

THE
SPECIAL
OFFICIAL GAZETTE
OF THE

EAST AFRICA AND UGANDA
PROTECTORATES.

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and the Commissioner of Uganda.

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The following Bills were read a first time at the
Meeting of the Legislative Council held at
Nairobi on the 17th August 1907.

C O N T E N T S .

1. A Bill for the abolition of the Legal Status of Slavery throughout the East Africa Protectorate.
2. A Bill for Regulating the Sale of Wines, Spirits and Malt Liquors.
3. A Bill to authorise the issuing of Licences to Ostrich Farmers for the collecting of the eggs of wild ostriches and for the capturing of young wild ostriches.
4. A Bill to make further provision for preventing the spread of Diseases among Animals.
5. A Bill to make provision for the Registration of brands for Stock and for the compulsory branding of cattle and ostriches by owners.
6. A Bill to amend the East Africa Police Ordinance, 1906.
7. A Bill to amend the Master and Servants Ordinance, 1906.
8. A Bill to define the powers of the High Court and to constitute and define the powers of Courts subordinate thereto.
9. A Bill to make better provision for levying of Customs Duties in the East Africa Protectorate and for the organization and management of the Customs Department.
10. A Bill to provide for the establishing of Municipal Councils in the certain Townships in this Protectorate.

EAST AFRICA PROTECTORATE.

A Bill

For the abolition of the Legal Status of Slavery throughout the East Africa Protectorate.

WHEREAS it has been determined to abolish the Legal Status of Slavery throughout the Protectorate. Be it enacted by the Governor of the East Africa Protectorate with the advice and consent of the Legislative Council thereof :—

Short title.

The Legal Status
of Slavery
absolutely abolished.

No rights over the body, service or property of a slave to be enforceable but Master may claim compensation for damages actually suffered by reason of the provisions of this Ordinance. Such claims to be made to the District Court.

The Court must post notice of every claim for a period of not less than 28 days before the claim is heard.

The Court to take the evidence of the claimant and persons opposing the claims.

The Court to assess compensation and report to the Treasurer.

The Court shall dismiss any claim which in its opinion is not well founded.

1. This Ordinance may be cited as the abolition of the Legal Status of Slavery Ordinance 1907.

2. From and after the 1st day of October 1907 the Legal Status of Slavery shall be and remain abolished throughout the Protectorate and all claims of whatever description made before any Court in the Protectorate in respect of the alleged relations of Master and Slave shall be referred to the District Court or to the Special Court as the case may be within the jurisdiction of which the case may arise, and shall be cognizable by that Court alone.

3. From and after the 1st day of October 1907 a District Court or Special Court shall decline to enforce any rights claimed over the body, service, or property of any person on the ground that such person is a slave, but whenever any person shall claim that he is lawfully possessed of such rights in accordance with the law existing in the Protectorate immediately before the making of this Ordinance and has by this Ordinance been deprived of them, and has suffered loss by such deprivation than the Court shall serve or cause to be served upon the person making such claim a notice requiring him to appear at the Court on a date to be stated in such notice but not within 28 days of the date of such notice, to prove his claim.

4. Whenever a claim shall be made under the preceding Section the Court shall cause a notice written in Swahili and Arabic to be posted outside the Court building stating the name of the claimant, the name of the alleged slave in respect of whom the claim is made and the day on which the claim will be heard, and calling upon any person or persons who may wish to oppose the claim to appear at the Court on the said day. Such notice shall be posted as aforesaid for not less than 28 days before the day fixed for the hearing of the claim.

5. On the day appointed for the hearing of any claim under this Ordinance or on any day to which the hearing may be adjourned the Court shall take the evidence of the claimant, if he appears, and of his witnesses (if any) and shall hear any person or persons who may appear to oppose the claim and take his or their evidence and the evidence of his or their witnesses (if any).

6. If after taking all the evidence produced by the claimant and the opponents (if any) to the claim the Court is satisfied that a claimant was lawfully possessed of the rights claimed and has suffered loss by the deprivation of those rights occasioned by this Ordinance it shall give judgment accordingly and shall report to the Treasurer that it deems the claimant entitled in consideration of the loss of such right and damage resulting therefrom to such pecuniary compensation as the Court may estimate to be a just and reasonable equivalent for their value, and the Treasurer shall save as hereinafter provided then pay to the claimant the sum estimated by such Court.

In estimating the amount of compensation to be awarded the Court shall include the Court costs paid by the claimant in those proceedings.

7. If the claimant shall fail to satisfy the Court that his claim is well founded the Court shall dismiss the claim and shall order the claimant to pay the costs of any person or persons who may have successfully opposed the

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8. With every report sent to Treasurer under Sections 6 and 7 of this Ordinance the Court shall forward a copy of the evidence taken in the matter of the claim and when procurable a description of the alleged slave in respect of whom the rights were claimed.

A copy of the evidence to be forwarded to the Treasurer.

9. (1) Any person who shall claim any right over the body, service, or property of any person on the ground that such person is his slave, knowing or having reason to believe that such person is not his slave shall be guilty of any offence and shall on conviction be liable to a fine not exceeding Rupees one thousand or to imprisonment of either description for a term which may extend to one year, or to both.

Penalty for making fraudulent claim.

(2) Any person who shall knowingly abet within the meaning of the Indian Penal Code any person in the commission of an offence under the preceding Sub-Section shall be guilty of an offence and shall be liable to be punished with the punishment provided by that Sub-Section.

Penalty for abetment of an offence under preceding sub-section.

10. The Treasurer shall not pay compensation under this Ordinance in any of the following cases:—

When the Treasurer shall not pay the compensation assessed.

- (1) When the person to whom compensation is payable has been convicted of an offence under the preceding Section.
- (2) When compensation for the loss of rights in respect of the body, service, or property of a slave has already been awarded and paid to some other person who has satisfied a Court that he is the owner of such slave.
- (3) When he shall receive notice from any person that he has entered an appeal in the High Court against the decision and award of the District or Special Court and until he shall be notified that such appeal has been dismissed.
- (4) When it shall appear that compensation has been already paid under this Ordinance to the person in whose favour the award has been made in respect of the deprivation of any rights over the body, service, or property of the same slave.

11. Any person making a claim under any of the provisions of this Ordinance and any person prejudiced by the decision of any District or Special Court in any matter arising under this Ordinance, whether he shall have been a person opposing a claim in the said Court or not shall have the right to appeal from the decision of the District or Special Court to the High Court provided that in the latter case such appeal shall be entered before the compensation has been paid under this Ordinance. *such appeal to be entered within 45 days of the decision.*

Appeals to the High Court.

12. (1) From and after the first day of October 1907 a District or Special Court shall not enforce any right claimed by a slave against his Master on the ground that he is a slave: Provided that whenever any slave shall complain to a District or Special Court that he is unable by reason of age, ill-health or other infirmity to earn a living and that his Master has refused to give him such support as he would be entitled by law to demand of him but for ~~him~~ provisions of this Ordinance the Court shall summon or cause to be summoned to the Court the alleged Master and shall after taking the evidence of the complainant and the alleged Master if he appears, and of such other person who may be called to give evidence in the matter, if satisfied that the complainant would but for the provisions of this Ordinance be entitled by law to be supported by the said Master and that the Master has refused to give him such support award to the complainant such pecuniary compensation as may be a just and reasonable equivalent for the value of the right of which he has been deprived by this Ordinance.

Compensation may be paid to a sick or aged slave for damage actually suffered by reason of the provision of this Ordinance.

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(2) The compensation awarded under the preceding Sub-Section may be in the nature of a lump sum or a monthly or yearly payment.

(3) The Court shall send to the Treasurer a report of every claim made under Sub-Section 1 of this Section, together with a copy of the evidence and of judgment of the Court and the Treasurer shall then pay to the complainant the compensation (if any)

allowance of the local

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Compensation awarded to a slave under the preceding Section to be a charge on any compensation which may be awarded under this Ordinance to the Master of such slave

No compensation to be paid to a Master in respect of a slave who shall have received compensation under this Ordinance.

The Treasurer to keep a record of reports, judgments, etc., under this Ordinance.

Saving clause as regards concubines.

Repeal of laws.

Exemption.

13. Any compensation awarded to a slave under the preceding Section shall be a first charge on the compensation which may at any time be awarded, under this Ordinance in respect of any other slaves to the Master of such slave and the Treasurer shall deduct a sum sufficient to pay that first mentioned compensation from any monies which may become due to such Master under this Ordinance.

14. A Master shall not be entitle to any compensation for the loss of any right over the body, service, or property of any slave to whom any compensation shall have been awarded under this Ordinance.

15. The Treasurer shall keep or cause to be kept a full and proper record of all reports, judgments and awards under this Ordinance sent to him, and a record shewing the amount of compensation paid, the name of person to whom it has been paid and of the person in respect of whom or the property of whom the compensation was awarded.

16. Concubines shall not be deemed to be slaves for the purpose of this Ordinance and nothing in this Ordinance shall alter the law relating to be the rights and duties of concubines in force in the Protectorate at the date of this Ordinance. Provided however that in any case in which a concubine shall petition a District Court or Special Court for a dissolution of the relations existing between herself and her Master on the grounds of cruelty, such Court may, if the alleged cruelty shall have been proved to its satisfaction, grant such dissolution and thereupon the Master shall cease to have any rights over the body, service, or property of such concubine, but no compensation shall be paid to such Master for the loss of such rights.

A Bill

For Regulating the Sale of Wines, Spirits and Malt Liquors.

WHEREAS it is desirable to make further and better provisions for regulating the sale of wines, spirituous and malt liquors.

Be it enacted by the Governor of the East Africa Protectorate with the advice and consent of the Legislative Council thereof as follows:—

1. The laws mentioned in the first Schedule to this Ordinance shall be and the same are hereby repealed to the extent mentioned in the said Schedule except as to the offences committed against or proceedings commenced or pending under any of such repealed laws and except as to subsisting licences which shall during the interval between the coming into operation of this Ordinance and the expiration of such licences respectively be deemed and judged of in respect of the sales and dealings which they shall be held to authorise and the liabilities which the holders thereof shall incur as if the said repealed laws still remained in force.

