality of exchange

(9) Capital money received by a council in respect of a transaction under this section shall be applied in such manner as the Member may approve towards the discharge of any debt of the council or otherwise for any purpose for which capital money may properly be applied

(10) Where capital money is applied under this section for a purpose other than that for which the land the subject of the transaction was held, such adjustment shall be made in the accounts of the council as the Member may direct

(11) Nothing in this section shall authorize the disposal of land by a council, whether by sale, lease, or exchange, in breach of any trust, covenant or agreement binding upon the council

Powers and Duties of County Councils

44. (1) As soon as may be after the establishment of any county council under the provisions of this Ordinance, the Governor in Council, with the advice of the Road Authority, shall classify all public roads within the administrative county, and shall, whenever necessary, classify any new public roads

Classification of roads

(2) Public roads shall, when so classified, be described as—

- 30 (a) trunk roads,
 (b) county roads, and
 (c) minor roads

45. A county council shall, within the administrative county, exercise all or any of the powers and carry out the duties of, and for the purposes of such Ordinance shall be deemed to be, a board appointed under the provisions of the Public Roads Ordinance

Powers under Public Roads Ordinance to be exercised by county council Cap 229

46. (1) A county council shall have the general control and care of all county roads and of bridges, fords, drifts, culverts, drains and other accessories on any such roads or used in connexion therewith, and such council may make, construct, alter, repair, and, if necessary, temporarily close any such road or any such bridge, ford, drift, culvert, drain and other accessory, which are hereby vested in such council in trust to keep and maintain the same for the use and benefit of the public

County council to control county roads

Provided that a county council shall not commence to construct or carry out any road work the cost of which is estimated to exceed one thousand pounds without the consent of the Road Authority nor until they have furnished such plans and specifications as may be required by the Commissioner

(2) A county council may order that any county road or part thereof shall be closed, absolutely or subject to conditions imposed by such council, to all traffic or to traffic of a particular kind and may order the suspension of all or any traffic on any county road for any specified period or may declare the times during which, and the conditions under which, any particular kind of traffic may use such road

(3) As soon as possible after an order under the provisions of sub-section (2) of this section has been made, the county council shall display such road signs or warning notices or barriers as they consider will suffice to convey to the public adequate intimation of the effect of any such order ⁵ and shall publish in a newspaper (if any) circulating in the administrative county notice of any order closing a road to all traffic

(4) Any person who is aggrieved by any order made under the provisions of sub-section (2) of this section may ¹⁰ appeal against such order to the Governor, whose decision thereon shall be final

(5) A county council may delegate all or any of the powers conferred upon them by sub-section (2) of this section to any of their members or employees in respect of all or any ¹⁵ of the county roads within their jurisdiction. Any member or employee to whom such powers are delegated shall, in exercising such powers, exercise them in the name and on behalf of such council, and shall carry out, in the name and on behalf of such council, the duties imposed upon the council ²⁰ by sub-section (3) of this section

(6) Any person who uses a vehicle or causes or permits a vehicle to be used in contravention of an order made under this section shall be liable on conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding ²⁵ three months or to both such fine and imprisonment and in the case of a second or subsequent conviction, in addition to any other penalty, if the person convicted holds in respect of the vehicle used in contravention of the order, a licence issued by the Transport Licensing Board appointed under the Transport Licensing Ordinance the court may direct that the vehicle concerned shall cease to be authorized to be used under such licence, for such time as the court thinks fit, and shall cause particulars of the conviction and of any order of the court made under this section to be sent to the said Transport ³⁰ Licensing Board ³⁵

Public roads in native areas

Cap 100
Cap 155

47. (1) Where any public road (not being a trunk road) which is mainly required to serve the population of an administrative county, crosses any part of a native area, which is not within such administrative county, the county council ⁴⁰ may, with the approval of the Governor and subject to the provisions of the Native Lands Trust Ordinance, and of Part VI of the Crown Lands Ordinance, exercise all such powers and carry out all such duties in respect of such road as they would, under the provisions of this Ordinance, have exercised ⁴⁵ or carried out if such road had been within the administrative county

(2) Where any public road (not being a main trunk road) which is mainly required to serve the population of an administrative county, crosses any part of a forest area the county ⁵⁰ council may, with the approval of the Governor, exercise all such powers and carry out all such duties in respect of such road as such council would, under the provisions of this Ordinance have exercised or carried out if such road had been within the administrative county

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Power of county council to take materials for roads and works

48. (1) For the purpose of the construction and maintenance of roads, or the carrying out of any works which a county council are empowered by this Ordinance to carry out, such council may, by their agents or servants, enter upon any land, and remove therefrom any clay (other than kaolin), ⁶⁰ country rock, gravel, murram, lime, sand, shale, shingle, slate or surface soil

Provided that—

- (a) prior to the exercise of the powers conferred by this section, the county council shall give not less than 14 days' notice by personal service or by registered post to the last-known address of the owner or occupier of such land,
 - (b) if the owner or occupier of such land is aggrieved by the proposed exercise by the county council of the powers conferred upon them by this section he may within 14 days of the date of service upon him of the notice referred to in the foregoing paragraph make representations to the Member thereon and shall within the like period inform the county council of the nature of such representations,
 - (c) where representations are made to the Member under the foregoing paragraph the Member may, after consulting the county council, give such directions to the county council thereon as he thinks fit,
 - (d) compensation shall be payable by the county council to the owner or occupier of such land for any damage done to buildings, roads or crops, or otherwise, and for any interference with the rights of occupancy of such land,
 - (e) any pit or quarry made in the exercise of the rights conferred upon a county council under the provisions of this section shall be filled up or fenced at the expense of the council
- (3) Any dispute as to the amount of any compensation payable by a county council under this section shall be settled by agreement with the person concerned or, failing such agreement, by arbitration
- (4) For the purposes of this section the expression "owner or occupier" shall, in respect of unalienated Crown lands, include the Commissioner of Lands, and shall, in respect of land in the African areas, not being Crown lands, include the Provincial Commissioner of the province within which such lands are situated

49. The Member may recover from a county council any expenditure incurred by the Government in respect of compensation for land resumed under the Crown Lands Ordinance, or any other law, for the purpose of any county road within the jurisdiction of such council

Compensation
for land used
for county roads
Cap 155

50. At any time after the constitution of a county council the Road Authority may at the request of such council and shall if so directed by the Governor delegate to the county council, as agents for and at the cost of the Authority, the execution of the whole or any part of the functions of the Authority with regard to trunk roads within the administrative county

Delegation to
county council
of powers in
relation to
trunk roads

51. (1) Notwithstanding anything contained in the Public Health Ordinance, the Member shall, if a county council so request, declare such council to be a "local authority" within the meaning of such Ordinance

Public health
Cap 130

(2) Where a county council are declared to be a local authority under the provisions of this section, the council may appoint a medical officer of health, sanitary inspectors or other necessary officers, and the council shall be vested with all the powers and charged with all the duties prescribed for local authorities under the provisions of such Ordinance

(3) The Member shall not, without first consulting the county council, appoint any person, body of persons or authority, to be a "local authority" within the meaning of such Ordinance for any area which comprises the whole or any part of the administrative county 5

(4) Subject to the consent of the Member a county council may, whether they have been declared a local authority within the meaning of such Ordinance or not—

- (a) make grants of money towards the establishment and maintenance of hospitals whether within or without 10 the administrative county,
- (b) acquire, establish and maintain, either by themselves or jointly with any other local authority, or any association, hospitals within or without the administrative county and make such charges in connexion therewith as shall be fixed by by-laws made by the council under section 55 of this Ordinance, 15
- (c) provide treatment free of charge or at reduced charges for indigent patients who are inhabitants of the administrative county, 20
- (d) make grants towards establishing district nursing services and either by themselves or jointly with any other local authority or with any association to make grants towards providing medical services

Planning

52. (1) The Member shall, if a county council so request, declare the county council to be a "preparatory authority" within the meaning of the Town Planning Ordinance 25

(2) Where a county council are declared to be a preparatory authority under the provisions of this section, the council may appoint a planning officer and other necessary officers, 30 and the council shall be vested with all the powers and charged with all the duties prescribed for preparatory authorities under the provisions of such Ordinance

(3) The said Member shall not, without first consulting the county council, appoint any person or body of persons to be a preparatory authority under such Ordinance for any area which comprises the whole or any part of the administrative county 35

Education

53. (1) The Governor may, if a county council so request— 40

- (a) declare the county council to be a local education authority for elementary education in the administrative county,
- (b) transfer to such county council the whole or any part of the functions of the Governor and the education department under the Education Ordinance in respect of the administrative county, 45
- (c) vest in the county council any Government or public school, boarding house, or other institution in the administrative county established and maintained by the Governor under the provisions of such Ordinance, upon such terms as the Governor may decide 50

Provided that if the county council are not satisfied with the decision of the Governor under this paragraph they may within two months of the receipt by them of notification of such decision withdraw their request to be declared a local education authority under paragraph (a) of this section 55

(2) Subject to the consent of the Governor, a county council may, whether they have been declared a local education authority for elementary education or not—

5 (a) establish, build, equip, maintain and manage schools and educational institutions, libraries, museums and art galleries,

10 (b) make grants of money towards the establishment and maintenance of schools and educational institutions, libraries, museums and art galleries within or without the administrative county,

(c) grant scholarships to any school or educational institution within or without the administrative county,

15 (d) provide bursaries to assist parents resident in the administrative county in educating and maintaining their children at any school or educational institution within or without the administrative county

54. A county council may—

Miscellaneous powers of county councils
Buildings

20 (a) acquire, hire, erect, maintain and keep in repair such offices and buildings as may be required for the purposes of the council and for public meetings and assemblies,

(b) plant, trim or remove trees, flowers and shrubs in or on any public place,

Trees in public places

25 (c) engage and remunerate such staff as the council may consider necessary for the control of grass fires,

Fire rangers

(d) pay the medical and funeral expenses of any person employed by the council who suffers injury or dies as the result of an accident occurring in the course of his employment or as a result of illness contracted in consequence of such employment,

Medical and funeral expenses of officers

30 (e) subject to the provisions of any by-laws made under the provisions of paragraph (n) of section 55 of this Ordinance establish, control, manage, maintain, and contribute to any pension, provident or benevolent fund intended for the benefit of the officers of the Council, and grant pensions and gratuities from any such fund to such officers on their retirement from the service of the county council and to dependants on the death of such officers,

Pension funds for officers

35 (f) arrange with any other local authority administering a pension fund for the admission, on such terms and conditions as may be agreed, and subject to the approval of the Member, of any employee of the county council to participate in the benefits of such fund,

40 (g) establish and maintain outspan grounds within the Outspans administrative county,

45 (h) acquire or build houses as residences for officers appointed under the provisions of section 38 of this Ordinance

Residences for officers

50 (i) subject to the consent of the Member—

55 (1) in cases where a pension, provident or benevolent fund has been established under the provisions of paragraph (e), or an arrangement has been made under the provisions of paragraph (f) of this section, grant from the revenues of the council additional or increased pensions or gratuities to officers on their retirement from the service of the council and to dependants of deceased officers of the council,

Supplementation of pensions and gratuities

Unfunded
pensions and
gratuities

(ii) in cases where no such fund has been established and no such arrangement has been made or in cases where no benefits accrue from any fund so established or in pursuance of any such arrangement, grant from the revenues of the council 5 pensions or gratuities to officers on their retirement from the service of the council and to dependants of deceased officers of the council,

Road services

(j) subject to the consent of the Member, operate for hire or reward road transport services for the carrying of 10 passengers, mails and goods for the benefit of the inhabitants of the district,

Aerodromes

(k) subject to the provisions of any law relating to aerial navigation, establish, erect, maintain and carry on aerodromes or make grants or contributions towards 15 the establishment, erection, maintenance and carrying on of aerodromes,

Welfare centres

(l) establish, maintain, control and regulate welfare centres,

Disposal of
property

(m) subject to the provisions of section 43 of this Ordinance, sell, let or otherwise dispose of any property of the council,

Expenditure not
provided for

(n) incur all expenditure necessary for the carrying out of any purposes of this Ordinance which the county council are authorized to carry out, or for any purpose not specially provided for in this Ordinance which the Member may determine to be a purpose incidental to the exercise by the council of their powers and duties under this Ordinance,

(o) from time to time, with the consent of the Member, to 30 impose fees and charges in respect of any power conferred upon the county council by this Ordinance or by any by-law made thereunder,

(p) to authorize the remission of any fees or other charges imposed under the provisions of this Ordinance or of 35 any by-law made thereunder

Power of
county council
to make
by-laws

55. (1) A county council may make by-laws for the whole or any part of the administrative county in respect of all or any of the following purposes—

(a) for regulating any of the things which the county 40 council are empowered under the provisions of this Ordinance to do, establish, maintain or carry on,