2. Nothing in this Ordinance shall apply :—

- (1) To any Medical Practitioner, Apothecary, Chemist or Druggist who may administer or sell for purely medical purposes any *bona fide* medicine containing "intoxicating liquor" as herein-after defined.
- (2) To any person selling any spirituous or distilled perfume, or perfumery.
- (3) To any person selling medicated or methylated spirits to persons other than natives.
- (4) To any auctioneer selling by auction liquor in quantities not less than such as are authorised to be sold under a wholesale licence belonging to a licence dealer upon the licensed premises of such dealer.
- (5) To the sale to persons other than natives by a deceased person's legal personal representative of any liquor forming part of the

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(6) To any officer acting under the authority of any Judge or Magistrate or to any officer of Customs in the exercise or discharge of his duties.

3. In this Ordinance if not inconsistent with the context :—

Definition of terms.

“Intoxicating liquor” or “liquor” means any spirit, wine, ale, beer, porter, cider, perry, hop-beer, and any liquor containing more than two percent of alcohol and any other liquor which the Governor may from time to time declare by Proclamation in the Gazette to be included in this definition but does not include tembo or other liquors habitually drawn or manufactured by natives.

“Spirituos liquor” means liquor manufactured by any process of distillation.

“Methylated spirits” means spirit mixed with some substance in such manner and quantity as to the satisfaction of the Chief of Customs to render the mixture unfit for use as a beverage.

“Licence” means any licence for the sale or manufacture of liquor granted under this Ordinance or any law hereafter to be in force relating to the sale of such liquor.

“New licence” means a licence applied for in respect of premises not licensed for the sale of intoxicating liquor at the date of application therefor.

“Native” means a person of African extraction not being an immigrant from a place where the sale of liquor to such person is permitted.

4. No person shall sell any intoxicating liquor or manufacture any malt liquor in the Protectorate without a licence.

The sale or manu-facture liquor without a licensee prohibited.

5. It shall not be lawful for any person within the Protectorate to distil wine or spirituous liquors from any article.

Prohibition of distilling.

Any person contravening the provisions of this Section shall be liable on conviction to the penalties provided in Section 43 of this Ordinance and all the liquor and all the machinery used for such distilling or manufacture found on his premises may be forfeited.

6. The provisions of the last preceding Section shall not apply to the owner or occupier of land distilling wine or spirituous liquor from the grapes or fruits grown on such land for his own use.

Exemption from prohibition of distilling.

Licences.

7. The licences authorised to be granted under this Ordinance shall be issued by the District Commissioners in the several Districts of this Protectorate who shall in regard to the issue of such licences and any privileges allowed or granted to the holders thereof to be noted or endorsed upon any licence conform to the provisions of this Ordinance and any rules to be made by the Governor relating to the performance of their duties under this Ordinance.

Issue of licences.

8. For or in respect of licences granted or renewed or transfers or removals or privileges allowed to the holders of licences under and in terms of this Ordinance there shall be payable and paid to the District Officer such sums of money as are prescribed in the second Schedule hereto.

Fees to be paid in respect of licences.

9. Licences under this Ordinance may be granted of the several descriptions following, that is to say :—

Description of licences.

- (1) Wholesale Liquor Licences.
- (2) Hotel Liquor Licences.
- (3) Restaurant or Café Liquor Licences.
- (4) Malt Liquor Licences.
- (5) Wine Merchants and Grocers Liquor Licences.
- (6) General Retail Liquor Licences.
- (7) Club Liquor Licences.
- (8) Railway Station Liquor Licences.
- (9) Theatre Liquor Licences.
- (10) Temporary Liquor Licences.
- (11) Brewers Liquor Licences.
- (12) Steam ship Liquor Licences.
- (13) Naval Canteen Liquor Licences.

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

Definition of different terms.

- (1) (a) A “Wholesale Liquor Licence” shall authorise the holder to

Wholesale Licences.

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bottles or 24 reputed pint bottles to be delivered at one time to one person to be consumed or drank elsewhere than on the premises.

- (b) Such licence may be issued to an individual or to a company or partnership when two or more persons carrying on business as a company or partnership in the same premises.
- (c) The holder of a wholesale liquor licence shall be obliged to keep proper books showing the following particulars of all sales of liquor by him, that is to say :—
(1) The name and address of the purchaser.
(2) The quantity, description and price of liquor sold.
- (d) The books mentioned in the last preceding paragraph shall at all reasonable times be open to inspection by any Police Officer not below the rank of Inspector ; and any holder of licence refusing to allow such Officer to inspect such books shall for each offence be liable to a fine not exceeding Rupees seven hundred and fifty.
- (2) (a) An " Hotel Liquor Licence " shall authorise the sale of liquor by retail to persons sleeping, boarding or taking meals on the premises of the hotel to be consumed therein on every day between such hours as may be fixed by the Licensing Court in respect of each licence.
- (b) No such licence shall be granted unless it is proved to the satisfaction of the Provincial Commissioner that the premises afford reasonable accommodation for visitors and are provided with proper sanitary arrangements.
- (c) Nothing in this Section contained shall prevent the granting or renewal of a general retail liquor licence as well as an hotel licence to the keeper of an hotel.
- (3) A " Restaurant " or " Café Liquor Licence " shall authorise the sale of liquor by retail to persons taking meals in the restaurant or Café in respect of which such licence has been granted to be drunk at such meals on any day during such hours as the Licensing Court may fix in respect of each licence not being earlier than ten o'clock in the morning or later than 9 o'clock at night.
- (4) A " Malt Liquor Licence " shall authorise the sale of ale, beer, porter, cider, perry and hop-beer only in quantities less than one reputed quart bottle to be consumed on the premises specified in the licence during such hours as may be fixed by the Licensing Court in respect of each licence not being earlier than 8 o'clock in the morning nor later than 9 o'clock at night on any day other than Sunday, Christmas Day and Good Friday.
- (5) A " Wine Merchants and Grocers Licence " shall authorise the sale on the premises therein specified and not to be drunk thereon of not less than one reputed pint bottle or not less than one flask or bottle in its original state of importation on any day other than Sunday, Christmas Day and Good Friday, between such hours as may be fixed by the Licensing Court in respect of each licence not being earlier than 8 o'clock in the morning nor later than 8 o'clock at night.
- (6) A " General Retail Liquor Licence " shall authorise the sale of liquors in any quantities on the premises therein specified to be consumed on or off the premises on any day other than Sunday, Christmas Day and Good Friday between such hours as may be fixed by the Licensing Court in respect of each licence not being earlier than 8 o'clock in the morning or later than 10 o'clock at night.
- (7) (a) A " Club Liquor Licence " shall authorise the sale and supply of liquor in any quantity to the members of the club at any time for consumption on the premises therein specified.

Hotel Liquor
Licence.

Restaurant or Café
Licence.

Malt Liquor Licence.

Wine Merchants
and Grocers
Licences.

General Retail
Liquor Licence.

Club Liquor Licence.

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shall be considered a club where other than members or the invited guests of members are allowed entry or accommodation or where other than members are charged or permitted to pay for any refreshment or accommodation they may obtain therein.

- (b) Every Club Licence shall be issued to the Proprietor or Manager of the club.

No transfer of any such licence shall be necessary upon any change of any such Proprietor or Manager but the person for the time being holding any such office shall be entitled to the privileges granted by the licence and subject to the duties and liabilities imposed upon the holder thereof.

- (c) No Club Liquor Licence shall be issued or renewed under this Ordinance, unless the applicant shall produce a certificate from the Provincial Commissioner of the Province which shall state that it has been made to appear to his satisfaction that the club mentioned therein is a *bond fide* club and is a proper club to be granted a licence. A copy of the rules of the club certified by the Chairman or Secretary thereof must be deposited with the Provincial Commissioner at least four days before the licence is granted.

- (d) The distribution of liquor the property of the members of a *bond fide* club among the members of such club for consumption by such members of their guests on the club premises shall be lawful without a licence, anything in this Ordinance to the contrary notwithstanding.

- (8) A "Railway Station Liquor Licence" shall authorise the sale of liquor by retail at any Railway Station, refreshment room named in such licence on any day and between such hours as the Licensing Court may fix to passengers travelling by train or lawfully using the railway premises for railway purposes and to persons taking meals at such refreshment room and during such meals subject to the provisions that the applicant must produce a written recommendation from the Manager of the Railway that such licence be granted or renewed him.

Railway Station
Liquor Licence.

- (9) A "Theatre Liquor Licence" shall authorise the holder thereof to sell by retail liquor in any building portion of which is used as a place of entertainment during such hours as any entertainment in such building continues on any day excepting Sunday, Christmas Day and Good Friday to be consumed on the premises.

Theatre Liquor
Licence.

- (10) (a) A "Temporary Liquor Licence" shall authorise the holder being also a holder of a general retail liquor licence to sell liquor by retail at any place of recreation or public amusement for the period during which such recreation or amusement continues excluding Sunday, Christmas Day and Good Friday subject to such restrictions and conditions as the District Commissioner authorising the issue of the same shall think fit.

Temporary Liquor
Licence.

- (b) No certificate from a licensing Court shall be required in respect of the granting of such a licence.

- (c) The licence shall specify the name of the applicant, the place for which such temporary licence is to be granted, the number of days and the hours during which the sale thereunder is to be authorised and such restrictions and conditions as the District Commissioner may impose; the number of days mentioned in such licence shall not exceed three.

- (d) The Officer issuing the licence shall give notice to the Police Officer in charge of the District in which the place for which such licence has been granted is situate, of any "Temporary Liquor Licence" and the particulars thereof.

- (11) A "Brewers Liquor Licence" shall authorise the holder thereof to manufacture malt liquors and to sell such liquor by wholesale.

Brewers Liquor
Licence.

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Steam Ship Liquor
Licence.