(b) for protecting from damage or interference, any works or property of the county council situated or being in, under or over any public place or other place 45 within the district,

(c) for regulating the imposition and collection of a flat rate per head on African labour employed within the administrative county and for requiring employers of African labour to render returns of all such labour 50 employed by them, at such times and in such manner as the county council may require,

(d) where the county council have been declared to be a "local authority" under the provisions of sub-section (1) of section 51 of this Ordinance for preserving the 55 public health and for preventing the outbreak and spread of infectious and communicable disease,

(e) for securing the eradication of any weed, which may be declared by the Governor by notice in the Gazette to be noxious, from any land within the administrative county and for compelling owners or occupiers of such land to cause any such weed to be eradicated 60 from their land,

- (f) for controlling and regulating African dances on farms or elsewhere within the administrative county,
- (g) for regulating, managing and controlling the use of hospitals established by the county council,
- 5 (h) for permitting or requiring all or any of their officers to become members of any pension, provident or benevolent fund or funds established, controlled, managed or maintained by the county council under the provisions of section 54 of this Ordinance,
- 10 (i) for fixing the contributions, if any, to be made by such members and by the county council,
- (j) for making periodical valuations of such funds and for the enforcement of any increase in the contributions thereto or diminution in the benefits arising therefrom as may be shown by any valuation to be necessary for maintaining the solvency thereof,
- 15 (k) for prescribing the age at which officers of the county council shall be permitted or required to become members of the fund and the age at and the conditions under which they shall be permitted or required to retire from the service of the county council,
- 20 (l) for determining the amount of pension or other benefit to be paid to members on retirement from the service of the county council and to their dependants on the death of such members,
- 25 (m) for regulating the management and investment of funds and the appointment or election where necessary of members of a committee for that purpose,
- 30 (n) for prescribing that no moneys while in the provident or benevolent fund of the county council and no rights acquired by a contributor thereto shall, while such contributor is in the service of the county council be assignable or transferable or liable to be attached, sequestrated or levied upon in respect of any debt or claim whatsoever, other than a debt due to the county council or to the council of a county district or county division within the administrative county,
- 35 (o) for vesting the property, money and assets pertaining to such funds in trustees for the purpose of administering the same in accordance with the directions of any committee of management, by and against whom all actions at law, relating to such fund, shall be brought,
- 40 (p) for regulating the retirement, removal and resignation of members of such committees of management or trustees and for the filling of vacancies caused thereby,
- 45 (q) for prescribing that no pension or right to a pension shall be capable of being assigned or transferred or otherwise ceded or of being pledged or hypothecated or of being attached or subjected to any form of execution under a judgment or order of a court of law, and for withholding, suspending or entirely discontinuing the payment of the same in the event of a beneficiary attempting to assign, transfer or otherwise cede, pledge or hypothecate any such pension or right,
- 50 (r) for prescribing that, in the event of any person in receipt of an annuity from the county council being convicted and being sentenced to imprisonment with-

out the option of a fine for a term exceeding one month, any such annuity shall, during such period of imprisonment, be payable to his dependants,

- (s) for prohibiting, restricting or regulating under permit the quarrying of stone, lime, clay or other material 5 on any premises,
- (t) for regulating, managing and controlling the use of welfare centres,
- (u) for prescribing fees and charges in respect of anything which the county council are empowered under the 10 provisions of this Ordinance to do, establish, maintain, carry on, control, manage, restrict or regulate
- (v) for any purpose which the Governor may by notice in the Gazette declare to be necessary or desirable in the interests or for the well-being of the inhabitants 15

Power of county council to delegate functions

56. (1) A county council may delegate to the council of any county district or county division within the administrative county, and shall, if so required by the Member, delegate to the council of any urban district, with or without restrictions, any of their functions under this Ordinance and may, with the 20 consent of the Member, delegate to any such council any function conferred upon the county council by a declaration made under section 51, 52 or 53

(2) A county council shall, if so required by the Member, delegate to the council of any urban district, without restrictions, or with such restrictions as the Member may approve, any function referred to in sub-section (1) of this section

Powers and Duties of County District Councils

Minor public roads, streets, open spaces, etc., vested in county district council

57. (1) A county district council shall have the general control and care of all roads (other than trunk roads and 30 county roads), streets, bridges (other than bridges on main trunk roads and county roads), squares and all other open public places and of all gardens, parks, and other enclosed spaces within the county district which have been or shall be at any time set apart and appropriated by proper authority for 35 the use of the public or to which the inhabitants of the county district shall at any time have or acquire a common right, and the same shall be vested in the council in trust to keep the same for the use and benefit of the inhabitants

(2) The council may make, construct, alter, repair, keep 40 clean, and if necessary temporarily close all roads, streets, bridges, squares and other open spaces, ferries, sewers, drains and culverts vested in the council or under their control, and may make new roads, streets, bridges, squares, open spaces, ferries, dams, sewers, drains and culverts within the county 45 district, and if it shall be necessary may carry any sewers, drains and pipes through and across any private property

Provided that compensation for any damage done shall be paid by the council, and the amount of such compensation, if not mutually agreed upon, shall be settled by arbitration 50

(3) The council may, with the consent of the Member, erect and maintain on any square or other open public place buildings for public purposes, and may set apart any such square or other open public place or any portion thereof for any purpose which the council may from time to time think 55 fit

Housing

58. (1) A county district council may, subject to the consent of the Member—

- (a) lay out building plots or otherwise sub-divide any land acquired or appropriated by them, whether within or

without the county district, for the purpose of housing schemes for inhabitants of the county district,

- 5 (b) erect and maintain dwelling-houses with their appurtenant outbuildings on such plots or sub-divisions of land,
- 10 (c) convert buildings into dwelling-houses and alter, enlarge, repair and improve the same,
- 15 (d) let any dwelling-house erected or provided by them and charge such reasonable rent for the tenancy or occupation thereof as they may determine,
- 20 (e) sell any dwelling-house erected or provided by them to a person undertaking to reside therein and recover the purchase price thereof by such instalments as they may determine,
- 25 (f) sell, let, or otherwise dispose of any plot or sub-division of land referred to in paragraph (a) to any person for the purpose and under the condition that that person will erect and maintain thereon a dwelling-house for occupation by him,
- 30 (g) sell, let or otherwise dispose of land acquired or appropriated by them to any person for the purpose and under the condition that that person will erect and maintain thereon such number of houses as may be determined by the council in accordance with plans approved by them,

(2) The approval of the Public Health (Division of Lands) Cap 131 Board constituted by the Public Health (Division of Lands) Ordinance shall not be required to any sub-division by a 30 county district council under the provisions of paragraph (a) of sub-section (1)

(3) Subject to such conditions as may be prescribed by the Member a county district council may advance money to any person—

- 35 (i) to enable him to repair, reconstruct, enlarge or improve a dwelling-house occupied or intended to be occupied by him, or
- 40 (ii) to enable him to construct, whether on land provided by the council or otherwise, a dwelling-house for occupation by him, or
- 45 (iii) to enable him to acquire for occupation by him any dwelling-house

(4) The Member may make rules regulating the making of advances under the forgoing sub-section and in particular—

- 45 (a) for prescribing the nature of the security to be taken by the council in respect of any advance,
- 50 (b) for requiring a valuation to be made of the property the subject of any advance,
- 55 (c) for prescribing the maximum proportion of the value of any property which may be advanced on the security thereof,
- * (d) for prescribing the rate of interest to be paid upon advances,
- * (e) for prescribing the method of repayment of advances,
- * (f) for enabling advances to be made by instalments paid from time to time as the work of construction, repair, reconstruction, enlargement or improvement of the dwelling-house proceeds

Works for the
supply of water

59. Subject to the provisions of any law relating to water rights, a county district council may—

(a) establish, acquire, construct, equip and carry on, within or without the county district, works for supplying the inhabitants thereof with water, and may purchase water in bulk for distribution to the inhabitants of the county district and may make such charges and impose such conditions of service for the supply of water as may be fixed by the council and approved by the Member, 10

(b) excavate, construct and lay down within the county district watercourses, water furrows, water pipes, conduits, sluices, drains, dams, reservoirs, aqueducts and other works for supplying, storing and leading water, and close, alter or divert any of such works 15 as may from time to time be necessary

Provided that if the council intend to close or divert any work for the supply of water and thereby deprive any owner of private property of a water supply to which his property has been hitherto by 20 lawful right entitled they shall serve upon such owner 14 days' notice of their intention and if within ten days of the service upon him of such notice such owner shall lodge an objection, the council shall not proceed with the closing or diversion without the 25 prior consent of the Member, and the payment of such compensation (if any) as may be agreed upon between the parties, and in default of agreement as may be determined by arbitration,

(c) whenever necessary, carry any water furrows through 30 and across any private property subject to compensation being made by the council for any damage done thereby, the amount of such compensation being determined, in default of agreement, by arbitration, 35

(d) make advances to the owner of any land of money or material for the purpose of enabling him to install a water supply on his premises from mains provided by the council upon such conditions as the council may determine. The provisions of sub-sections (2), 40 (3), (4) and (5) of section 74 of this Ordinance shall *mutatis mutandis* apply to any advances made under this paragraph

Provided that the council shall not—

- (i) establish, acquire or commence to construct 45 water works, or
- (ii) extend any existing water works involving an expenditure in excess of one thousand pounds, without the prior consent of the Member, and the council shall, in every such case, furnish 50 such plans and specifications as may be required by the Commissioner

Supply of water
to private
premises

60. In any county district the council of which carry on works for the supply of water to the inhabitants thereof no person shall construct any works for the supply of water 55 to any premises without first obtaining permission in writing from the council to construct such works

Provided, however, that such permission shall be granted by the council in all cases where the council are not themselves willing and able to give a proper and sufficient water 60 supply to any premises at such price as may be fixed in their by-laws

61. (1) Subject to the provisions of the Electric Power Ordinance, a county district council may establish, acquire, construct, equip and carry on, within or without the county district, works for supplying the inhabitants thereof with light,
⁵ heat and power, and may supply electricity for all purposes for which the same can be used to or in respect of any land, building or premises within the county district and may purchase electricity in bulk for distribution to the inhabitants of the county district and may make such charges and impose
¹⁰ such conditions of supply as may be fixed by the council and approved by the Member

Works for the supply of light, heat and power Cap 174

(2) Subject as aforesaid, any council having established electric light works or purchased electricity in bulk under the preceding sub-section may—

- 15 (a) supply electricity to any corporation, company or person carrying on business or residing outside the boundaries of the county district,
- 20 (b) contract with the local authority of any adjoining area to supply electricity to such local authority upon such terms and conditions as may be mutually agreed upon,
- 25 (c) sell (including sale against payment by instalments) electric lines, fittings, apparatus and appliances to private consumers, and make advances of money to any owner of land within or without the county district for the purpose of enabling or assisting him in the installation of plant wiring and electric fittings and articles in or at his premises. The provisions of sub-sections (2), (3), (4) and (5) of section 74 of this Ordinance shall *mutatis mutandis* apply to any advances made under this sub-section

- 62.** A county district council may—
- 35 (a) do all things necessary for the laying of main and branch wires and lines of pipes to convey electric current or water respectively under or over public places, and connect such wires or pipes with any premises at the request of the owners or occupiers thereof,
 - 40 (b) after giving thirty days' notice in writing to the owner, lessee or occupier of the intention to do so, carry mains, pipes, wires and cables through, across, under or over any private land, within or without the county district, subject to compensation being made for any damage done thereby, the amount of such compensation being determined, in default of agreement, by arbitration, and the council may cause such mains, pipes, wires and cables to be laid, altered, deepened, covered and maintained

Power to lay wires and pipes in public places and private property

50 Provided that if any owner, lessee or occupier of land outside the county district shall object to such work the provisions of sub-sections (2) and (3) of section 71 of this Ordinance shall *mutatis mutandis* apply

- 63.** (1) All mains, pipes, wires or cables laid by or on behalf or at the expense of the county district council or which are under their control shall be vested in the council, and the council and their officers shall at all times have a right of access to private property for the purpose of inspection, maintenance, alteration or repair of such mains, pipes, wires or

Vesting of pipes, wires, etc , in the council, and right of access thereto

cables, and may do all things necessary to uncover and expose such mains, pipes, wires and cables for the purpose of inspection, alteration or repair

(2) The council shall repair all damage caused by the exercise of the powers conferred by this section

5

Power of entry
into premises
supplied

64. (1) Any officer appointed thereto by the county district council may at all reasonable times enter any premises to which electricity or water is or has been supplied by the council, in order to inspect the pipes, wires, lines, motors, fittings, works and apparatus for the supply of electricity or ¹⁰ water, or for the purpose of ascertaining the quantity of electricity or water consumed or supplied, or whenever the supply of electricity or water is no longer required, or whenever the council are authorized to cut off the supply of electricity or water from such premises, or for the purpose of ¹⁵ removing any pipes, wires, lines, meters, fittings, works or apparatus belonging to the council