- (12) (a) A "Steam Ship Liquor Licence" shall authorise the holder to sell any liquor on board a steam ship plying on Lake Victoria.
- (b) A steam ship licence shall specify the steam ship in respect of which it is issued and shall be available only for that steamship.
- (c) No liquor shall be sold under such licence when the steamship in respect of which it is issued is in port.
- (13) A "Naval Canteen Liquor Licence" shall authorise the sale of liquor to Members of His Majesty's Navy only upon premises set apart for a Naval Canteen in the District of Mombasa by the Senior Naval Officer in the Port of Mombasa and specified in such licence.

Licensing Court.

Constitution of
Licensing Court.

11. A Court for the consideration and determination of applications for or relating to the granting removal or transfer of licences for the sale of intoxicating liquor and for the manufacture of malt liquor is hereby constituted and shall be held in and for each Province of the Protectorate.

Such Court shall consist of.

- (a) In the Province of Seyidie.
- (1) The Provincial Commissioner or in the absence of the Provincial Commissioner the District Commissioner of Mombasa.
- (2) The Town Magistrate of Mombasa.
- (3) Such Officials and non-officials (not being more than six or less than two in number) residing in the Province as the Governor may appoint.
- (b) In the Province of Ukamba.
- (1) The Provincial Commissioner or in the absence of the Provincial Commissioner the District Commissioner of Nairobi.
- (2) The Town Magistrate of Nairobi.
- (3) Such Officials and non-officials (not being more than six or less than two in number) residing in the Province as the Governor may appoint.
- (c) In the Province of Kisumu.
- (1) The Provincial Commissioner and in his absence the District Commissioner at Kisumu.
- (2) The Town Magistrate at Kisumu.
- (3) Such Official and non-official members (not being more than six or less than two) residing in the Province as the Governor may appoint.
- (d) In the Naivasha Province.
- (1) The Provincial Commissioner or in his absence the District Commissioner at Naivasha.
- (2) Such Officials and non-officials (not being more than six or less than two in number) residing in the Province as the Governor may appoint.
- (e) In the Province of Kenya, Tanaland and Jubaland.
- (1) The Provincial Commissioners in their respective Provinces and in their absence such administrative officers as may be appointed by the Governor on that behalf.

Disqualification of
Members of Court.

12. The following persons shall be disqualified for appointment and if appointed shall not continue as members of a licensing Court that is to say:—

- (1) The holder of any licence for the sale or manufacture of liquor.
- (2) Any brewer.
- (3) Any person interested or concerned in any partnership or company with any holder of such licence as aforesaid or with any brewer.
- (4) Any paid Officer or paid agent of any co-partnership or society interested in the sale or the prevention of the sale of intoxicating liquor.
- (5) Any person employed directly or indirectly as an Agent for the purpose of making application for a licence for any other person; or any partner of any person so employed as an Agent.
- (6) Any person being the agent or manager of or a partner in any

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- (7) An unrehabilitated insolvent.
- (8) Any person who in the Protectorate or elsewhere has had a sentence of imprisonment without the option of a fine imposed upon him for the commission of some crime or offence not of a political character and has not received a full pardon therefor.
- Any person so disqualified acting or sitting as a member of a Licensing Court shall be liable to a penalty not exceeding Rupees ten thousand and in default of payment to imprisonment with or without hard labour for a period not exceeding three years or with imprisonment for a period not exceeding three years with or without hard labour.
- The fact that a person is a member of a club holding a club Liquor Licence shall not in itself disqualify him from being a member of Licensing Court.

13. Every official or non-official appointed by the Governor a member of a Licensing Court shall be appointed annually, or on the occurrence of any vacancy, and shall hold office until the thirty first day of December in the year in which he is appointed unless his office shall be vacated by death, resignation or ceasing to reside in the district. The first members of a Licensing Court appointed under this Ordinance shall hold office until the thirty first day of December 1908.

14. A meeting of the Licensing Court open to the public shall be held in each Province and at such place or places as the Governor may appoint on the second Monday in the months of June and December or as soon as possible thereafter for the purpose of taking into consideration all applications for the granting, renewal, transfer, or removal of any licence for or in respect of which proper notice shall have been given.

15. At the first meeting of a Licensing Court held under this Ordinance it shall not be competent for any person to apply for the renewal of any licence previously held by him; but the said Court shall hear and determine applications only for the granting of new licences and every application for the renewal of a licence shall be treated as an application for a new licence.

16. In the Provinces of Seyidie, Ukamba, Kisumu, and Naivasha three members of the Licensing Court shall form a quorum for the despatch of business. If a quorum be not present on the day appointed as advertised or at any adjournment thereof the said meeting shall be adjourned from day to day until a quorum can be present to hold such meeting.

17. In the Provinces mentioned in the preceding section the Provincial Commissioner or in his absence the District Commissioner shall preside at every meeting of the Licensing Court; in case neither of those Officers are present the members present shall elect one of their number to preside. The decision of the majority of members present shall be the decision of the Court and the Officer or person presiding shall in case of an equality of votes have a casting as well as deliberate vote.

18. It shall be lawful for such Licensing Court to adjourn meeting from time to time as the Court may think fit during the period of one month next after their first meeting, but no longer.

19. The person presiding at any meeting of the Licensing Court shall within seven days after such meeting or any adjournment thereof is concluded cause to be forwarded to the District Commissioner a list signed by him specifying the names and places of residence of all persons to whom certificates have been granted by the Court for obtaining or renewing licences and the nature of the licences authorised, granted or renewed in their respective Districts; and shall forward to the Inspector General of Police a copy of such returns and a return showing:—

- (1) A return of the number of the licences existing immediately before the sitting of the Court.
- (2) A return of the number of licences authorised to be renewed.
- (3) A return of the number of licences transferred to other premises.
- (4) A return of the number of licences authorised to be granted.
- (5) A return of the number of licences refused.
20. (1) The Licensing Court may anything to the contrary notwithstanding in this Ordinance when it shall be satisfied of its being for the convenience of the public grant to the holder of any restaur-

Appointment of members.

When Meetings to be held.

No application for the renewal of licences to be entertained at the first hearing.

Quorum.

The Provincial Commissioner or District Commissioner to preside at meetings.

Returns of licences to be forwarded to District Commissioner & to Inspector General of Police.

Granting of midnight privileges.

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twelve o'clock at night or may grant to the holder of a general retail liquor licence the right to sell liquor under his licence on Sundays, Christmas Day, Good Friday during such hours not being more than four as may be fixed by the Licensing Court.

Such privileges shall be called Midnight Privileges and Sunday Privileges respectively and there shall be paid in respect of each such privilege an amount equal to one quarter of the annual amount chargeable in respect of such licences.

(2) Such privileges shall be granted only for a period of six months but may be renewed at subsequent sittings of the Licensing Courts for a similar period; and may on the report of the Inspector General of Police or senior Police Officer in the District be withdrawn at any time by the Provincial Commissioner; provided always that on no such withdrawal the holder of such privileges shall be entitled to proportionate refund of the amount paid by him in respect thereof.

21. (1) If through any accident or omission anything required by this Ordinance to be done is omitted to be done or is not done within the time fixed the Governor may order all such steps to be taken as may be necessary to rectify any error or omission and may validate anything which may have been irregularly done in matter or form so that the intent and purpose of the Ordinance may have effect. The Governor may also authorise the holding of a special meeting of any Licensing Court in the event of any emergency requiring that a special meeting should be held or for the purpose of hearing an application for an Hotel Liquor Licence in respect of premises which were not completed or ready for occupation prior to the last meeting of the Licensing Court and which are valued at an amount exceeding Rupees thirty seven thousand and five hundred.
- (2) Any licence granted at any special meeting of the Licensing Court shall continue in force only until the close of its next usual meeting; and the amount payable on such licence shall be proportionate to the period for which it is in force.

22. When any Licensing Court shall deem it necessary to take evidence respecting any question to be determined by such Court such evidence shall be given on oath (which oath the person presiding is hereby authorised to administer) and shall be filed on record in the office of the Provincial Commissioner.

23. If any person shall upon any examination on oath before any Licensing Court wilfully and corruptly give false evidence such person shall be deemed and taken to be guilty of perjury.

Application for and Relating to Licences.

When application
for licences to be
made.

24. Any person desiring to obtain a licence for the sale of liquor under this Ordinance (save and except where otherwise provided for) or the renewal of any such licence; or the removal of any such licence from the licensed premises to any other premises in the same district; or the transfer of a licence by the holder thereof to any other person may make application in writing to the Provincial Commissioner of the Province at least six weeks before the annual meeting setting forth his full name and address; the full names of his partners (if any); the nature or description of the licence required to be obtained, renewed or transferred as the case may be; the number or name (if any) of the house and the street or road where the business is intended to be or is carried on or in the case of the transfer of a licence the name of the person to whom the same is desired to be transferred; provided always that in case any application as aforesaid shall through inadvertence not be made in due time but shall be made within ten days thereafter the Provincial Commissioner may if he sees fit accept the same for consideration thereof by the Licensing Court at the next meeting or any adjournment thereof upon condition of payment of the sum of Rupees seventy five and upon such terms as to notice as the Provincial Commissioner may prescribe.

25. (1) The Provincial Commissioner receiving any such application as in the last preceding section mentioned shall cause a notice to be posted in some conspicuous place at or in his office containing

- respect of which the application is made, the day on which and the place where the Provincial Commissioner will sit for hearing such application.
- (2) The Provincial Commissioner shall as soon as possible on receiving such application cause the name of such applicant as aforesaid to be sent to the Inspector General of Police whose duty it shall be before the hearing of the application to report as fully as possible to the Provincial Commissioner on all matters which would affect the decision of the Provincial Commissioner in respect of such application as aforesaid.
 - (3) The notice mentioned in Sub-Section (1) of this Section shall be posted and published thirty days at least before the sitting of the said Court and a copy thereof shall be sent by post or otherwise to every member constituting such Court; provided that no licence authorised to be granted by any such Court shall be capable of being questioned by reason that any such notice was not duly posted published or sent as aforesaid.
 - (4) Every application shall bear a stamp of Rupees five to be affixed by the applicant and cancelled by the Provincial Commissioner.

26. In case the applicant for any licence shall die or shall become insolvent after applying for the grant or renewal of a licence on or before the day for considering such application, the Licensing Court may if it thinks fit grant a certificate for such licence to the widow of any deceased applicant or to the executor, administrator, receiver or trustee as the case may be of the estate of such applicant.

Death or insolvency of applicant.

Objections to Applications for Licences.

27. Any European member of the Police force or any person residing in a town or village wherein a licence is applied for may either individually or jointly with others object to the granting of such licence.

Who may object to issue of licences.

- (1) All objections to the granting or renewal of a licence shall be sent in writing to the Provincial Commissioner and where the objection is to the renewal of a licence notice thereof shall be given to the applicant personally or by means of a registered letter by the person or persons objecting at least five days before the hearing by the Licensing Court.
- (2) Every applicant for a new licence or for the renewal of an existing licence shall appear in person before the Licensing Court and may be called upon by him to answer on oath such questions as it may think necessary but it shall be lawful for the applicant to be represented at the hearing by a pleader.
- (3) Every objector to the granting or renewal of a licence may appear personally before the Licensing Court or be represented by a pleader.
- (4) The Council of any Municipality may authorise by writing under the hand of the Chairman thereof any person to appear before the Licensing Court for the purpose of objecting on behalf of the inhabitants to the granting or renewal of a licence in such Municipality.

29. The Licensing Court shall have the right to refuse to grant or renew a licence without giving any reasons and may grant a licence subject to such conditions as it may deem fit not repugnant to the provisions of this Ordinance which shall be embodied in the licence.

Court may refuse to grant licences without giving reasons.

- (1) The Licensing Court may of its own motion take notice of any matter or thing which in the opinion of the members thereof would be an objection to the granting or to the renewal, transfer or removal of a licence although no objection has been made thereto by any person.
- (2) In any case when the application is for the renewal, transfer or removal of a licence the Court shall inform the applicant of the objection and shall adjourn the further consideration of the application should the applicant so request for any period not less than four days in order that the person affected by such objection may have the opportunity of replying thereto.
- (3) The Court shall after such adjournment give notice in writing

And when there is no objection.

THE OFFICIAL GAZETTE

Extension of existing licences where renewal disallowed.

31. In case the renewal of a licence held by any person shall be refused by the Licensing Court and such person shall not during the preceding twelve months has been convicted of any offence against this or any other law relating to the sale of intoxicating liquors he shall upon payment of a proportional part of the cost of a licence such as that held by him be entitled to obtain a licence for a period of one month for the purpose of disposing of the liquor on his premises to commence from the day after the last day of the sitting of the Court by which the renewal of his licence has been refused.

Cases in which Licences cannot be granted renewed or transferred.

Reasons for refusal of licences.

32. It shall not be competent for the Licensing Court to grant a new licence or the renewal of an existing licence when any of the following objections is proved to its satisfaction :—

- (1) That in the case of a new licence the applicant is of bad fame or character or of drunken habits or has previously forfeited a licence or has been convicted at any time previous to his application of selling liquor without a licence.
- (2) That the premises in respect of which the application is made are out of repair or are not kept in a clean or wholesome state.
- (3) That in the case of a new licence the number of premises already licensed is sufficient for the requirements of the neighbourhood.
- (4) That in the case of a new licence the premises in respect of which the application is made are in the vicinity of a place of worship, school or native quarters or that the quiet of the place in which such premises are situated will be disturbed if such licence is granted.
- (5) That in the case of a renewal of licence the business is conducted in an improper manners and drunkenness permitted upon the premises or that the conditions upon which the licence was granted have not been satisfactorily fulfilled, or that a licenced place is no longer required in the neighbourhood.

Persons to whom a licence shall not be granted.

33. It shall not be competent for the Licensing Court to grant a new licence or the renewal of any existing one or the transfer of a licence to any person or to the wife of any person :—

- (1) Who here or elsewhere has had a sentence of imprisonment imposed upon him for the commission of some crime or offence not of a political character without the option of a fine and has not received a full pardon therefor.

(2) Not residing in this Protectorate.

(3) Who is under the age of 21 years.

(4) Who has at any time been convicted of selling liquor to a native unless he has received a pardon in respect of such conviction.

(5) Who is a native.

A licence issued or transferred to any person disqualified under this section shall be null and void and the premises in respect of which it is issued or transferred shall be closed for the sale of liquor by order of the Provincial Commissioner of the Province or the District Commissioner of the District in which they are situated.

Premises in Respect of which Licences may not be Granted.

No back or side entrances.

34. (1) No general retail liquor licence shall be granted in respect of any premises otherwise than premises having the bar entrance opening in or to-wards a public street or thoroughfare and with sufficient floor space for the accommodation of the public ; and the holder of any general retail licence who allows any customers to enter or leave the apartment intended for the sale of liquor by a back or side door or by a door communicating with a shop or business shall be deemed to be guilty of a contravention of this Ordinance and shall be liable on conviction to a penalty not exceeding Rupees three hundred and seventy five.

Transfer and Removal of Licence.

35. Any person being the holder of a licence (other than a temporary or club licence) who shall during the currency thereof sell or dispose of his business or the house or premises in respect of which such licence was granted may make application to the Provincial Commissioner for a temporary transfer of such licence to the purchaser of such business or to the purchaser or lessee of such premises as the case may be, and the Provincial Commissioner may if he thinks fit and upon payment by the applicant of the sum of fifteen rupees grant temporary transfer of such licence accordingly.

36. The holder of any licence (except a temporary licence) who may desire to remove his licence from the licensed premises to any other premises in the same Province may make application to the Provincial Commissioner of the Province in which the premises to which it is proposed to remove is situated to authorise such removal; and the Provincial Commissioner if satisfied that to wait for the next meeting of the Licensing Court would subject such holder to serious loss or inconvenience and if he thinks fit after hearing any objections to such removal may upon payment of Rupees fifteen authorise such removal after not less than 30 days' notice of such application shall have been affixed in a conspicuous place on the outside of the premises to which it is proposed to remove the licence.

37. Any person to whom a licence may be temporarily transferred and any person who may be authorised to remove his licence to other premises and any person to whom a provincial licence shall have been granted shall at the next licensing meeting apply for a licence as if he were not a licensed person.

38. In case the temporary transfer of a licence or the removal of a licence as aforesaid shall not be ratified by the Licensing Court at its next meeting upon consideration of the application then made in respect thereof such licence shall as to the person to whom the same was originally granted or in respect of the premises originally licensed be considered to be in the same position as if no such transfer or renewal has taken place and an application for the renewal of the licence by the transferee shall at the request of the transferor be deemed and taken to be an application by him for such renewal.

39. In case of the death of the holder of any licence the widow (if any) or the executor or the administrator of the deceased person or any person approved by the Provincial Commissioner and in case of insolvency the trustee or receiver of the estate of such insolvent may carry on the business until the next licensing meeting either personally or by agent approved of by any writing under the hand of the Provincial Commissioner without any formal transfer of the licence.

40. Any person to whom a licence may be temporarily transferred or who may be carrying on or conducting the business of licensed premises as the widow or executor or administrator of the estate of any deceased person or as the person approved by the Provincial Commissioner or as the trustee of any estate of any insolvent or as an approved agent of any such widow, executor, administrator or trustee or other person shall possess all the rights and be subject and liable to all the duties, obligations and penalties of the original holder of the licence.

41. In the case of the marriage of any woman who shall have obtained any licence such licence shall confer on her husband the same privileges and shall upon him the same duties, obligations and liabilities as if such licence had been granted to him originally.

Offences.

42. Every licensed person except the holder of a temporary licence or club liquor licence shall cause to be painted and fixed in front of the premises in respect of which his licence is granted in a conspicuous place and in letters two inches at least in length his name with the addition of the word "Licensed" and of words sufficient to express the business for which the licence has been granted. No person who is not licensed shall have any words or letters on his premises importing that he is licensed and no licensed person shall have any words or letters importing that he is licensed in any other way than that in which he is duly licensed. Any person guilty of a contravention of this section shall be liable to a penalty of seven hundred and fifty Rupees and in default of payment to imprisonment for a term not exceeding three months with or

Transfer of licence.

Removal of licensed premises.

Fresh application to be made.

Where transfer or removal not ratified.

Death of holder of licence.

Power and duties of representative of deceased.

Marriage of female licensee.

THE OFFICIAL GAZETTE

Natives not to be supplied.

43. (1) No person shall sell, barter, give or otherwise supply to any native any intoxicating liquor, provided always that liquor may be supplied to a native for medicinal purposes or sacramental use and in such case the burden of proof shall be upon the person who supplied it to show that the liquor was required for such purpose.

Every person contravening the provisions of this section shall on conviction be liable :—

- (a) For a first offence to imprisonment with or without hard labour for a period not less than six months and not exceeding twelve months and at the discretion of the Court in addition to such imprisonment to a fine not exceeding three thousand Rupees and in default of payment to imprisonment with or without hard labour for a further period not exceeding six months.
- (b) For a second offence to imprisonment with or without hard labour for a period not less than twelve months and not exceeding two years and in addition to such imprisonment at the discretion of the Court to a fine not exceeding six thousand Rupees and in default of payment to imprisonment with or without hard labour for a further period not exceeding twelve months.
- (c) For a third or any subsequent offence to imprisonment with or without hard labour for a period not less than two years and not exceeding three years and in addition to such imprisonment at the discretion of the Court to a fine not exceeding twelve thousand Rupees and in default of payment to imprisonment with or without hard labour for a further period not exceeding two years.

In any summons or charge for an offence against provision of this section it shall not be necessary to set out the names of the natives to whom intoxicating liquor is alleged to have been sold, bartered, given or otherwise supplied; but it shall be sufficient to allege that such sale, barter, gift or supply was effected to native; provided always that nothing in this paragraph contained shall render it unnecessary to set out accurately in such charge all other material particulars of the charge.