(2) The council shall repair all damage caused by the exercise of the powers conferred by this section

Power to cut
off supply

65. If any person shall neglect to pay any charge for ²⁰ electricity or water or any other sums due to the county district council in respect of the supply thereof, or in respect of any advances made under the provisions of section 59 of this Ordinance, or section 61 of this Ordinance, the council may cut off such supply, and for that purpose may cut or dis- ²⁵ connect any pipe, wire, line, or other work through which the electricity or water may be supplied, and may, until such charge or other sum together with the cost incurred by the council in cutting off such supply of electricity or water is fully paid, but no longer, discontinue the supply thereof to such ³⁰ person

Penalty for
injuring pipes or
wires

66. Any person who, by culpable negligence or with malicious intent, cuts or injures any pipe, wire, line or other work used for or in connexion with the supply of electricity or water, and vested in the council, shall be guilty of an offence ³⁵ and shall be liable upon conviction to a fine not exceeding two thousand shillings or to imprisonment for a period not exceeding two years and in addition to make good the damage done

Power of county
district council
to undertake
sewerage and
drainage

67. A county district council may erect, construct, ⁴⁰ equip and carry on sewerage or drainage works within or without the county district

Provided that the council shall not—

(a) commence to erect or construct sewerage works, or

(b) commence to erect or construct drainage works in- ⁴⁵ volving expenditure in excess of five hundred pounds or being part of any drainage scheme the whole of which involves expenditure in excess of five hundred pounds,

without the prior consent of the Member

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Provisions as to
carrying out
sewerage and
drainage works

68. For the purpose of carrying out any drainage or sewerage works the council may—

(a) cause such sewers, drains and pipes to be made, laid, altered, deepened, covered over, and maintained either within or (subject to the provisions of section 55 ⁵⁵ 71 of this Ordinance) without the county district as may be necessary for effectively disposing of the sewage or drainage of the county district or any portion thereof, and from time to time cause to be

made and maintained all such works as may be necessary for cleansing and ventilating such sewers, drains and pipes,

- 5 (b) carry such sewers, drains or pipes through, across or under any public road, street, square or open space or any place laid out as or intended for a public road, street, square, or open space, either within or without the county district, without paying compensation, and, after giving reasonable notice in writing to the owner or occupier of the intention to do so, perform the same acts in respect of private land within or (subject to the provisions of the said section) without the county district upon making compensation for any damage done, the amount whereof shall be determined, in default of agreement by arbitration,
- 10 (c) from time to time alter, enlarge, divert, discontinue, close up, or destroy any sewers, drains or pipes under the control of the council,
- 15 (d) construct any works within or (subject to the provisions of the said section) without the county district for the purpose of receiving, storing, disinfecting, purifying, distributing or otherwise disposing of any sewage or drainage,
- 20 (e) in any case where, owing to the contour of the ground or for other reasons, it is difficult to connect for sewerage purposes any premises within the county district direct with a public sewer maintained by the council, the council may, subject to the provisions of paragraph (b) of this section, make connexions with and utilize any private drain on private ground so as to connect such premises with any public sewer

Provided that upon such connexion being made the said drain with which connexion is so made shall, from the point of such connexion to the point of junction with the public sewer, be considered and used as a combined or joint drain, and the cost of construction, repair and maintenance of such combined or joint drain shall, so far as the same shall not fall to be borne by the council, be paid and borne by the owners of premises respectively served thereby, in such proportions as the council shall from time to time adjust and settle

Any person aggrieved by any such adjustment and settlement may appeal to the Member whose decision shall be final

69. (1) All sewers, drains, pipes, ventilating shafts, or other conveniences for the disposal of sewage or drainage, constructed by or which are under the control of a county district council, shall be vested in the council, and the council and their officers shall at all times have a right of access to private property for the purpose of inspection, maintenance, alteration or repair of such sewers, drains, pipes, shafts or other conveniences, and may do all things necessary to uncover and expose such sewers, drains, pipes, shafts or other conveniences for the purpose of inspection, alteration or repair

Vesting of
sewers in the
county district
council, and
right of access
thereto

(2) The council shall repair all damage caused by the exercise of the powers conferred by this section

70. A county district council may establish, maintain and carry on any such sewage farms or sewage disposal works, either within or (subject to the provisions of section 71 of this Ordinance) without the county district as may be necessary or advisable for the requirements of the county district, and may farm the same and dispose of the produce thereof, and neither

Sewage farms
within or
without the
county district

the council nor any person shall be liable for any nuisance or damage which is the inevitable consequence of the proper and ordinary conduct of any sewage farm or sewage disposal works established, maintained or carried on under the provisions of this section

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Notice before
commencing
sewage works
outside county
district

71. (1) A county district council shall, at least thirty days before commencing outside the county district the construction or extension of any sewer or any work for sewerage purposes, give notice of the intended work by advertising in the Gazette and in one or more newspapers circulating in the area within which the work is to be done, or, if there is no such newspaper, then, in one or more newspapers (if any) circulating in the county district. Such notice shall describe the nature of the intended work, and shall state the intended termini thereof and particulars of the roads, streets, squares, open spaces and other land (if any), through, across, under or on which the work is to be done, and shall name a place where a plan of the intended work is open for inspection at all reasonable times. A copy of such notice shall be served upon the owners or reputed owners, lessees or reputed lessees, and occupiers of the land and on the local authority (if any) having the care of such roads, streets, squares or open spaces

(2) If any owner, lessee or occupier, or any such local authority, or any person who would be affected by the intended work, objects to such work and serves written notice of objection on the Commissioner and on the clerk at any time within the said period of thirty days, then the intended work shall not be commenced without the consent of the Member unless such objection is withdrawn

(3) The Member may appoint the Commissioner or any other person or persons to make inquiry on the spot into the propriety of the intended work and the objections thereto, and to report to him on the matter. On receiving such report the Member may make an order disallowing the intended work or allowing it with such modifications (if any) as he may deem necessary, and such compensation shall be payable as may be agreed upon by the parties or in default of agreement as may be determined by arbitration

Provisions for
protection of
sewers and
drains

72. (1) Any person who, without the prior consent in writing of the county district council, shall—

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- (a) erect or cause to be erected any building over any sewer, drain or pipe vested in or constructed under the authority of the council, or
- (b) excavate, open up or remove, or cause to be excavated, opened up or removed, the ground under or near to any such sewer, drain or pipe, or
- (c) make or cause to be made any opening into any such sewer, drain or pipe, for the purpose of discharging sewage or drainage into the same or otherwise, or
- (d) injure or destroy, or cause to be injured or destroyed, any such sewer, drain or pipe or any works or things in connexion therewith,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand shillings or to imprisonment for a period not exceeding one year

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(2) The council may alter, demolish or otherwise deal with any buildings so erected as they may think fit, or may make good any such damage, or may close up any such opening, and the expenses so incurred shall, along with such fine, be recoverable from the offender

73. Any charges which the county district council may with the approval of the Member fix for the use of the council's drains or sewers or sewerage works shall for all purposes be deemed to be charges for sanitary services, and shall 5 be recoverable from the owner of any land or premises which are connected with such drains, sewers or sewerage works in accordance with section 76 of this Ordinance

Charges for use
of sewers and
drains

74. (1) A county district council may—

(a) carry out any work in connexion with the provision or

10 construction of any drain or sewer which in the opinion of the council is necessary for the satisfactory drainage of any land including land sub-divided into plots for future development, and may connect any such drain or sewer with the council's existing drains or sewers, and may recover from the owner of such land or apportion amongst and recover from the owners of any such land the whole or any part of the expenses incurred in such work, or

15 (b) advance to the owner of any land or premises the amount of any such drainage or sewerage work on such land or premises

(2) Any drain or sewer constructed pursuant to the provisions of paragraph (a) of sub-section (1) of this section shall vest in and be the property of the council

20 (3) The council may agree to accept payment of such expenses and repayment of such advances in such instalments, at such times, upon such rate of interest, and upon such conditions as the council may determine

25 (4) Such expenses and advances, together with the interest thereon, shall be a charge upon the land or premises in respect of which the same are incurred or made, and shall be paid to the council by the owner thereof for the time being, and the instalments thereof as they shall fall due shall be recoverable from the present or any future owner of the land or 30 premises in any competent court

35 (5) The council shall keep at the offices of the council a register of all expenses incurred and advances made under this section, and shall show in such register the total amounts thereof, the instalments in which the same are payable, the land or premises in respect of which the same have been incurred or made, and the balances for the time being outstanding, and shall keep such register open at all reasonable times to the inspection of any person, free of charge. Such register and any extract therefrom, certified by the clerk or by 40 any other person authorized in that behalf by the council, shall, in any proceedings for the recovery of such expenses, advances or interest thereon or any instalments thereof be prima facie evidence of the matters contained therein

45 (6) Nothing in this section shall limit or affect the power of the council to execute any work which the council are, by law or by any by-law in force in the county district, empowered to execute or to recover the cost of executing such work from any person who is liable therefor

Power to
execute drainage
works on
private land or
premises and to
make advances
therefor

75. (1) A county district council shall have power to do all or any of the following things, namely—

General powers
of county
district councils

(1) to acquire, hire, erect, maintain and keep in repair such offices and buildings as may be required for the purposes of the council and for public meetings and assemblies,

Public
buildings

60 (2) to establish, maintain, and carry out sanitary services for the removal and destruction of, or otherwise dealing with, all kinds of refuse and effluent,

Sanitary
services

- Funerals
cemeteries,
mortuaries, etc
- (3) to conduct funerals and to establish and maintain cemeteries, mortuaries, and crematoria within or without the county district,
- Destitute
Africans
- (4) to make provisions for the return of destitute Africans (including Somalis, Malagasies and Comoro 5 Islanders) to their homes,
- Dispensaries
- (5) to acquire, establish and maintain, either by themselves or jointly with any other local authority, or any association, dispensaries within or without the county district, and make such charges in connexion 10 therewith as shall be fixed by by-laws made by the council under section 76 of this Ordinance,
- Grants towards
dispensaries
- (6) to make grants of money towards the establishment and maintenance of dispensaries, whether within or without the county district, 15
- Trees
- (7) to plant, trim or remove trees, flowers and shrubs in or on any public place,
- Lighting public
places
- (8) to light streets and other public places and to erect and maintain lamps for that purpose,
- Recreation
grounds
- (9) (a) to establish, maintain and control recreation 20 grounds in parks, squares, open spaces or on other land vested in the council,
- (b) to establish, maintain and control, in connexion with recreation grounds so established such buildings or conveniences of any nature and for any purposes as 25 the council may consider to be necessary or convenient,
- (c) to set apart any portion of any recreation ground so established as may be fixed by the council and described in a notice set up in some conspicuous 30 place on such recreation ground for the purpose of any particular game or recreation, and to exclude the public from the portion so set apart,
- (d) to provide any apparatus for games or recreation in respect of any such recreation ground, or to permit 35 any person, club or body to provide any such apparatus on such terms as the council may decide,
- (e) to establish, maintain and control refreshment rooms, cafés and restaurants in any such recreation ground,
- (f) to let any such recreation ground or any building or 40 apparatus established or provided in connexion therewith to any person or club or other body or persons, and, by resolution of the council, to authorize such person, club or body to make charges in connexion therewith, 45
- Relief of
unemployed
- (10) to make grants of money to committees or other association of persons appointed or established for the relief of unemployed or necessitous persons,
- Markets, etc
- (11) to establish, erect, maintain, let, control and manage markets and market buildings, lodging-houses, eating- 50 houses, shops, stalls and stands, and to control the occupation and use thereof,
- Alienation of
property of
council
- (12) subject to the provisions of section 43 of this Ordinance to sell, let or otherwise dispose of any property of the council, 55
- Land for
housing and
industrial sites
- (13) subject to the consent of the Member—
(a) to lay out building plots upon or otherwise subdivide any land the property of the council for the purpose of factory, industrial, business or workshop sites, and 60
(b) to sell, let or otherwise dispose of any such plots or sub-divisions of land and the buildings thereon,