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

Persons prohibited from selling liquor.

44. No holder of any liquor licence shall employ a person under the age of sixteen, person convicted of any offence under this Ordinance or native to sell or in any way dispose of intoxicating liquor. Any person contravening the provisions of this section shall be liable to a fine not exceeding seven hundred and fifty Rupees and in default of payment to imprisonment not exceeding three months.

45. The holder of any hotel liquor licence, granted on condition that he will provide accommodation to visitors, who shall fail or refuse except for some sufficient reason to the satisfaction of the Magistrate to supply any visitor with Lodging, meals or accommodation, shall for each offence be liable to a fine not exceeding one hundred and fifty Rupees and in default of payment to imprisonment for a term not exceeding one month with or without hard labour.

46. No native shall obtain by purchase or barter or be in possession of any intoxicating liquor.

Any native contravening the provisions of this section shall on conviction be liable to be imprisoned with or without hard labour for a period not exceeding three months.

47. If in any proceedings under sections 43, 44 or 46 there shall be any question as to whether any person is or is not a native it shall be sufficient for the Court to be satisfied that such person is a person of African ex-

Native not to obtain liquor.

Penalty.

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

THE OFFICIAL GAZETTE

48. The holder of any licence who shall be guilty of any of the following acts or offences shall upon conviction be liable in respect of each act or offence to a penalty not exceeding seven hundred and fifty Rupees and in default of payment to imprisonment with or without hard labour for a period not exceeding three months; that is to say if he shall:—

- (1) Permit drunkenness or any riotous or quarrelsome conduct to take place upon his premises.
- (2) Sell liquor to any person already in a state of intoxication or by any means encourage or incite any person to drink liquor.
- (3) Sell liquor to any police officer below the rank of sergeant during any time appointed for him to be on duty or knowingly harbour or suffer to remain on his premises any such officer during such time as aforesaid unless for the purpose of keeping or restoring order or in execution of his duty.
- (4) Suffer any unlawful game or gambling to be carried on his premises.
- (5) Permit his premises to be a brothel or the habitual resort or place of meeting of reputed prostitutes.
- (6) Keep his licensed premises open for the sale of liquor or sell or expose any liquor for sale during any time when he is not authorised by the licence to sell; or allow any liquors purchased before the hour of closing to be consumed on such premises after such closing.

And in case of a second or subsequent conviction every such holder shall be liable to a penalty not exceeding Rupees one thousand and five hundred or in default or payment to imprisonment with or without hard labour for a period not exceeding six months.

49. Any person who shall contrary to the provisions of this Ordinance sell or deal or dispose of any intoxicating liquors without a licence or sell or offer or expose for sale any such liquors at any place where he is not authorised by his licence to sell shall on conviction be liable to the penalties provided in section 43 sub-sections (1) and (2) of this Ordinance.

Trading without a licence.

50. Any holder of a club liquor licence who shall sell or allow to be sold liquor to any person not being a member of such club shall be liable for each offence to a penalty not exceeding Rupees one thousand and five hundred and in default of payment to imprisonment with or without hard labour for a period not exceeding six months.

Club licences abuse of.

51. The holder of any retail liquor licence shall be liable to forfeit such licence in addition to any other penalty by this Ordinance Provided:—

- (1) If he shall permit any other person to manage, superintend or conduct the business of the licensed premises during his absence for a longer period than one month without the consent in writing of the Provincial Commissioner.

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

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

- (2) If he shall whether present in such premises or not permit any unlicensed person to be in effect the owner or part owner of or interested in the business of the licensed premises unless with the consent of the Provincial Commissioner.
- (3) If (being the keeper of an hotel) he shall fail to provide and maintain the accommodation required according to the conditions prescribed by the Licensing Court granting such licence.
- (4) If (except in the case of fire, tempest or other cause beyond his control) he shall allow the licensed premises to become ruinous or delapidated.
- (5) If he shall remit his premises to be used as a brothel or the habitual resort or meeting place of reputed prostitutes.
- (6) If he shall be twice convicted of selling, offering or keeping for sale any adulterated liquor.

THE OFFICIAL GAZETTE

- Evidence of sale of liquor.
- (8) If he shall be convicted of any offence under this Ordinance and a previous conviction within the preceding six months of the same or any other offence under this Ordinance shall be proved.
- (9) If he shall be convicted of any crime and sentenced to imprisonment without the option of a fine.

52. In any proceeding relating to any offence under this Ordinance it shall not be necessary to show that any money actually passed or that any liquor was actually consumed if the Court hearing the case be satisfied that a transaction in the nature of a sale actually took place or that any consumption of liquor on licensed premises by some person other than the occupier or a servant in such premises shall be evidence that such liquor was sold to the person consuming or about to consume the same by or on behalf of the holder of such licence.

If any vendor of non-intoxicating beverages not being duly licensed shall supply intoxicating liquor to mix or be taken with such beverage he shall be deemed to have sold each intoxicating liquor.

Ones of proof.

53. If any proceeding against any person for selling or allowing to be sold any liquor without a licence such person shall be deemed to be unlicensed unless he shall produce his licence or give other satisfactory proof of his being licensed. The fact of any person not holding a licence having any sign board or notice importing that he is licensed upon or near his premises or having a house or premises fitted up with a bar or other place containing bottles, casks or vessels so displayed as to induce a reasonable belief that liquor is sold or served therein or having liquor concealed or more liquor than is reasonably required for the persons residing on such premises shall be deemed *prima facie* evidence of the unlawful sale of liquor by such person.

- Persons on premises of retail licence holder during prohibited hours.
54. (1) If any person other than the licence holder, a member of his family, his agent or servant or a person lodging in the licensed premises be found in any bar on such premises during the hours in which the sale or disposal of liquor to the public is prohibited it shall be taken to be *prima facie* evidence of a sale of liquor during such hours. The licence holder on whose premises any such person is found during such hours shall be liable to a penalty not exceeding Rupees one hundred and fifty, but nothing in this section contained shall apply in the case of persons passing through any bar in any licensed premises for the sole purpose of obtaining access to any other part of such premises.
- (2) If any native is found at any time in any bar on the premises of the holder of a retail licence such native not being in the employ of such licence holder it shall be taken to be *prima facie* evidence of a sale of liquor to such native.

Offences for which no penalty provided.

55. Any person convicted of contravening any of the provisions of this Ordinance for or in respect of which no penalty is specially provided shall be liable to a penalty not exceeding three hundred rupees and in default of payment to imprisonment with or without hard labour for any period not exceeding three months; and when a penalty has been provided for any offence without any period of imprisonment in default of payment thereof then the person convicted of such offence shall be liable :—

- to imprisonment with or without hard labour for a period not exceeding one month if the penalty do not exceed hundred and fifty rupees.
- to imprisonment with or without hard labour for a period not exceeding three months if the penalty exceed hundred and fifty rupees and do not exceed seven hundred and fifty rupees.
- to imprisonment with or without hard labour for a period not exceeding six months if the penalty exceed seven hundred and fifty rupees, unless such penalty be sooner paid.

Jurisdiction of Magistrates.

56. All offences against this Ordinance may be tried by a Magistrate of the first class having jurisdiction within the area where such offences shall have been committed and any such Magistrate may impose the penalties respectively by this Ordinance provided notwithstanding that the accused shall be an European or American and notwithstanding any Ordinance, Regulations or law limiting the jurisdiction of such Magistrate.

Nothing in this section contained shall be deemed to take away from any Magistrate or Court the right to try any offence under this Ordinance within the jurisdiction of such Magistrate or Court.

Powers and Duties of Provincial Commissioners, District Commissioners and Police Officers.

57. (1) It shall be the duty of the Chief Officer of the Police every district to report to the Provincial Commissioner any licensed premises which are out of repair or have not reasonable accommodation or proper or sufficient sanitary or drainage requirements; and any case in which the holder of a licence shall be of drunken habits or shall keep a disorderly house. Report of Chief Officer of Police.
- (2) Any European Officer of a Police may enter any licensed premises during the hours such premises are open and inspect and examine every room and part thereof for the purpose of the report in the last sub-section mentioned.
- (3) Any Officer of Police may enter any licenced premises at any time when he has reasonable grounds for believing that liquor is being sold in such premises contrary to the provisions of this Ordinance.
- (4) Any person resisting or obstructing an Officer of Police in the execution of his duty as aforesaid shall be liable to a fine not exceeding seven hundred and fifty rupees and in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

58. It shall be lawful for any Magistrate or Police officer to enter in or upon any premises where intoxicating liquors are being sold and to demand inspection of the licence authorising such sale. Any holder of a licence refusing to produce such licence shall be liable to a fine not exceeding one hundred and fifty rupees and in default of payment to imprisonment with or without hard labour for a period not exceeding one month or to such imprisonment without the option of a fine. Inspection of premises.

59. Any person found by a Police Officer drunk and incapable or drunk and noisy in or near a street, road or other public thoroughfare or in a public house, shop, warehouse, hotel or any other public place may be arrested without warrant and brought without any delay before a Magistrate. Arrest of intoxicated persons.

Every such person shall on conviction be liable to a fine not exceeding seventy-five rupees and in default of payment to imprisonment with or without hard labour for a period not exceeding fourteen days; and for a second or subsequent conviction he shall be liable to a fine not exceeding one hundred and fifty rupees and in default to imprisonment with or without hard labour for a period not exceeding one month.

60. It shall be lawful for any Police officer of or above the rank of Inspector and for any other Police Officer having a special written authority from a Magistrate or from a Police Officer of or above the rank of Inspector at all reasonable hours to enter any unlicensed premises or any wagon, cart or other vehicle in which it shall reasonable be suspected that any intoxicating liquor is sold or kept for sale and search such premises, wagon, cart or other vehicle. Any liquors found in the course of search may be seized and removed and may be declared forfeited by any Court on conviction before it of the owner or person found in possession thereof. Provided always that when there is danger that the delay occasioned by obtaining such written authority will defeat the objects of this section any Police Officer below the rank of Inspector may exercise the powers conferred hereby without any written authority but he shall as soon as possible report what he has done to senior Police Officer of the district or to a Magistrate. Inspection of unlicensed premises by Police.