- (14) subject to the consent of the Member to sell, let or otherwise dispose of any land the property of the council to any person for the purpose of carrying on thereon any work or trade of an offensive nature which the council is empowered to license, Land for
offensive trades
- 5
- (15) to establish, erect and maintain dipping tanks, Dipping tanks
- (16) to establish, erect and maintain public lavatories, closets and urinals, in any public place, Lavatories, etc
- 10
- (17) to establish pounds, Pounds
- (18) to establish and maintain camping, grazing, and out-span grounds, whether within or without the county district, Camping
grounds, etc
- 15
- (19) subject to the provisions of any law relating to the storage of explosives, to establish, erect and maintain magazines for the storage of explosives and dangerous articles, whether within or without the county district, Powder
magazines
- (20) to lay out and adorn any square or open space the property of the council by any architectural scheme of ornamentation, including the erection of statues, fountains or other structures, Adornment of
squares
- 20
- (21) to establish, erect and maintain public weighing machines, Public weighing
machines
- (22) to establish and maintain one or more fire brigades and ambulances, Fire brigades
and ambulances
- 25
- (23) to establish, acquire, erect, construct, maintain, assist, promote or control—
 (a) public libraries, art galleries and museums,
 (b) botanical and zoological gardens,
 (c) public baths and wash-houses, Libraries, etc
- 30
- (24) to establish, maintain, control and contribute to bands for musical performances in public places and at public functions, and, generally, to provide musical entertainment in such places and at such functions, Bands
- 35
- (25) to require the owner of any premises to do any of the following acts—
 (a) to remove, lower or trim to the satisfaction of the council any tree, shrub or hedge overhanging or interfering in any way with the traffic on any road or street or with any wires or works of the council,
 (b) to remove any dilapidated fence or structure abutting upon any public place, Removal of
trees, etc
- 40
- (26) to establish, erect, maintain and control plant for the manufacture of by-products and to purchase animals for the purpose of conversion into by-products and to sell all by-products resulting from the carrying on of any works which the council is authorized to carry on, By-products
- 45
- (27) to establish, erect and maintain public monuments and to make grants of money towards the establishment or maintenance thereof, Public
monuments
- 50
- (28) to establish, erect, equip and maintain depots for the inspection of dead meat, and to make and sell ice, Cold storage
works, etc
- 55
- (29) to establish, erect, equip, maintain and carry on depots for the inspection, treatment, distribution, purchase and sale of milk or milk products, and to distribute, buy and sell milk or milk products, Inspection and
sale of milk
- 60
- (30) to establish, acquire, maintain and carry on within the county district a service of motor omnibuses or other vehicles drawn or propelled by animal, mechanical or electrical power for the carriage of Omnibus
services

passengers and parcels, and in connexion with any such service to enter into agreements with any person for the establishment, acquisition, construction, laying down, equipment, maintenance, working and guaranteeing of the capital cost and interest 5 on the capital cost thereof, and to exercise such powers either alone or in conjunction with other persons, corporations or authorities

Provided that the council may with the consent of the local authority, if any, of such area or, if there 10 be no local authority in such area, with the consent of the Member, exercise such powers in any area beyond the county district

- (31) notwithstanding any provisions of this Ordinance, or the Traffic Ordinance, or any other law, whenever any service of motor omnibuses or other vehicles drawn or propelled by animal, mechanical or electrical power for the carriage of passengers is established, acquired, maintained or carried on either by the council or by any person under an agreement entered into with the council under this Ordinance, to prohibit, for such period in each case as the Governor may approve, the carrying on by any person (other than a person with whom the council have entered into an agreement as aforesaid) of any such service, and when any prohibition has been so made and approved, no licence issued under any law in respect of any public vehicle or motor vehicle carrying passengers for hire or reward, if such public vehicle or motor vehicle be licensed to carry more than six passengers shall, without the consent of the council, entitle any person to ply for hire with such public vehicle within the county district, and the council may from time to time extend the period of prohibition above-mentioned for such period as the Governor may approve

Provided that—

- (a) the right of any person to ply for hire within the county district with any public vehicle or motor vehicle for the unexpired period of any licence 40 issued prior to the commencement of this Ordinance shall not be affected,
- (b) the right of any person to carry for hire or reward passengers departing to or arriving from any place outside the limits of the county district, 45 shall not be affected by this paragraph,
- (c) the powers of the council under this paragraph shall not be exercised in respect of any such service established, maintained or carried on by any person under an agreement entered into 50 with the council unless the terms of such agreement have received the approval of the Member,
- (d) before any resolution to prohibit the carrying on by any person of any such service is made by the council, notice of the intention to introduce 55 a motion for this purpose shall be given by publication in the Gazette and in at least one newspaper circulating within the county district. Such notice shall be given once in each week for four succeeding weeks, and any objections 60 received shall be laid before the council at the meeting appointed to consider the motion and copies thereof shall be forwarded to the Member

Provided further that all the provisions of this sub-paragraph shall apply to any resolution to extend any period of prohibition already existing,

- 5

(e) the council shall have power to revoke any prohibition imposed under this paragraph upon the termination of an agreement entered into under this paragraph,

(32) to acquire, equip and maintain boats and boating establishments, Boats

(33) to take a census of the inhabitants of the county district and to contribute to the cost of any such census when taken by any other authority, Taking of census

15

(34) to establish, acquire, erect, maintain and carry on laundries laundries and places for washing clothes,

(35) to establish, erect, maintain and carry on disinfecting stations, Disinfecting stations

20

(36) (a) at the request of the owner of any land or premises within the county district, to construct in such manner as the council may think fit, a footway along the side of any street abutting upon the land or premises of such owner, and to recover from such owner the whole or any portion of the expenses incurred in such work, Construction of footways

25

(b) to advance to the owner of any land or premises the amount of any expenses incurred or to be incurred by him in the construction of any footway as above mentioned

The provisions of sub-sections (2), (3), (4) and (5) of section 74 of this Ordinance shall *mutatis mutandis* apply to any advances made under this paragraph,

30

(37) to advertise and give publicity to the attractions and advantages of the county district, Advertising

35

(38) subject to the consent of the Member of the Executive Council for the time being responsible for Agriculture and Natural Resources, and to the provisions of any law relating to water rights, to divert, straighten, define, and canalize the course of any stream or watercourse after giving notice and making compensation to any owner or occupier of land, and to any person entitled to any rights or easements attaching to land, abutting on such stream or watercourse, Canalization of streams

40

Provided that in arriving at the amount of any compensation payable under this paragraph regard shall be had to the enhanced or improved value, immediate or prospective, which shall or may accrue to any such land by reason of the carrying out of the said purposes or any of them The amount of such compensation shall, in default of agreement, be settled by arbitration,

45

(39) to establish, erect, maintain and carry on or assist institutions, day nurseries or clinics for the care and welfare of infants, and to make provision for suitable instruction being imparted to expectant mothers and to mothers of such infants, Child welfare institutions

50

(40) to establish, erect, maintain and carry on information centres, inquiry bureaux and communal feeding centres, Information centres, etc

55

(41) subject to the provisions of any law relating to wireless telegraphy, to establish, erect, maintain and carry on wireless broadcasting or relay stations and to enter into contracts for the hire of apparatus and for listening-in, Broadcasting stations

60

Expenditure
unprovided for

(42) to incur all expenditure necessary for the carrying out of any purpose of this Ordinance which the county district council are authorized to carry out, or of any purpose not specially provided for in this Ordinance which the Member may determine to be a purpose incidental to the exercise by the council of their powers and duties under this Ordinance,⁵

Fees and
charges

(43) from time to time, with the consent of the Member, to impose fees or charges in respect of any power conferred upon the county district council by this¹⁰ Ordinance, or by any by-law made thereunder,

Remission of
fees

(44) to authorize the remission of any fees or other charges imposed under the provisions of this Ordinance, or of any by-law made thereunder

(2) Any person, other than a person with whom a council¹⁵ have entered into an agreement under this paragraph, who carries on any service of motor omnibuses or other vehicles drawn or propelled by animal, mechanical or electrical power for the carriage of passengers or who, without the consent of the council plies for hire or reward any public vehicle or²⁰ motor vehicle licensed to carry more than six passengers, shall be guilty of an offence against this Ordinance and shall be liable on conviction to a fine not exceeding two thousand shillings or to imprisonment for a period not exceeding six months, and in addition shall be liable to a fine not exceeding²⁵ two hundred shillings in respect of each day upon which the offence continues

Recovery of
charges for
sanitary and
refuse removal

76. (1) All charges due for sewerage, sanitary and refuse removal shall be recoverable jointly and severally from the owner and occupier of the premises in respect of which the³⁰ services were rendered

(2) When any such charges are mentioned in sub-section (1) of this section have remained unpaid for a period of six weeks from the date on which written notice has been given by the county district council to the owner or occupier on his³⁵ indebtedness, the council may at any time within twelve months from such date take proceedings against such owner or occupier or both for the recovery of such charges together with interest thereon at such rate, not exceeding one per centum per month or part thereof, as the council shall fix⁴⁰

(3) Where any such charges are recovered against—

(a) the owner, he shall, in the absence of any agreement to the contrary, be entitled to recover from the occupier for the time being any sum paid by him as charges in respect of any period during which such⁴⁵ premises were in occupation of such occupier,

(b) the occupier, he shall be entitled to deduct from any rent or other sum payable by him to the owner of the premises any portion of such charges which he could not lawfully have been required by the owner⁵⁰ to pay, and the production of any receipt for such portion shall be to the extent of the amount thereof be a good and sufficient discharge for the payment of the rent or other sum

(4) Where any such charges which are normally⁵⁵ recovered by a county district council from the occupier of the premises in respect of which the services were rendered remain unpaid for a period of six weeks the council shall notify in writing the owner that such charges have so remained unpaid

77 (1) The Member may authorize a county district council to make by-laws for any purpose for which a municipal council or municipal board may make by-laws under the Municipalities Ordinance which is not inconsistent with the provisions of section 55 (Power of county council to make by-laws) of this Ordinance

Power of county
district council
to make and
enforce by-laws

(2) The council of a county district shall have power to enforce by-laws made by a county council which are for the time being in force in the county district or any part thereof

10 **78.** (1) A county district council may impose such duties or fees as the council may with the consent of the Member fix in respect of any trade, occupation or premises which they are empowered under this Ordinance or under any by-laws which they are authorized to make to inspect or supervise and licence

Licences
duties and fees

(2) The council shall have power to summon any applicant for, or any objector to, the grant of a licence to give evidence or to produce books or documents at any sitting of the council or a committee held for the purpose of hearing the application for such licence, and any such person refusing or omitting without sufficient cause to attend and give evidence or to produce books or documents in his possession or under his control as required by such summons shall be guilty of an offence against this Ordinance

25 Provided that every person summoned under this section to give evidence or produce books and documents shall be entitled to all the privileges to which a witness summoned to give evidence or produce books or documents before the Supreme Court is entitled

30 (3) Any witness giving evidence before the council or a committee at the hearing of any application for any such licence may be required to give evidence on oath which the chairman or the member presiding is hereby empowered to administer

35 **79.** (1) A county district council may refuse to grant any licence to carry on any trade or business which they are empowered to grant on any of the following grounds—

Power of county
district council
to refuse
licences

(a) that within the three years immediately preceding the application either the applicant or any person employed by or assisting him in his business or directly or indirectly interested therein has been convicted three times of contravening a law or by-law in force within the county district in regard to the trade for which the licence is applied for,

45 (b) that the granting of such licence would be contrary to the public interest

(2) Any applicant for a licence whose application has been refused may appeal against the council's decision to the court of the magistrate within whose jurisdiction the premises in or on which the applicant intended to conduct his trade or business is situate, and, in the event of the appellant satisfying the court that the licence was refused on insufficient grounds, the court may order the council to grant such licence and, subject to the provisions of the next succeeding sub-section, such licence shall be granted accordingly

(3) The appellant or the council may appeal to the Supreme Court against any such order of the subordinate court and the decision of the Supreme Court shall be final

Power of the
county district
council to
refuse to licence
certain premises

80. A county district council may refuse a licence in respect of any premises as a theatre, music hall, dance hall, public hall, concert room or other place of amusement, or as a restaurant or eating-house, on any of the grounds mentioned in the last preceding section or on any of the following 5 grounds—

- (a) that the applicant has failed to produce satisfactory evidence of good character,
- (b) that the premises in respect of which the licence is sought or any adjacent premises owned or occupied 10 by the applicant are frequented by persons of bad character
- (c) that the granting of such licence would be calculated to cause nuisance or annoyance to persons residing in the neighbourhood 15

Provided, however, that the refusal of the council to grant any licence on any of the grounds mentioned in this section shall be subject to the same right of appeal as is provided in the last preceding section 20

Licensing of
offensive trades

81. (1) No person shall, in a township or urban district, without having first obtained from the council of the county district a licence for that purpose, carry on within the county district the work or trade of a knacker or of blood boiling or cleaning, tallow melting, fat melting or fat extracting, fell- 25 mongering, skin storing, skin curing, blood drying, gut-scraping, fishmongering, fish frying, leather dressing, tanning, glue making, size making, charcoal burning, brick burning, lime burning, manure making, manure storing, bone storing, or any other work or trade of an offensive nature which 30 council may, with the sanction of the Governor, declare by notice in the Gazette to be an offensive trade for the purposes of this section