61. Any Police Officer may demand the name and address of any person found on premises in which he seizes or from which he removes any liquor under the provisions of this Ordinance; and if such person shall refuse to comply with such demand or shall give a name or address which Police Officer demanding the same has reasonable grounds to believe as false he may arrest such person without warrant and take him as soon as possible before a Magistrate. Any such person who refuses to give his name or address when so demanded as aforesaid or give a false name or address shall on conviction be liable to a penalty not exceeding seventy-five rupees. Police may demand the name and addresses of persons on premises.

62. Any Police Officer may arrest without warrant any person whom he has reasonable grounds to believe has committed an offence under section 43, 46 or 49 of this Ordinance; provided that he shall take such person before a Magistrate as soon as possible. Police may arrest without warrant in certain cases.

Miscellaneous

Licences to expire
on the thirty first
day of December.

Prohibition of
payment of wages
on licensed
premises.

Governor may
make regulations
for proceedings of
Licensing Courts.

Costs of proceed-
ings.

Title.

63. Every licence granted on a certificate from the Licensing Court may be issued for six or twelve months but shall expire on the thirty first day of December of the year in which it was issued; in every case however in which application for the renewal of a licence is made such licence shall continue in force until the conclusion of the meeting of the Licensing Court at which such application is made.

64. Any Master or other person employing workmen, servants or labourers who pays or causes any payment to be made to any such workman, servant or labourer in or at any premises licensed for the sale of liquors shall or every such offence be liable to a penalty not exceeding one hundred and fifty rupes; but nothing herein contained shall extend to any holder of any liquor licence who pays upon his own licensed premises the workmen, servants or labourers employed by him in connection with his licensed premises.

65. The Governor may from time to time make, alter and revoke regulations not being contrary to the provisions of this Ordinance for regulating the proceedings and meetings of Licensing Courts and prescribing the forms of licences, notices and other documents to be used and generally for the more efficient administration of this Ordinance.

66. The costs incurred by members of any Licensing Court in connection with legal proceedings instituted against them in their official capacity shall unless the Court before which the proceedings are taken order the costs to be borne by the opposite party or by the said members personally be paid to them out of the Protectorate Treasury.

67. This Ordinance may be cited as "The Liquor Licensing Ordinance 1907" and shall come into operation on the 1st day of October 1907.

FIRST SCHEDULE.

Title of Law.	Extent of repeal.
The East Africa Liquor Ordinance 1902. (No. 27 of 1902.)	Section 1. the words "or sold or dealt in within"
'The East Africa Liquor Ordinance 1903. (No. 12 of 1903.)	The whole of sections 9, 10, 11, 12, 13, 14, 15, 16, 17, and 19. The whole.

SECOND SCHEDULE.

Sums payable for or in respect of liquor licences renewed or transferred under "The Liquor Licensing Ordinance 1907."

		For twelve months.	For six months.
1	Wholesale Liquor Licence.	300 Rupees	165 Rupees
2	Hotel Liquor Licence.	200 Rupees	115 Rupees
3	Restaurant or Café Liquor Licence.	150 Rupees	90 Rupees
4	Malt Liquor Licence.	150 Rupees	90 Rupees
5	Wine Merchant or Grocer's Liquor Licence.	300 Rupees	165 Rupees
6	General Retail Liquor Licence (in respect of premises situate within 1 mile of the area of any Municipality or Township.)	600 Rupees	315 Rupees
7	General Retail Liquor Licence (in respect of premises situate beyond 1 mile of the area of any Municipality or Township.)	450 Rupees	240 Rupees
8	Club Liquor Licence.	400 Rupees	215 Rupees
9	Railway Stations Liquor Licence.	150 Rupees	90 Rupees
10	Theatre Liquor Licence.	300 Rupees	165 Rupees
11	Brewers Liquor Licence.	300 Rupees	165 Rupees
12	Steam Ship Liquor Licence.	200 Rupees	115 Rupees
13	Naval Canteen Liquor Licence.	75 Rupees	45 Rupees
14	Temporary Liquor Licence.	15 Rupees a day	

The holder of a general retail liquor licence may hold an hotel liquor licence or café liquor licence in respect of the same premises for the same period without the payment of of any sum in addition to the amount paid by him in respect of his general retail liquor licence. A holder of a Railway Station liquor licence granted in respect of a railway rest house may hold an hotel liquor licence in respect of such rest house for the same period on payment of one quarter of the sum prescribed for an hotel liquor licence in addition to the amount paid by him in respect of his Railway station liquor licence.

A Bill

To authorise the issuing of Licences to Ostrich farmers for the collecting of the eggs of wild ostriches and for the capturing of young wild ostriches.

WHEREAS it is desirable that encouragement should be given to the industry of Ostrich farming in the Protectorate and that persons engaged in Ostrich farming should be authorised to take the eggs of wild Ostriches and to capture young wild Ostriches.

Be it enacted by the Governor of the East Africa Protectorate with the advice and consent of the Legislative Council thereof :—

Short title.

Interpretation.

Prohibition against taking or trading in the eggs of wild ostriches.

Prohibition against hunting etc. wild ostriches.

Prohibition against trading in ostrich feathers.

The Registration of ostrich farmers.

Only ostrich farmers to trade in domesticated ostriches and their eggs.

Ostrich farmers may sell to feather merchant and may export the feathers of ostriches kept by him.

Ostrich Hunter's licences and Feather Merchant's licences may be granted.

Fees to be paid for licences.

Ostrich Hunter's licence, to whom it may be granted.

Right under an Ostrich Hunter's licence.

1. This Ordinance may be cited as the Ostrich Ordinance, 1907.

2. In the Interpretation of this Ordinance unless repugnant to the context the following words and expression shall have the meaning following :—

A "domesticated Ostrich" shall mean an Ostrich which has been bred in captivity or which has been captured when young and kept in captivity for a period of not less than six months.

A "young ostrich" shall mean an ostrich which shall not have reached the age of two months.

An "ostrich farmer" shall mean a person who has been registered as such under the provisions of this Ordinance.

3. Save as hereinafter provided no person shall export from the Protectorate or shall within the Protectorate take, receive, purchase, sell, or offer or expose for sale the egg of any wild ostrich.

4. Save as hereinafter provided no person shall hunt, kill, capture, sell, purchase, transfer, accept or receive any wild ostrich.

5. Save as hereinafter provided no person shall within the Protectorate sell, transfer, purchase, accept or receive, or export from the Protectorate the feathers of any ostrich.

6. Any person of European birth or descent may on application to the Provincial Commissioner of the Province in which he resides, and on payment of a fee of Rupees five be registered as an ostrich farmer.

7. No person other than an ostrich farmer shall sell, transfer, purchase or receive any domesticated ostrich or the egg of any domesticated ostrich.

8. An ostrich farmer may sell to a feather merchant licensed under this Ordinance or may export from the Protectorate ostrich feathers obtained from domesticated ostriches kept by him.

9. The following licences may be granted by the Governor or by such person or persons as shall be authorised by the Governor, that is to say:—

(1) An Ostrich Hunter's Licence.

(2) A Feather Merchant's Licence.

The following fees shall be payable for licences, that is to say: for an Ostrich Hunter's Licence Rupees forty five; for a Feather Merchant's Licence Rupees three hundred

Every licence shall except as hereinafter provided be in force for one year only from the date of issue.

10. An Ostrich Hunter's licence shall not be granted to any person other than an ostrich farmer and who shall be the occupier of not less than fifty acres of land and in possession of such pens and incubators as shall in the opinion of the Governor or of the officer authorised to issue such licences be necessary for the proper management of an ostrich farm, and not more than four ostrich hunter's licences shall be issued to any one ostrich farmer.

11. (1) An Ostrich Hunter's Licence shall authorize either the ostrich farmer or any one person of European birth or descent engaged with him or employed by him in connection with his ostrich farms and named in such licence to take the eggs of wild ostriches and to capture and possess young wild ostriches for and on behalf of such ostrich farmer.

Provided that a single Ostrich Hunter's Licence shall not authorize both the ostrich farmer and the person so engaged and employed and named in the licence to capture young wild ostriches and to

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- (2) Should the persons so engaged or employed with and named in such licence cease to be engaged or employed by such ostrich farmer the Governor or the officer who shall have issued such licence may, on application being made by such ostrich farmer, cause the name of some other person of European birth or descent engaged with or employed by such ostrich farmer in connection with his ostrich farm to be substituted for the name of the person so ceasing to be engaged or employed.
- (3) An Ostrich Hunter's Licence shall not authorize the sale of young wild ostriches or the eggs of wild ostriches.

12. Natives in the employment of the holder of an Ostrich Hunter's Licence may when in the company of or under the direct supervision of such licence holder without licence assist such licence holder in hunting young ostriches, or in collecting ostrich eggs; save as aforesaid the holder of a licence shall not accept or receive from any native any wild ostrich or the egg of a wild ostrich.

Native Servants
may assist Ostrich
Hunters.

13. No licence granted under this Ordinance shall entitle the holder to hunt or enter upon any private property without the consent of the owner of such property or to hunt wild ostriches or to take any egg of any wild ostrich within a Game Reserve.

An Ostrich Hunter's
licence does not
authorize the holder
to hunt, etc. on
private land or in a
game reserve

14. (1) A Feather Merchant's Licence may be granted to such responsible persons or firms as may be approved by the Governor.
- (2) Such licence shall authorise the holder to purchase from ostrich farmers and to sell within the Protectorate and to export from the Protectorate the feathers of domesticated ostriches.
- (3) The feathers of any domesticated ostrich which shall be purchased or received from the holder of a Feather Merchant's Licence shall be deemed to be lawfully purchased and may be lawfully possessed in or exported from the Protectorate.

Feather Merchant's
licence, to whom it
may be granted.

15. It shall be the duty of the Ostrich Farmer to whom an Ostrich Hunter's Licence shall have been granted to make or cause to be made to the District Commissioner of the district within which his farm is situate at the end of twelve months from the date in which his licence shall have been issued a return of the following particulars, namely :—

Returns to be made
by Ostrich Hunters.

- (1) The number of young wild ostriches captured during the currency of his licence, the date or dates when they were captured and the name or names of the persons by whom they were captured.
- (2) The number of eggs taken during the currency of his licence, the date or dates when they were taken and the person or persons by whom they were taken.

16. (1) It shall be the duty of the holder of a Feather Merchant's Licence to keep or cause to be kept a register in which shall be recorded the following particulars regarding all transactions under his licence, namely :—

Feather Merchant
to keep register.

1. The date on which any feathers are bought or received.
2. The person from whom the feathers are bought or received.
3. The weight of feathers bought or received.
4. The date when any feathers are sold or exported.
5. The weight of feathers sold or exported.
6. The persons to whom any feathers are sold.

- (2) The holder of a Feather Merchant's Licence shall produce such register for inspection whenever required to do so by a District Commissioner or a Police Officer.

- (3) Any person who shall fail to keep the register required by this section or to produce his register when required to do so by a District Commissioner or Police Officer shall be guilty of an offence and shall be liable to a fine not exceeding rupees one thousand.

17. It shall be the duty of the holder of a Feather Merchant's Licence to make or cause to be made to the District Commissioner of the district within which his place of business is situate at the end of the sixth and twelfth months from the date on which his licence shall have been issued a return of the particulars required by Section 16 (1).

Feather Merchant
to make a return.

18. Any person who shall fail to make or cause to be made any return by this Ordinance required or shall knowingly or wilfully make or cause to be made any return by this Ordinance required to be made in which there shall be any

Penalty for failure
to make return
required or for
making false return.

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Licence required for exporting ostriches and their eggs.

Licence Fee.

Certificate to be produced by exporter of a blown ostrich egg.

Suspension of export duty on ostrich feathers.

Ordinance not to apply to ostrich, eggs or feathers introduced for export or feathers introduced for sale or the feathers of wild ostriches lawfully possessed at the date of Ordinance.

The Governor may prohibit any destructive method of capturing ostriches.

Powers to search and seize, etc.

Penalty for breach of provisions of this Ordinance.

Powers to Police to arrest without warrant.

Governor may prescribe forms.

Repeals.

19. No person shall export from the Protectorate a live ostrich or an unblown ostrich egg unless he shall have first obtained a licence on that behalf from the Governor.

There shall be paid for a licence to export a live ostrich Rupees one thousand five hundred, and for a licence to export an unblown egg Rupees seventy-five. Provided that the Governor may remit the whole or a part of the licence fee in any case when he is satisfied that an ostrich is being exported for scientific purposes.

20. No person shall export from the Protectorate a blown ostrich egg unless he shall produce a certificate signed by an Ostrich Farmer certifying that such egg has been obtained from the person signing the certificate, or unless he shall satisfy the Customs Officer that the egg was lawfully possessed by him before the publication of this Ordinance.

21. No export duty shall be payable upon the feathers of any domesticated ostrich exported from the Protectorate within three years from the date of the publication of this Ordinance.

22. This Ordinance shall not apply to any ostrich or to the egg of any ostrich introduced into the Protectorate for export or to the feathers of any ostrich introduced into the Protectorate for sale or export and so declared at the time of introduction, or to the feathers of any wild ostrich lawfully possessed by any person at the date of the publication of this Ordinance.

23. When it appears to the Governor that any method used for capturing ostriches is unduly destructive, he may by proclamation prohibit such method or prescribe the conditions under which such method may be used, and if any person uses any method so prohibited or uses any method otherwise than according to the conditions so prescribed he shall be liable to the same penalties as for a breach of this Ordinance.

24. When any officer in the service of the East Africa Protectorate thinks it expedient for the purpose of verifying the register of a licence holder or suspects that any person has been guilty of a breach of any of the provisions of this Ordinance or of the conditions of his licence he may inspect and search or authorise any subordinate officer to inspect and search, any baggage, packages, waggons, tents, buildings, caravan, ship or boat, belonging to or under the control of such person or his agent, and if the officer finds any ostrich, ostrich feather, or ostrich egg appearing to have been taken or to be possessed, or any live ostrich appearing to have been captured or to be possessed in contravention of this Ordinance, he shall seize and take the same before a Magistrate to be dealt with according to law.

25. Any person who commits any breach of this Ordinance or of the conditions of his licence shall, save where other provision is made in the Ordinance, on conviction be liable to a fine which may extend to Rupees one thousand and when the offence relates to more ostriches than one to a fine in respect of each ostrich which may extend to Rupees five hundred and in either case to imprisonment which may extend to two months, with or without fine.

In all cases of conviction, any feather or egg of any ostrich found in possession of the offender or his agent, and all live ostriches captured in contravention of this Ordinance shall be liable to a forfeiture.

If the person convicted is the holder of a licence, his licence may be revoked.

26. (1) When a person is seen or found committing an offence, or is reasonably suspected of being engaged in committing an offence against this Ordinance, a Police Officer may, without warrant, stop and detain him, and if his name and address are not known to the Police Officer and such person fails to give them to the satisfaction of the Police Officer, the Police Officer may, without warrant, apprehend him.

(2) A person apprehended under this Section shall be taken with all practicable speed before a Magistrate and shall not be detained without a warrant longer than is necessary for that purpose.

27. The Governor may by rule prescribe the form of any licence, register or return to be issued, kept or made under this Ordinance.

28. The provisions of the East Africa Game Ordinance 1906 relating to ostriches, ostrich egg and ostrich feathers and in so far as they relate thereto are hereby repealed. Provided that any person who shall hunt, kill or capture

A Bill

To make further provision for preventing the spread of Diseases among Animals.

Be it enacted by the Governor of the East Africa Protectorate with the advice and consent of the Legislative Council thereof:—

1. This Ordinance may be cited as the Diseases of Animals Ordinance 1907. Short title.

2. In this Ordinance unless inconsistent with the context:—

“Disease” shall have the same meaning as in the Diseases of Animals Ordinance 1906 and in any Ordinance Amending the same.

“Stock” shall have the same meaning as in the Diseases of Animals Ordinance 1906 and in any Ordinance Amending the same except that it shall not include poultry.

“Fence” means a substantial stock proof fence with gates a places where it crosses public or private road and suitable appliances where it crosses other obstacles.

“Dividing fence” shall mean a fence as above defined separating the lands of adjoining owners.

“Infected area” shall mean an area declared an infected area under Section 4 of the Diseases of Animals Ordinance 1906.

“Suspected area” shall mean any land abutting upon an infected area or any land suspected on reasonable grounds of having been exposed to infection and declared by the Governor to be a suspected area by a notification in the “Official Gazette”.

“Commissioner of Lands” shall include in addition to the person holding that office any person generally or specially authorised by such person to carry out the provisions of this Ordinance.

“Farm” shall mean any area of land held under a separate grant or lease and used wholly or partially for agricultural or grazing purposes, and any area of Crown Land occupied under a homestead agreement.

“Owner” shall include a Lessee of Crown Land and an occupier of Crown Land under a homestead agreement.

“Imprisonment” shall mean either imprisonment with or without hard labour.

3. (1) For the purpose of preventing the spread of disease the Commissioner of Lands may with the consent of the Governor cause to be erected fences along a portion of or the whole of the boundaries of any farm or farms within an infected or suspected area or of any native reserve or of any town lands within such area.

Commissioner of Lands may fence land within an infected or suspected area.

(2) The specifications of any such fence shall be determined by the Commissioner of Lands.

4. (1) The cost of erecting any fence along the boundaries of any farm shall be in the first instance defrayed by the Government, provided that such cost shall be repaid together with interest at the rate of three per cent per annum by equal yearly instalment commencing two years after the fencing is completed such instalments being so calculated and fix that the said cost and interest shall be wholly repaid within a period of ten years from the date from which the first instalment become due as shown in the Schedule to this Ordinance.

Cost of erecting fence to be paid in the first instance by the Government but be recovered from owners.

(2) Such repayment of cost and interest shall be made by the owner of any farm fenced under the last preceding section or if the fence divides the farm of adjoining owners shall pay one-half the cost of the part of the fence dividing such farms together with the interest aforesaid.

5. The Commissioner of Lands shall cause to be kept to the Land Office a register in which shall be recorded the full name and address of the person liable to make any repayment under the preceding section, the amount for which he liable, and a clear description of the farm in respect of the fencing of which the repayment aforesaid are to be made. Such register shall be open to the inspection of all persons at any time during which the Land Office shall

Commissioner of Lands to keep a register of persons from whom such monies to be repaid.

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No land fenced under this Ordinance to be transferred or mortgaged without the consent of the Commissioner of Lands until the cost of such fencing has been repaid.

Commissioner of Lands may sue for and recover any instalment overdue.

How expense is to be borne by Lessor and Lessee of a farm respectively.

The cost of fencing a native reserve to be recovered from persons occupying huts in the reserve.

Cost of fencing town lands to be recovered from the Municipal Council.

Persons liable to pay cost of erecting a fence may supply labour, etc.

Cost of erecting a fence may be repaid by a lump sum instead of by instalments.

Notice to be served on persons liable to make repayment.

Power to fence public roads.

Penalty for omitting to shut a gate.

Person damaging fence bound to give his name and address on

6. It shall not be lawful without the consent of the Commissioner of Lands given in writing to transfer or mortgage any farm which has been fenced under this Ordinance until repayment of the cost of erecting such fence and interest thereon shall have been wholly repaid.

7. An instalment which shall remain unpaid for 21 days after the same shall have become due may be sued for and recovered by the Commissioner of Lands from the person for the time being the owner of the farm in respect of which the payment is due.

8. Where any such farm aforesaid held under lease has been fenced under this Ordinance during the term of the lease the Lessor shall be entitled to receive from the Lessee as from the date when such farm was so fenced a payment of eight per cent per annum on any sum he may have paid to the Commissioner of Lands under Section 4 and such payment shall be made with the rent of the farm and shall be deemed in law to be part of such rent.