(2) No person shall, in a rural district, without having first obtained from the council of the county district a licence 35 for that purpose, carry on within the county district any work or trade of an offensive nature which the council may, with the sanction of the Governor, declare by notice in the Gazette to be an offensive trade for the purposes of this section

(3) Any person who carries on any such work or 40 trade without first having obtained the required licence from the council shall be guilty of an offence and shall be liable to a fine not exceeding one thousand shillings and to a further fine not exceeding forty shillings in respect of every day during which such offence shall continue after notice to cease such 45 offensive work or trade has been served upon such person by the council

(4) Before considering any application for any licence under this section the council may require the applicant to pay the cost of advertising full particulars of his application 50 in such manner and for such period as the council may think fit

(5) The council may refuse to grant any licence under this section on any of the grounds mentioned in section 78 of this Ordinance or on any of the following grounds— 55

- (a) that the premises used or proposed to be used by the applicant for the work or trade for which the licence is sought are unsuitable for the purpose,
- (b) that the methods adopted or proposed to be adopted by the applicant for preventing noxious or offensive 60 vapours, gases or smells arising from such work or trade are not efficient

Provided, however, that the refusal of the council to grant any such licence on any of the grounds mentioned in this section shall be subject to the same right of appeal as is provided in section 78 of this Ordinance

5 **82.** On the conviction of any person holding a trade licence granted by the council of a county district for any contravention of the law or any by-laws in force within the county district relating to the conduct of such trade, the magistrate before whom such person is convicted may, on the application of the council, cancel or suspend his licence and order that no new licence to carry on such trade within the same county district shall be granted to such person for a period not exceeding one year from such conviction, and thereupon such person shall become disqualified to hold a licence during 15 such period of cancellation or suspension

Penalty on
conviction for
contravention
of law or by-law
relating to
licences

83. (1) No by-laws shall be made or amended by a council unless and until a copy of such proposed by-law or amendment has been deposited at the office of such council for 20 inspection by any person, at all reasonable times, and a notice has been published in a newspaper (if any) circulating in the area of the council and exhibited in a conspicuous place, at or near the public entrance to the council's offices, not less than twenty-one days prior to the meeting of the council, to be held 25 for the purpose of making such by-law or amendment, setting forth the general purport of the proposed by-law or amendment and stating that a copy thereof is available for such inspection

Procedure for
making by-laws

(2) Any objection to any such proposed by-law or amendment shall be lodged with the clerk within twenty days after 30 the publication or exhibition of such notice

84. (1) After any by-law has been made or amended by a council, such by-law or amendment shall be submitted to the Commissioner, for the approval of the Member, together 35 with—

Submission of
by-laws for
approval of
Member

(a) a copy of the minutes of the meeting of the council at which the by-law or amendment was adopted,
 (b) a certificate by the clerk that the provisions of the last preceding section have been complied with,
 40 (c) copies of any objections to the adoption of such by-law or amendment which have been lodged in writing with the clerk, or, if none has been lodged, a statement to that effect

(2) The Member may approve, with or without alteration, 45 or reject any such by-law or amendment

(3) Upon approval by the Member of any by-law or amendment (with or without alteration thereof) such by-law or amendment shall be published in the Gazette and shall thereupon have the force of law within the area for which it is 05 made

(4) A copy of the Gazette containing any by-law made by a council shall be evidence of the due making of such by-law and of the contents thereof

85. The Member may at any time after having given to 55 a council reasonable notice in that behalf and having heard the council thereon, make, amend or revoke any by-law which such council may make, amend or revoke Every by-law, amendment or revocation made under the provisions of this section shall be notified to the council by the Commissioner and shall be published in the Gazette

Power of
Member to
make, etc ,
by-laws

Penalties for
breaches of
by-laws

86. A council may, by by-law, prescribe a fine or imprisonment, or both, which may be imposed, for the breach of any by-law made under the provisions of this Ordinance and may also prescribe different fines and different terms of imprisonment in case of successive or continuous breaches, but no such fine shall exceed fifty pounds, and no such term of imprisonment shall exceed six months Any such by-law may provide that, in addition to any such penalty, any expense incurred by the council in consequence of a breach of any such by-law, or in the execution of any work directed by any such by-law to be executed by any person and not executed by him, shall be paid by the person committing such breach or failing to execute such work 5

By-laws may
require deposit
or bond for
compliance with
permit to do
any act

87. (1) Where a council is empowered to make by-laws prohibiting, restricting or regulating the doing of any act, and such by-laws require any person to obtain a permit from a specified authority before the doing of such act, such by-laws may require a deposit of such sum, or the execution of a bond with or without sureties in such sum, as may be prescribed in such by-laws, in addition to any fee which may be prescribed, such sum to be refunded or such bond to be void, as the case may be, if the person to whom such permit is granted complies with all the conditions of such permit 15

(2) The provisions of the preceding sub-section shall not apply where a council may, under section 77 of this Ordinance, impose duties or fees 25

Prosecution for
contravention of
by-laws

88. All offences against any by-law in force within any part of an administrative county shall be deemed to be offences against this Ordinance, and in any prosecution for contravening the provisions of any such by-law it shall be sufficient to allege that the accused is guilty of contravening a by-law, the number and title of which shall be stated, of the council concerned and to allege the act constituting such contravention 30

Annual
estimates

PART VII—EXPENSES

89. (1) The council of every county district and county division shall, by such date before the commencement of every financial year as shall be prescribed by the county council, approve estimates of the income and expenditure of the council for such next financial year 35

(2) Not less than two months before the commencement of every financial year a county council shall approve estimates of the income and expenditure of the county council and shall cause to be transmitted to them estimates of the income and expenditure of the council of every county district and county division within the administrative county approved by such councils under the foregoing sub-section 45

(3) A summary of such annual estimates shall be published in the Gazette, and in a newspaper (if any) circulating in the administrative county, at least fourteen days before the date of the meeting of the county council at which such estimates are submitted, and a copy of such annual estimates shall be delivered to any inhabitant of the administrative county on application and on payment of such fee, if any, as may be prescribed by resolution of the county council 50

(4) A county council shall, not less than two months before the commencement of each financial year, submit a copy of such annual estimates to the Commissioner for approval by the Member and when so approved an abstract thereof shall be published in the Gazette, if in the opinion of the Member such publication is necessary 55

(5) No council shall, except with the sanction of the Member incur any expenditure which has not been included in such approved estimates

Provided that reallocations of expenditure within the limits of the approved estimates, which shall not increase or decrease any one item of expenditure by such proportion of the total expenditure of the council as the Member shall direct may be made by the council

(6) For the purpose of approval by the Member under sub-sections (4) and (5) all annual, revised or supplementary estimates shall be prepared in such form and shall contain such detailed information as the Commissioner may require

(7) A copy of all estimates approved under sub-section (4) and (5) shall be recorded in the minutes of the county council

90. (1) The expenses incurred by a county council, county district council or county divisional council in the discharge of their respective functions shall in each case be divided into general expenses and special expenses

(2) All expenses incurred by a county council, county district council or county divisional council not declared by the Member to be special expenses be general expenses

(3) If a county council, county district council or county divisional council have incurred or propose to incur, for the purpose of any of their functions, expenditure in respect of some particular area of rateable property over and above expenditure common to the whole of the council's area the Member may, on the application of the council, declare such expenditure to be special expenses separately chargeable on such area (hereinafter called a contributory place) as he may specify

91. (1) All receipts of a county council and of the council of every district or county division within the administrative county shall be carried to the county fund and all liabilities to be discharged by the county council or by any county district council or county divisional council shall be discharged out of that fund

(2) Separate accounts shall be kept of receipts carried to and payments made out of the county fund for the purposes of the functions of the county council—

(a) in respect of general expenses, and
 (b) in respect of each class of special expenses, except that where, as respects any two or more classes of special expenses, the contributory place is the same, one separate account may be kept as respects all expenses of both or all those classes

(3) Separate accounts shall be kept in respect of each county district council and county divisional council of the receipts carried to and payments made out of the county fund for the purposes of the functions of such county district council or county divisional council—

(a) in respect of general expenses, and
 (b) in respect of each class of special expenses, except that where, as respects any two or more classes of special expenses, the contributory place is the same, one separate account may be kept as respects all expenses of both or all those classes

Payments to and
out of county
fund

92. (1) All payments to and out of the county fund shall be made to and by the county treasurer

(2) Payments out of the county fund shall in the case of general or special expenses of a county council, be made in pursuance of an order of the county council signed by three members of the finance committee thereof present at the meeting of the council at which the order is made, and in the case of general or special expenses of a county district council or county divisional council in pursuance of an order of the county district council or county divisional council signed by three members thereof present at the meeting of the council at which the order is made, and in either case countersigned by the clerk of the county council, and the same order may include several payments

(3) An order for the payment of a sum out of the county fund shall not be made by a county council except in pursuance of a resolution of the county council passed on the recommendation of the finance committee

Power of county
council to levy
rates

93. (1) A county council shall levy rates to meet all liabilities falling to be discharged out of the county fund for which provision is not otherwise made

(2) Amounts leviable by a county council by means of a rate shall be chargeable—

(a) in the case of amounts leviable to meet liabilities in respect of the general expenses of the county council, on the whole of the county,

(b) in the case of amounts leviable to meet liabilities in respect of the general expenses of a county district council or county divisional council on the whole of the county district or county division, and

(c) in the case of amounts leviable to meet liabilities in respect of special expenses, on the contributory place separately chargeable therewith

Alternative
methods of
rating

94. (1) A county council may adopt one or more of the following methods of rating—

(i) any rate which a municipal council or municipal board are empowered to impose under section 15 of the Local Government (Rating) Ordinance,

(ii) a rate upon the annual value of land,

(iii) a flat rate upon the area of land,

(iv) a graduated rate upon the area of land,

(v) an industrial rate upon the area or unimproved site value of, or on the value of improvements on, land used for other than agricultural or residential purposes,

(vi) a rate upon the annual value of every dwelling-house and the curtilage thereof,

(vii) such other method of rating as the county council may, with the approval of the Member, adopt

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(2) It shall be lawful for a county council to adopt different methods of rating for different parts of the county, from time to time to vary the method of rating adopted for the whole or any part of the county, or to impose the industrial rate referred to in paragraph (v) of sub-section (1) in addition to but not to the exclusion of any other rate, but it shall be the duty of the county council and the Member to ensure that the cost of the general county expenses is distributed equitably over all parts of the administrative county and accordingly no rate shall be valid and enforceable unless and until it has been

approved by the Member who may direct the county council to make such modifications in the incidence thereof as he thinks fit

Provided that where a county council have adopted as a method of rating for the whole or any part of an administrative county a rate upon the unimproved value of land and a valuation roll has been prepared no other method of rating shall be substituted therefor without the consent of the Member

10 95. (1) As soon as may be after a county council have adopted, as a method of rating for the whole or any part of the administrative county (hereinafter called "the rating area"), any rate which a municipal council or municipal board empowered to impose under section 15 of the Local Government (Rating) Ordinance or a rate upon the unimproved value of, or on the value of improvements on, land used for other than agricultural or residential purposes—

(a) a person appointed in that behalf by the Member (hereinafter called a "valuer") shall prepare a valuation roll of all rateable property or of all land used for other than agricultural or residential purposes as the case may be within the rating area, without cost to such council,

(b) notwithstanding the provisions of section 1 of the Local Government (Rating) Ordinance the Member shall by order declare that the whole or such part of the provisions of such Ordinance as he thinks fit and with such modifications of the provisions of such Ordinance relating to the time within which any notice of objection is required to be lodged or any other thing is required to be done as he thinks necessary shall apply to the rating area and such Ordinance shall in its application to the rating area be construed as if the following definitions of "local authority", "municipality", "mayor", "town clerk" and "town treasurer", contained in section 2 of such Ordinance—

"local authority" means the county council,
 "municipality" means the rating area,
 "mayor" means the chairman of the county council,
 "town clerk" means the clerk of the county council,
 "town treasurer" means the county treasurer

45 (2) Not less than once in every five years after the completion of the first valuation roll for the rating area or such longer period as the Member may approve, the Member shall cause a new valuation roll of all rateable property within such area to be prepared by such valuer as he may appoint

50 Provided that the Member may direct that the whole or any portion of the cost of preparation of any valuation roll (not being the first valuation roll for any area) shall be borne by the county council

96. (1) Where any scheme of county administration provides that a township to which or to part of which the provisions of the Local Government (Rating) Ordinance have been applied shall form part of an administrative county, the said Ordinance shall, subject to any declaration made by the Member under paragraph (b) of sub-section (1) of section 95 continue to apply to such township or to such part and, in its

Appointment of
valuer and
application of
the Local
Government
(Rating)
Ordinance
Cap 137

Application of
Local
Government
(Rating)
Ordinance to
certain
townships
Cap 137

application to such township or part of such township, shall be construed as if the following definitions were substituted for the definitions of "local authority", "municipality", "mayor", "town clerk", "town treasurer" contained in section 2 of such Ordinance—

5

"local authority" means the county council,
 "municipality" means the area of the township,
 "mayor" means the chairman of the county council,
 "town clerk" means the clerk of the county council, and
 "town treasurer" means the county treasurer

10

(2) On the coming into force of a scheme of county administration referred to in sub-section (1) the county council shall, for the purpose of section 94 of this Ordinance be deemed to have adopted as a method of rating in respect of such township a rate upon the unimproved value of land

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Preparation of valuation rolls

97. As soon as may be after a county council have adopted as a method of rating for the whole or any part of the administrative county any method of rating referred to in paragraphs (ii) to (vii) of sub-section (1) of section 94 of this Ordinance other than a rate upon the unimproved value of, or on the value of improvements on, land used for other than agricultural or residential purposes the Member shall make rules for facilitating the preparation of and prescribing the contents of a valuation roll and for prescribing the principles of valuation or assessment appropriate to the method of rating so adopted and such rules shall include a requirement that a provisional roll shall be kept open to public inspection and that objections thereto shall be considered by a committee upon which shall be represented the council of every county district or county division in respect of the whole or part of which the valuation roll has been prepared

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Valuation or area roll not to be challenged or set aside

98. No valuation contained in any valuation roll compiled under the provisions of this Ordinance, and no area or classification of land contained in any area roll, compiled under the provisions of this Ordinance, and no rate based upon any such valuation roll or such area roll, shall be rendered void or be affected by reason of any mistake or variance in the description of any rateable property or in the name of the owner thereof, and no valuation roll or area roll compiled and authenticated under the provisions of this Ordinance shall be capable of being challenged or set aside by reason of any informality

Power to remit rates and amend rolls

99. Notwithstanding anything in this Ordinance contained, a county council may from time to time—

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- (a) remit any rate imposed on any rateable property in such cases as may be approved by the Member,
- (b) cause any newly rateable property or rateable property omitted from a valuation roll, area roll or industrial area roll to be added to such roll and cause the current rate to be collected in respect thereof,
- (c) amend a roll in respect of any rateable property which is sub-divided and cause any rate in respect thereof to be assessed and collected according to such subdivision,
- (d) amend a roll from time to time in any case where some clerical error or some error as to the name of the owner or occupier has been made in such roll, and cause any rate due in respect thereof to be collected according to the corrected roll,

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(e) remove from a roll any property which shall at any time cease to be rateable property

5 (f) amend the classification of any rateable property when such shall at any time be necessary, and cause any rate due in respect thereof to be collected according to the corrected classification

Provided that—

10 (i) upon the making of any addition or alteration to a roll, the same forms shall be observed and the same proceedings taken as nearly as can be *mutatis mutandis* as are prescribed with regard to the preparation of the roll in the first instance except that in the discretion of the county council the prescribed notices in writing may be served upon the person interested instead of being published,

15 (ii) every such addition or other alteration shall be subject to any objection made thereto by any interested person and to the same right of appeal as may be prescribed by rules made by the Member

20 **100.** Every rate imposed by a county council shall become due and payable upon a day, not being later than the 31st day of March in the financial year for which it is imposed, to be fixed by such county council, of which day and of the amount of which rate, the county council shall give at least 25 thirty days' notice by advertisement in the Gazette and in a newspaper (if any) circulating in the administrative county

25 **101.** (1) When a county council have given notice of the day upon which such rate will become due and payable, every person liable for such rate shall pay the amount for which he 30 has been charged at the offices of such county council, and if any person fails to do so, proceedings may be taken against him as hereinafter provided

35 (2) A county council may allow a discount, not exceeding two and a half per centum, on any rates paid on or before the day on which such rates become due and payable under the provisions of section 100 of this Ordinance

(3) A county council may charge and collect interest on rates, remaining unpaid on the due day for payment thereof, at a rate not exceeding one per centum per month

40 **102.** (1) If after the time fixed for the payment of any such rate any person fails to pay the rate due from him a county council may cause a written demand to be made upon such person to pay the amount stated in such demand within fourteen days after service thereof, and if any person who has 45 had such demand delivered to him personally or left at his ordinary place of residence or place of business or office makes default in the payment thereof, the county council may apply to a magistrate having jurisdiction within the administrative county for a warrant to recover such rates from the persons 50 liable to pay the same

(2) The magistrate shall grant such warrant on production of a list of the names and addresses of any persons so in default, and the amount due by them, with a certificate by the clerk that such persons have been severally required to make 55 payment of such rates in accordance with the provisions of sub-section (1) and that such rates are due

(3) Every such warrant shall contain every authority and be executed in all respects as though it were a writ of execution issued out of the court of such magistrate

Recovery of
rates

103. (1) Notwithstanding the provisions of section 102 of this Ordinance, a county council may in their discretion, after the time fixed for the payment of any such rates, recover from the person in default (without further notice or demand) the amount of the rates due from such person, irrespective of the amount thereof, by action in the court of a magistrate having jurisdiction within the administrative county, whether the person liable for the same is resident within the jurisdiction of such court or not 5

(2) Where it is not possible to effect service of a summons ¹⁰ within the limits of the jurisdiction of such court, such service shall be effected in such manner as such court shall direct

Proceedings
against persons
liable for rates

104. Where any person, who is liable to pay any rate and it is in default as regards payment thereof, is not resident ¹⁵ within the jurisdiction of the court of a magistrate having jurisdiction within the administrative county, a county council may, at their option, make the demand referred to in section 102 of this Ordinance upon, or take proceedings under the provisions of section 103 of this Ordinance against, any person ²⁰ receiving any rents or profits of the rateable property in respect of which such rate is unpaid, or who would receive the same if such rateable property were let or occupied

Proceedings for
recovery of
rates unpaid
for three
months

105. (1) Where any rate imposed upon any rateable property remains unpaid for a period of three months after the ²⁵ day on which such rate became due and payable, a county council may, at any time within twelve months after the imposing of the rate, in writing, demand the amount of such rate or any part thereof from any tenant or occupier for the time being of such rateable property, to the extent of any rent ³⁰ due and payable by the tenant at the date of such demand, and on non-payment thereof may, after one month from the date of such demand, recover the same from such tenant or occupier in the same manner as though he were the owner of such rateable property 35

(2) Every such tenant or occupier may deduct from any rent or other amount payable by him to such owner or his successors in title, the amount of any rates so paid by or recovered from him, and the production of the receipt for such rates shall be a good and sufficient discharge, for the amount ⁴⁰ so paid or recovered, as payment on account of such rent or other amount

Evidence

106. In any proceedings to impose or recover rates or consequent upon the imposing or recovering of any rates, as well as in all other proceedings under the provisions of this ⁴⁵ Ordinance, the valuation rolls, area rolls and records of a county council, and all entries made therein and extracts or certified copies thereof signed by the clerk, and also all copies of any newspaper containing any notice necessary to be proved, shall upon production thereof, be *prima facie* evidence ⁵⁰ of the imposing of such rate and of the contents thereof without any evidence that the notices required by or other requirements of this Ordinance have been complied with

Owners liable
for rates

107. The person who is the owner of any rateable property at the date when a rate becomes due and payable ⁵⁵ in respect of such property under the provisions of section 100 of this Ordinance shall be liable for payment of the amount of such rate, and, in the case of joint owners of rateable property, they shall be jointly and severally liable for the rate due thereon 60

Provided that where the owner is absent from the Colony any person receiving the rent or being in charge or control of such property shall be liable for such rate

108. (1) No transfer of any premises within an administrative county shall be registered against the title to such premises until a written statement signed by the clerk or other officer authorized in that behalf by the county council shall be produced to the Principal Registrar of Titles, showing that all rates and charges (if any) for a period of three years immediately preceding the date of such statement, due in respect of such premises on account of any rates imposed under the provisions of this Ordinance, have been paid to the Council

Payment of
rates before
transfer of
premises

10 (2) The clerk or other officer authorized in that behalf by the county council shall give the said statement on the demand of the owner of the premises or his attorney or agent, upon payment by him of all charges due (if any) and of a fee, to be fixed by resolution of the county council, not exceeding five 15 shillings for each such statement

109. (1) (a) For the purpose of making grants to any hospital or dispensary for the benefit of Africans employed within the administrative county, which a county council are empowered under the provisions of this Ordinance to make, or 20 for meeting the cost of treatment of such Africans in hospitals established by a county council or dispensaries established by a county district council under the provisions of this Ordinance, the county council may adopt, as an additional method of rating, a flat rate per head in respect of Africans employed 25 within the administrative county

Rate upon
employers of
African labour

(b) Where such a method of rating has been adopted the county council may, from time to time, impose a rate upon employers of African labour in the administrative county, of such amount in respect of each African employed by them as 30 the county council shall determine

(2) A county council may exercise the powers conferred upon them by this section in respect of either—

- (a) the administrative county as a whole, or
- (b) with the consent of the Member, any part of the 35 administrative county

PART IX—REVENUE AND BORROWING POWERS

110. The revenues of a county council shall include— Revenues

(a) all rates levied by the county council,

40 (b) one-half of all fines imposed by any competent court in respect of any contravention of the provisions of this Ordinance or of any by-laws made thereunder,

(c) Government grants,

45 (d) all other moneys recoverable by the county council or to which the county council are entitled under the provisions of this Ordinance or of any other law in force in the Colony

111. (1) There shall be paid to the county council—

(a) out of the general revenue of the Colony—

50 (i) an annual contribution in lieu of rates of such amount in each financial year as the Governor in Council may, having regard to the method or methods of rating adopted by the county council and the amount of the rate, determine,

55 (ii) such proportion as the Governor in Council may direct of the revenue collected under the provisions of the Traffic Ordinance or any enactment amending or replacing the same in respect of vehicles registered in the name of persons having their residence or place of business within the administrative county where such vehicles are ordinarily housed or kept,

- (iii) a sum which is equivalent to one-third of the annual emoluments of the clerk, treasurer and engineer respectively of the county council, appointed in accordance with the provisions of this Ordinance, 5
- (iv) a sum which is equivalent to one-half of the annual emoluments of the medical officer of health and of all qualified sanitary inspectors appointed in accordance with the provisions of this Ordinance, 10
- (v) a sum which is equivalent to one-half of any expenditure incurred by the county council in connexion with outbreaks of infectious diseases and such proportion, if any, of other expenditure in connexion with measures taken for the 15 purpose of promoting and maintaining the public health as the Governor in Council may determine, subject, however, to the approval by the Member of the details of such expenditure,
- (vi) in respect of the expenditure of the county 20 council, a diminishing grant of such amount annually and for such period of years as may be determined by the Member in each case,
- (b) out of the Road Fund, a grant of such proportion as the Road Authority may direct of the cost of the 25 construction, reconstruction and maintenance to such standard as the Road Authority may approve of such roads within the administrative county as the Governor in Council, on the advice of the Road Authority, may determine, subject to provision being 30 made in the annual estimates of the county council for the recovery of the remaining cost (or where such remaining cost is to be met from loan funds, for the recovery of the interest and loan charges) out of the rates imposed on the public 35

(2) The county council shall cause a special account to be kept of expenditure incurred on the construction, reconstruction and maintenance of all roads in respect of which a grant has been made under paragraph (b) of sub-section (1) of this section, and where any question arises as to the correctness or admissibility of any charge against such special account the decision of the Governor in Council shall be final 40

(3) Payment for all services rendered to Government offices by the county council or by the council of any county division or county district shall be made on the same basis as 45 if such services had been rendered to private premises

Vehicle licences
to be paid to
county council

112. There shall be paid to a county council from the public revenues of the Colony, all sums derived by the Government from the taxation of vehicles (not being motor vehicles) belonging to persons having a residence or place of 50 business within the administrative county where such vehicles are ordinarily housed or kept

Provided that the county council may be required to pay to the public revenues of the Colony a collection fee not exceeding five per centum of the amount so payable to the 55 council

Appropriation
of penalties

113. All fines recovered in respect of offences against the provisions of this Ordinance or of any by-law made thereunder shall be paid, as to one-half to the county council for the account of the council concerned, and as to the remaining 60 one-half into the general revenue of the Colony

114. (1) A county council shall pay annually to the account of every county district council within the administrative county that proportion of the grant paid to the county council under paragraph (c) of sub-section (1) of section 111 of this Ordinance which the county council have received in respect of vehicles belonging to the persons having a residence or place of business within the county district where such vehicles are ordinarily housed or kept

Provided that in lieu of the payment to be made by the county council under this sub-section the county council may make such payments to the accounts of the county district councils within the administrative county, amounting in total to the whole of the grant received by the county council under paragraph (c) of sub-section (1) of section 111 of this Ordinance, as may be agreed between the county council and the councils of the county districts and approved by the Member

(2) A county council may, with the consent of the Member, agree, with or without conditions, to contribute to the council of any county district within the administrative county a sum equal to the whole or any part of any expenses incurred by that county district

115. The Member may at any time make advances to a county council in respect of any grants payable or to become payable under the provisions of this Ordinance and any such advances shall be free of interest and shall be deducted from such grants when paid

Provided that no such advance shall be made in any financial year in respect of grants for a succeeding financial year

30 116. (1) A council may from time to time raise loans in such amounts and upon such conditions as the Governor in Council may approve

(2) Such loans shall be a charge on the property and revenues of such council, and may in addition be secured upon any land which may be specially placed at the disposal of the council under the provisions of any law

Provided that this sub-section shall not be deemed to confer upon the council any power other than such powers as may be conferred by such law, to alienate any such land

40 (3) If at any time any interest due on any loan to a council remains unpaid for three months after demand therefor in writing has been lodged with the clerk by the person entitled thereto or by his duly authorized representative, an application may be made by such person or his representative to the Supreme Court for the appointment of a receiver of the property and revenues and any land on which the loan is a charge or is secured

(4) On the hearing of such application the court may make such order and give such directions as under the circumstances shall seem expedient for the raising and payment of moneys due, and, in particular, the court may order that a rate or rates of such amount or amounts as it may determine shall be levied upon all rateable property within the area of the council Any rate so ordered may be enforced in the same manner as any other rate imposed by the county council and the proceeds thereof shall be paid into court or otherwise as the court shall direct

Contributions
by county
councils to
expenses of
county distric^t
councils

Member may
make advances
on account of
grants

Borrowing
powers

(5) If at any time default be made in the repayment of any such loan, or of any instalment thereof, after a period of thirty days from the date on which such loan or instalment shall have become repayable, the like proceedings may be instituted on the application of the person to whom such repayment shall be due or of his duly authorized representative 5

(6) The court, on such application, in addition to any order which it may make under the provisions of sub-section (4) of this section, may, if it thinks fit, order the sale of any property on which such loan may be secured, subject to the 10 provisions of any law as regards the alienation of any lands vested in the council under the provisions of such law

Temporary loans

117. (1) A council may, from time to time, obtain from the Government temporary loans of moneys required for the proper carrying out of the provisions of this Ordinance 15

(2) A council may with the consent of the Member borrow by way of temporary loan or overdraft from a bank or otherwise, any sums which they may temporarily require

(3) All moneys so advanced, and the interest thereon (if any) shall constitute a liability of the council concerned and 20 shall be a charge on the property and revenues, present and future, of such council, and the provisions of section 116 of this Ordinance for the security of such advances and for the recovery thereof shall apply in all respects as if such advances were loans raised under the provisions of that section 25

Illegal borrowing

118. Save where any loan or advance by way of temporary loan or overdraft has been authorized as provided in this Ordinance, no person or bank lending money to a council shall have any remedy or right whatsoever to recover such loan or advance from such council 30

Provided that, if a council borrow any money which they are not legally bound to repay, all the members who have joined in authorizing the borrowing of such money shall be jointly and severally liable to repay the amount so borrowed and all interest thereon, and such moneys may be recovered 35 from them by action in any competent court

Depreciation regulations

119. (1) A county council shall make regulations providing for the annual setting aside by the county council and by the council of every county district and county division in the administrative county of amounts to create adequate 40 reserve funds to provide for the entire or partial replacement of assets of every such council which, owing to depreciation or other cause, will require at some future date to be replaced, and providing for the investment of such funds

(2) Such regulations shall be submitted for the approval 45 of the Member who may approve the same with or without modification, and, when approved, shall be published in the Gazette

Provided that, if a county council fail to make such regulations and to submit the same for such approval within a 50 period of twelve months from the date on which the Member requires the county council so to do, such regulations may be made by the Member

(3) Every council shall pay annually into the reserve funds so created, such contributions as may be required under 55 the provisions of any regulations made under the provisions of this section, and no such moneys or any part thereof shall, without the sanction of the Member, be used either permanently or temporarily for any purpose other than the purposes for which they have been contributed. All interest or other 60 revenues derived from such reserve funds shall be paid into and become part of such funds

PART X—ACCOUNTS AND AUDIT

120. (1) A county council shall cause proper books and accounts to be provided and true and regular records to be entered therein of all transactions of the county council and 5 of every county district council and county divisional council in the administrative county and the books and accounts relating to any council shall be open to the inspection of any member of such council, ratepayer or creditor of such council, without fee or charge Any such person may make copies of 10 or extracts from any such books or accounts

(2) All such books and accounts shall, in order to provide for the production of comparative statements of revenue, expenditure, cost, and general uniformity in the accounts of councils, be kept in such form and manner as the Commissioner 15 may direct

121. (1) For the purposes of this Ordinance the financial year shall be the twelve months ending on and including the 31st day of December of each and every year

(2) The accounts required to be kept by a county council 20 shall, as soon as practicable, be balanced for the preceding financial year and an annual statement or abstract thereof shall be prepared Copies of such annual statement or abstract, and of the inspector's report made under the provisions of section 122 of this Ordinance shall be laid before the county 25 council at their first convenient ordinary meeting after the receipt of such report, and shall be delivered to any inhabitant of the administrative county on application and on payment of such fee, if any, as may be prescribed by resolution of the county council

30 (3) An annual statement or abstract of the accounts relating to the transactions of the council of every county district and county division shall be prepared and laid before such council

(4) Such annual statements or abstracts shall be prepared 35 in such form and shall contain such information as the Commissioner may require, and such portions thereof or extracts therefrom, together with such portions or extracts from the inspector's report, as the Commissioner may direct, shall be published in a newspaper (if any) circulating in the administrative 40 county

122. (1) The Governor shall appoint one or more persons, being officers of the public service, from time to time to inspect, examine and report upon the accounts and records required to be kept by a county council, and such council 45 shall, by the clerk or other officer authorized by such council produce and lay before the person or persons so appointed all books and accounts of the council together with all vouchers, papers and writings relating thereto

(2) The inspector shall certify, not less than once in each 50 financial year, whether or not—

- (a) the accounts required to be kept by the county council are in order,
- (b) the accounts present a true and correct statement of the financial position of the county council and of every county district council and county divisional council in the administrative county and of their transactions,
- (c) due provision has been made on account of redemption and repayment of all moneys borrowed by such councils,

Accounts to be kept

Financial year statement of accounts

Audit of accounts, etc

- (d) the value of the assets of such councils has been fairly stated,
- (e) the amounts set aside for depreciation and renewal of the assets of such councils are adequate and in accordance with regulations made under the provisions of section 119 of this Ordinance,⁵
- (f) all of his requirements and recommendations have been complied with and carried out

(3) The inspector in his report shall state his opinions and observations upon all questions arising out of the certificate given by him under the provisions of sub-section (2) of this section, and upon all matters affecting the economical and efficient administration and conduct of services which in his opinion call for special notice and shall draw attention to all cases in which it appears to him that the provisions of this ¹⁰ Ordinance or of any other law in force in the Colony have not been carried out or that any acts, matters or things have been performed or carried out without due authority ¹⁵

(4) The clerk shall immediately upon the receipt of the inspection report transmit copies thereof or relevant extracts ²⁰ therefrom to the councils of every county district and county division in the administrative county

(5) The county council shall pay to the Governor within three months from the date of the signing and certifying by the inspector of the accounts required to be kept by the county ²⁵ council for any financial year, such sum as the Governor may determine, but such sum shall not exceed one per centum of the total expenditure, brought to account and certified by the inspector for the financial year of the county council and of every county district council and county divisional council in ³⁰ the administrative county

Provided that where for the purpose of an effective audit the accounts required to be kept by the county council require to be completed, adjusted or balanced by the inspector, such proportionately higher fee as the Governor may determine ³⁵ shall be charged and paid

Inspector's power to surcharge

123. (1) The inspector shall disallow every payment made without due authority according to law, and shall surcharge the same on the person or persons making or authorizing such payment, and shall charge against any ⁴⁰ person or persons responsible therefor the amount of any deficiency or loss occasioned by the negligence or misconduct of such person or persons or of any sum which ought to have been brought to account by any such person or persons, and shall in every case certify the amount due from such person or ⁴⁵ persons

Provided that no expenses paid by a council shall be disallowed by the Inspector if they have been sanctioned by the Member

(2) For the purposes of this section the pecuniary responsibility for a surcharge in respect of any such payment shall rest upon the treasurer or other officer making the payment, except where such payment is made upon instructions (recorded in the minutes or in writing) from a council or from any committee or member of a council, given after the ⁵⁵ irregularity has been pointed out, and the pecuniary responsibility for a surcharge in respect of any such payment, when such payment is made upon such instructions, shall rest upon the person or persons giving or joining in the giving of such instructions A member of a council shall be deemed to have ⁶⁰ joined in giving such instructions unless he has caused his vote against the resolution, in that connexion, to be recorded in the minutes

(3) An appeal shall lie to the Supreme Court from any decision of the inspector given under the provisions of this section, or the person surcharged may, in lieu of such appeal, appeal to the Governor, whose decision shall be final

⁵ (4) Every sum certified by the inspector, or found on appeal, to be due from any person under the provisions of this section, shall be paid into the fund from which it was taken within thirty days from the date of the inspector's certificate or the decision on appeal, as the case may be, and if such sum ¹⁰ is not so paid, the inspector shall take all necessary steps to recover the same from the person surcharged in any competent court, and shall be paid by the council his reasonable costs and expenses in any such proceedings

¹⁵ (5) In any proceedings for the recovery of such sum the inspector's certificate shall be conclusive evidence that the sum is due and payable by the person charged

²⁰ (6) On the production of such certificate the court shall give a decree for the sum sued for, and every such decree shall have the effect of a decree made under the provisions of the Civil Procedure Ordinance

Cap 5

124. (1) For the purpose of any examination under the provisions of section 122 of this Ordinance the inspector may hear and receive evidence and examine witnesses ²⁵ upon oath or affirmation (which oath or affirmation the inspector is hereby empowered to administer), and may, by summons under his hand, require all such persons, as he may think fit, to appear personally before him at a time and place to be stated in such summons and to produce all such books ³⁰ and papers (including the minutes of the proceedings of a council or of any committee thereof) as may be necessary for such examination

Powers of
inspector to
take evidence

(2) Any person so required who, without reasonable excuse—

³⁵ (a) neglects or refuses to comply with such summons, or (b) having appeared, refuses to be examined on oath or affirmation or to take such oath or affirmation, or (c) having taken such oath or affirmation refuses to ⁴⁰ answer such questions as are put to him,

shall be guilty of an offence and shall be liable on conviction therefor, for every such neglect or refusal, to a fine not exceeding thirty pounds or to imprisonment for a term not exceeding six months

⁴⁵ PART XI—INQUIRIES, REPORTS AND RETURNS

125. The Governor may at any time require any officer ^{Inquiries} in the service of the Government to conduct or cause to be conducted such investigations, researches and inquiries as the Governor may deem necessary for any purpose of this Ordinance or for assisting any council in the carrying out of their ⁵⁰ duties under the provisions of this Ordinance, and generally for promoting the efficiency of local government in rural areas, and all necessary facilities shall be given by councils to any officer conducting any such investigation, research or inquiry

⁵⁵ **126.** (1) Every county council shall render to the Commissioner, not later than the 31st day of March in each year, a report of the work of the county council and of the affairs of the administrative county for the preceding financial year

Reports to be
rendered by
county councils

⁶⁰ (2) Such report shall be rendered in such form as may be directed by the Commissioner, and shall be accompanied by such statistics as the Commissioner may require

(3) A copy of such report shall be delivered, by the clerk, to any inhabitant of the administrative county, on application and on payment of such fee, if any, as may be prescribed by resolution of the county council

Applications for
Government
approval

Minutes, etc., of
councils to be
furnished

Annual report
of the
Commissioner

Power to
dissolve county
councils

Power to reduce
Government
contributions

Powers on
default of
county district
councils, etc

127. Every application under this Ordinance for the consent or approval of the Governor or the Member shall be made to the Commissioner and shall be in such form and comply with such conditions as he may require 5

128. (1) Every council shall furnish to the Commissioner a certified copy of any record or minutes of their proceedings 10 and of the proceedings of any committee appointed by such council and of any accounts of the council, and such reports, statistics and documents as the Commissioner may from time to time require

(2) Minutes of the proceedings of each meeting of a 15 council or of a committee thereof shall be forwarded within ten days after the day upon which such minutes were confirmed

129. The Commissioner shall render to the Governor through the Member, not later than the 30th day of June in 20 each year, a comprehensive report upon the affairs and activities of all councils constituted under the provisions of this Ordinance

PART XII—DEFAULT OF COUNCILS

130. If a county council at any time neglect to hold a 25 meeting for the space of six months, the Governor may dissolve such county council and may, by proclamation, nominate and appoint other persons, being not less than three in number, to form a county council for the purpose of this Ordinance, and every such county council shall be competent, 30 and are hereby required, to exercise all the powers and authorities vested in the dissolved county council

131. If at any time it appears that the revenues of a county council are not being properly used in the best interests of the administrative county as a whole, or that the 35 administration of the affairs of a county council is wasteful or inefficient, or that a county council have failed to act in conformity with the provisions of this Ordinance, the Governor in Council may, after such inquiry (at which inquiry the county council shall be heard), as he may deem necessary— 40

(a) reduce any Government grant payable, under the provisions of section 111 of this Ordinance for the next succeeding financial year by such amount as he shall determine, or

(b) dissolve the county council and, by proclamation, 45 nominate or appoint other persons being not less than three in number, to form a county council for the same purposes and with the same powers as are prescribed in section 130 of this Ordinance

Provided that any such reduction of a grant shall be 50 notified to the county council concerned within one month after the commencement of the financial year in respect of which such grant is payable

132. (1) If at any time it appears to the Member, either upon representations made to him by the county council or 55 without any such representations, that the revenues of the council of a county district or county division are not being properly used in the best interests of the county district or division concerned, or that the administration of the affairs of

the council concerned is wasteful or inefficient, or that the council concerned have failed to act in conformity with the provisions of this Ordinance, the Member, may, after such inquiry (at which inquiry the council concerned shall be heard) as he may deem necessary—

(a) reduce any Government grant payable to or for the council concerned, or

(b) transfer to the county council all or any of the functions of the council concerned either for a definite period or until he may otherwise direct

(2) Where any functions of the council of a county district or a county division are transferred under the preceding subsection to a county council the expenses incurred by the county council in discharging those functions shall, except in so far as they may be met by any grant made by the county council, be a debt due from the council in default to the county council, and shall be defrayed as general expenses of the council in default or as special expenses of such council or partly as such general expenses and partly as such special expenses as the county council may direct

PART XIII —LEGAL PROCEDURE

133. (1) Where any matter is by this Ordinance directed to be determined by arbitration, such matter shall, except as may be otherwise expressly provided, be determined by arbitration in accordance with the provisions of the Arbitration Ordinance

Arbitration
Cap 22

134. Every person who is guilty of an offence against the provisions of this Ordinance shall, for every such offence, be liable, on conviction therefor, to the penalty expressly prescribed by this Ordinance, or, if no such penalty be prescribed, to a fine not exceeding fifty pounds

General
penalties

135. All fines, penalties or other moneys payable in respect of any offence against the provisions of this Ordinance may be recovered before any court of competent jurisdiction

Recovery of
penalties

136. Save as in this Ordinance otherwise expressly provided, where any fine has been imposed under the provisions of this Ordinance, and the person convicted does not forthwith pay the same, the court imposing the fine may order that such person be imprisoned for a term not exceeding one month if the fine does not exceed ten pounds, or for a term not exceeding three months if the fine exceeds ten pounds

Default in
payment of
fines

137. The clerk or any other person, authorized in that behalf by a council, may prosecute, in subordinate courts, for all offences against this Ordinance, and the provisions of any law in force in the Colony relating to prosecutions by private persons shall apply to all such prosecutions

Conduct of
prosecutions

138. Any police officer may arrest without warrant any person who commits any offence against the provisions of this Ordinance, and any officer of the council, in uniform or wearing a visible badge of office and authorized in that behalf, in writing by a council may arrest, without warrant, any person who in his presence commits any such offence and may detain such person until he can be delivered into the custody of a police officer to be dealt with according to law

Powers of
arrest

Provided that no person shall be arrested or detained without a warrant unless reasonable grounds exist for believing that, except by the arrest of such person, he may not be found or made answerable to justice without delay, trouble or expense

139. When any matter or thing is, under the provisions of this Ordinance, or by any order or notice made and published thereunder, directed to be, or prohibited from being, done, or where any authority is, under the provisions of this 5 Ordinance, given to any person to direct to do or prohibit from doing any matter or thing, and such act so directed to be done remains undone or such act so prohibited from being done is done, then in every such case every person offending against such direction or prohibition shall be deemed to be 10 guilty of an offence against this Ordinance

140. The books and registers of any council and any extracts therefrom certified by the clerk or other officer authorized in that behalf by such council shall, in any proceedings for the recovery of any rates or charges for any service, 15 be prima facie evidence of the amounts so due

141. If any offence against any of the provisions of this Ordinance is committed by a company or partnership, every director, manager, secretary or person having the management or control in the Colony of the business or property of 20 the company, and every such person and each partner in the case of a partnership, shall be responsible for such offence, and shall be liable on conviction therefor, to the punishment prescribed for such contravention

Provided that nothing in this section contained shall 25 exempt from liability any other person guilty of any such offence

142. Any action against a council shall be brought within twelve months from the date upon which the cause of such action arose, and all such costs, charges and expenses as the 30 council may be put to or may become chargeable with, by reason of the prosecution or defence of any such action or under the judgment of any court, shall be paid out of the county fund and shall be charged to the account of such council

35 PART XIV—MISCELLANEOUS

143. (1) Any officer of any council duly authorized in writing, may, at any reasonable time, enter into or upon any premises within the area of the council for the purpose of exercising any power of inspection, inquiry or execution of 40 works which is given to the council under the provisions of this Ordinance or of any by-law or regulation made thereunder

(2) The medical officer of health or any sanitary inspector may, when entering into or upon any premises in exercise of 45 the powers conferred by this section, be accompanied by a police officer

(3) Any by-law made by a council under the provisions of this Ordinance may confer on the officers of such council such powers of inspection, inquiry, and execution of works as may 50 be reasonably necessary for the proper carrying out or enforcement thereof

144. Every person shall, on conviction for any of the offences mentioned in paragraphs (a) to (d), inclusive, of this section, be liable to a fine not exceeding fifty pounds 55 or to imprisonment for a term not exceeding three months—

(a) any person who wilfully obstructs any officer of a council in the execution of his duty as such,

Persons
offending
against order
or notice to be
guilty of an
offence

Books of
councils as
evidence

Offences by
company or
partnership

Action against
a council

Obstructing
officers

(b) any occupier of premises who prevents the owner of such premises from complying with any of the requirements of a council,

5 (c) any occupier of premises who, on demand, refuses or wilfully omits to disclose or wilfully misstates the name of the owner of such premises,

10 (d) any person who refuses to answer to the best of his ability or knowingly makes false answers to inquiries made by the medical officer of health or any sanitary inspector specially authorized by him in writing for the purpose of discovering cases of any infectious disease or possible sources of infection of any such disease

145. Where the day or the last day on which anything is required or permitted by or in pursuance of this Ordinance to be done is a Sunday, a public holiday, or a day appointed for public thanksgiving or mourning, the requirement or permission shall be deemed to relate to the first day thereafter which is not one of the days before mentioned

Provisions as to Sundays, etc

20 **146.** Nothing in this Ordinance shall be deemed to override the provisions of the Public Health Ordinance

Saving of Public Health Ordinance

25 **147.** Nothing in this Ordinance contained and in particular no provision authorizing the alteration of the boundaries of the area of any local authority or authorizing the purchase of land by any local authority shall be deemed to override the provisions of the Kenya (Highlands) Order in Council or of the Kenya (Native Areas) Order in Council

Saving of Kenya (Highlands) Order in Council, 1939

148. The Member may make rules for the purpose of exercising adequate control over works carried out under the provisions of this Ordinance, the cost of which is met either wholly or partly from Government grant, and more especially in regard to the following—

Power to make rules

35 (1) providing for the making of investigations and surveys by officers in the service of the Government in connexion with such works,

(2) providing for the inspection of such works under construction, and defining the powers and duties of inspecting officers,

40 (3) providing for the adoption by councils of standardized designs and specifications for such works, and for materials used in the construction thereof,

(4) providing for the adoption by councils of standardized contract documents to be used in connexion with such works,

45 (5) providing for the methods to be adopted for the purchase by councils of goods and materials required for such works,

50 (6) sanctioning and giving binding effect to any scheme for the provision of hospitals or dispensaries, and generally for regulating the establishment of hospitals and dispensaries

MEMORANDUM OF OBJECTS AND REASONS

This Bill will provide for a new local government structure for the settled areas based broadly upon the county council "two tier" system of local government, which, apart from the large towns, is the local government system of England and Wales. There will, of course, be many departures in detail from the United Kingdom pattern to suit the circumstances of Kenya.

The Bill will enable any of the present District Councils, either separately or in combinations of two or more, to submit to the Member for Local Government schemes called "schemes of county administration" (*clause 3*). A scheme will constitute the district or districts, together with any townships or trading centres which may conveniently be administered with the district, an administrative county under the control of a county council, and will divide the county into areas called townships and urban and rural districts (*clause 4*). These will be under the control of second tier authorities collectively called in the Bill "county district councils". A scheme may, if desired, provide for an intermediate tier consisting of combinations of county districts, forming a county division under the control of a county divisional council. A municipal council or board may agree to the municipality becoming part of a county (*clause 5*). In such a case the council or board may retain their municipal status or they may become an urban district council. It is intended that no agreement with a municipal authority may subsequently be altered without their consent.

Not more than two-thirds of the members of a county council will be elected European councillors, the balance being made up of councillors nominated by the county districts or county divisions, as the case may be, a representative of the Government, representatives of any municipal interests, and not more than three councillors nominated by the Member. In addition, if a municipal council or board have agreed to the municipality becoming part of the county, there will also be such additional members representing that municipality as may have been provided for in the agreement. Special provision is made by the proviso to sub-paragraph (ii) of paragraph (c) of subsection (1) of section 4 whereby a scheme of county administration covering the present Nyanza District Council's area may also provide for elected Asian councillors.

All the members of a county district council will, in the case of a rural area, be elected European councillors, but county districts formed in townships or urban areas will have councils which are wholly or partly nominated and will include non-European members. The members of county divisional councils will be nominated by the county district councils in the division, and not more than three councillors appointed by the Member will be added (*clause 6*).

Provision is made for a scheme to be reviewed after it has been in operation for five years and thereafter every ten years. In addition, the county council may review their scheme at any time. Thus the county council are able at any time to suggest any alteration which circumstances have shown to be needed, except that provisions introduced by agreement with a municipal authority cannot, as already indicated, be altered without the consent of the municipal authority.

The two or, as the case may be, three tiers of local authorities which the Bill will create will be independent of each other in the administration of the functions entrusted to them, and it is desirable to emphasize that the second tier authorities are in no way subordinate to or subject to the control of the county councils. At the same time, as many links and opportunities for co-operation and co-ordination have been provided as possible. Thus county councils may nominate members of county district councils, and vice versa (*clause 4*), it is contemplated that in most cases the county district councils within a county will share with the county council a common staff (*clause 38*), the county finance committee are empowered to advise the county district councils on their finances (*clause 35*), the county council have to submit the estimates of all the local authorities in the county to the Commissioner for the approval of the Member (*clause 89*), the county council have to report annually to the Commissioner on the affairs of the administrative county (*clause 126*), the county council will be entitled to make grants to the county district councils (*clause 114*), and finally, although county district councils will have full control of their own finances, there will be one set of accounts for the whole of the county (*clause 120*), one county fund (*clause 91*) and one county rate (*clause 93*).

County councils will assume the responsibilities of the district councils they supersede for "district" roads (*clauses 44—49*), and may

also have delegated to them responsibility for main roads (*clause 50*) They may assume public health, planning, and some educational functions if they choose (*clauses 51—53*), and they may perform a number of miscellaneous powers, many of which are already exercised by district councils (*clause 54*) County district councils may assume the majority of the powers at present available to municipal councils or boards, so far as such powers are not conferred upon county councils (*clauses 57—82*) Both types of local authority may make by-laws regulating matters within the scope of their functions (*clauses 55 and 77 and Part VI*)

County councils are required to levy rates to meet all liabilities for the discharge of which provision is not otherwise made (*clause 93*) A rate will comprise the amount required by the county council and the amount required by the council of the county district in which the rateable property is situated A number of alternative methods of rating are laid down in the Bill (*clause 94*) The list is intended to give as wide a choice of methods as possible

The Government grants proposed in the Bill (*clauses 111 and 113*) are similar to the grants now paid to municipal authorities except that the grants from the Road Fund are not limited to 50 per cent of expenditure *Clause 112* continues a modest revenue at present payable to district councils

It is not possible to estimate what additional expenditure of public moneys will be incurred if the provisions of this Bill become law

Nairobi,
23rd January, 1952

JOHN WHYATT,
Attorney General