9. Whenever the Commissioner of Lands shall have incurred any cost in respect of the fencing of a native reserve under this Ordinance the occupiers of huts in such reserve shall be liable to contribute *pro rata* to such cost as if such occupiers were owners of farms as mentioned in Section 4 save and except that if any native shall wilfully neglect to pay the aforesaid instalment and interest thereon after the same has become due and after demand for payment shall have been made by an Officer authorised to collect the same he shall upon conviction be liable to a fine not exceeding four times the amount of the instalment which he has neglected to pay, in default of payment to imprisonment with hard labour for a period not exceeding three months.

10. Whenever the Commissioner of Lands shall have incurred any cost in respect of the fencing under this Ordinance of any town lands which have become vested in any Municipal Council the cost shall be repayable by such Council in the manner provided by Sub-Section 1 of Section 4 of this Ordinance.

11. Nothing in Sections 4 to 10 inclusive contained shall be deemed to prevent any person liable for the cost of the erection of a fence under this Ordinance from contributing approved material or labour or transport towards the cost of such fence and any such contributions shall be set off against the amounts mentioned in the said sections respectively according to a value to be determined in the absence of agreement by the District Commissioner.

12. Nothing in the preceding section mentioned shall make it unlawfully for the Commissioner of Lands to accept from any person liable to pay any instalment under this Ordinance a payment at any time of a sum equal to the value at that time of the instalments unpaid by such person.

13. (1) The Commissioner of Lands shall cause to be served upon any person liable to make any payment under this Ordinance a notice setting forth the amount of the yearly instalment and the date on which the first instalment becomes due : Provided that it shall not be necessary to serve such notice on a native.

(2) A notice sent by post to the last known address of the person to be served, or published in the "Official Gazette" shall be deemed to be good service for the purpose of this Ordinance.

14. The Commissioner of Lands with the sanction of the Governor may cause to be fenced any public road traversing any part of an infected or suspected area and the cost of any fence erected under the powers of this Section shall be defrayed entirely by the Government.

Offences.

15. Any person who shall open and leave or finding open shall one passing through neglect to shut and fasten any gate in any fence erected under this Ordinance shall on conviction be liable for the first offence to a fine not exceeding Rupees one hundred and fifty and default of payment to imprisonment for a period not exceeding fourteen days and upon any subsequent conviction to a fine not exceeding Rupees three hundred and in default of payment to imprisonment not exceeding six weeks.

16. Any person who shall injure any fence erected under this Ordinance and on being requested so to do by the owner or occupier of the land on which it is situated or by some person authorised thereto by such owner or occupier

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name or address shall upon conviction be liable to a fine not exceeding Rupees three hundred and seventy-five and in default of payment to imprisonment for a period not exceeding three months.

17. Any person who inadvertently injures any fence erected under this Ordinance shall forthwith repair the same and in the event of his being unable to do so shall forthwith report the same to the owner of the land on which such fence is situated or in the case of a fence erected along a public road to the Commissioner of Lands and deposit such sum as may be reasonable sufficient to cover the cost of repairing the same and he shall be entitled to receive a receipt thereof.

Fence
inadvertently
damaged to be
repaired by the
person causing
the damage.

Any person failing to repair such fences or give such notice with such reasonable sum as aforesaid or refusing to give a receipt therefor shall on conviction be liable to a fine of Rupees one hundred and fifty and in default of payment to imprisonment for a period not exceeding fourteen days and shall in addition pay such sum or such sum in addition to any already paid as will cover the cost of such repairs by way of damages.

18. Any person who wilfully injures or removes any fence, gate or other appliance or contrivance forming part thereof erected under this Ordinance shall be liable on conviction to a fine not exceeding Rupees one thousand and in default thereof to imprisonment for a period not exceeding six months and shall in addition be ordered by the Court by which he is convicted to pay the amount of damage sustained by the owner of such fence gate or other applicance and such order shall be executed in the same way as a judgment of such Court in a Civil Case is executed.

Penalty for wilful
damage to fence.

S C H E D U L E .

Table of equal instalments at the end of each year for ten years corresponding to the amounts payable under the Section four of this Ordinance.

Amount payable.	Equivalent amounts payable at the end of each year for ten years.	
Rs.	Rs.	Cts.
15	1	75
30	3	50
45	5	25
60	7	6
75	8	81
90	10	56
105	12	31
120	14	6
135	15	81
150	17	56
300	35	19
450	52	75
600	70	31
750	87	87
900	105	50
1050	123	6
1200	140	62
1350	158	25
1500	175	81
3000	351	62
4500	527	37
6000	703	19
7500	879	0

Yearly instalments for any sum not mentioned in this Schedule, such as Rs. 6,986-25 cts. may be obtained as follows:—

Rs.	Cts.	Rs.	Cts.
6,000	0	703	19
900	0	105	50

A Bill

To make provisions for the Legislation of Brands for Stock and for the compulsory branding of cattle and ostriches by owner.

WHEREAS it is expedient to make provision for the registration of brands for stock and for the compulsory branding of cattle and ostriches by owners.

BE it enacted by the Governor of the East Africa Protectorate with the advice and consent of the Legislative Council thereof:—

Short title.

Interpretation of terms.

1. This Ordinance may be cited as “The Branding of Stock Ordinance 1907” and shall come into force on the first day of October 1907.

2. In this Ordinance unless inconsistent with the context:

“Brand” shall mean a brand duly registered under this Ordinance and made upon any portion of the hide of any stock in manner prescribed by this Ordinance;

“Branding iron” shall mean the instrument prescribed for imprinting a brand or mark on stock by this Ordinance or the rules made under it;

“Branding instrument” shall mean any other instrument or tool by which any mark or symbol can be impressed, imprinted or cut on any portion of any stock;

“Branding Directory” shall mean an authorised list of brands compiled by the Registrar of Brands and published by the Government;

“Governor” shall mean the Governor of the East Africa Protectorate;

“Distinctive Mark” shall mean a lawful mark (other than a registered brand) which a native is empowered by this Ordinance to mark upon any stock.

“Stock” shall mean horses, cattle and ostriches;

“Horse” shall mean any horse, mare, gelding; colt, filly, ass or mule;

“Cattle” shall mean any bull, cow, steer, heifer or calf;

“Inspector” shall mean any person empowered to act as an Inspector of Brands under this Ordinance;

“Native” shall mean any Native of Africa not of European or American origin;

“Imprisonment” shall mean imprisonment with or without hard labour;

“Register” shall mean the register book kept in pursuance of this Ordinance containing a list of brands for stock registered hereunder;

“Registrar” shall mean the Registrar of Brands;

“Regulations” shall mean the Regulations framed by the Governor under this Ordinance;

“Residence” shall mean the residence, house, homestead or dwelling of the owner of any brand or great stock;

“Holding” shall mean any farm or other place where stock is kept;

Administration.

Registrar and Inspectors of Brands.

Register Book

Application for brand.

3. It shall be lawful for the Governor to appoint an Officer in the department of Agriculture who shall be called the Registrar of Brands and whose office shall be in Nairobi and such persons as he may think fit from time to time to be Inspectors of Brands. Every Provincial Commissioner, District Commissioner and European Officer of Police shall be ex-officio an Inspector of Brands.

4. The Registrar shall keep a register in the Form in Schedule “A” hereto of all brands allotted under the provisions of this Ordinance.

5. Any person other than a native requiring a brand shall deliver or transmit to the Registrar an application in the Form in Schedule “B” hereto accompanied by a fee of Rupees five for the registration of a brand; if no special combination is applied for, the Registrar if satisfied that such application is in conformity with the provisions of this Ordinance shall allot to such applicant in the order in which his application is received the first unallotted brand standing in the Register for the district in which the holding is situated on which the brand is to be used and shall register the said brand to such applicant accordingly in the Form of Schedule “A” hereto annexed;

Provided always that it shall be lawful for the Registrar at the request of

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register for the same district: Provided further that it shall not be necessary for a person who owns or occupies land in more than one district to register a separate brand in respect of each district. Such person may elect any one of the districts in which he intends to use such brand and may use the brand registered in respect of that district in any other district in which he shall keep stock.

6. Upon the registration of any brand as aforesaid the Registrar shall deliver or transmit to the applicant to whom such brand is allotted a certificate of the registration thereof in the Form in Schedule "C" hereof.

7. Save as otherwise provided by this Ordinance every registered brand shall consist of two letters and one numeral of plain and uniform pattern in an even and regular line and the first of the letters shall indicate the district or subdistrict in which the holding is situated on which the brand is to be used; Provided that any person wishing to register his present brand may do so on condition that it has not already been applied for and that the dominant letter of the district is added.

8. One brand and no more shall be allotted to any person in any one district.

The size of the characters branded on horses and ostriches shall not be less than one and half inches, on cattle two and a half inches.

9. All brands shall be imprinted on stock as follows:—

(1) In the case of cattle

(a) the first brand shall be imprinted on the near side of the neck of the animal and every second or subsequent brand shall (where there is space sufficient for the purpose) be imprinted on the same part of such animal and at a distance of not less than one-and-a half inches from and directly underneath the brand imprinted according to the table herein set forth;

(b) Where there is not sufficient space for the purpose then such second or subsequent brand shall be imprinted on the part of such animal next in order according to the following table:—

1. Off side of neck.
2. Near shoulder.
3. Off shoulder.
4. Near rump (or thigh).
5. Off rump.

(2) In the case of horses

the first brand shall be imprinted either on the near side of the neck or near rump of such horse and any second or subsequent brand on that part of such animal herein mentioned at the distance stated in the preceding Sub-section and next in order as defined in that Sub-section paragraph b (1), (2), (3) and (5).

(3) In the case of ostriches.

the first brand shall be imprinted on the near thigh and every second or subsequent brand shall (when there is space sufficient for the purpose) be imprinted on the same part and directly underneath the last brand and where there is not sufficient space for the purpose then on the off thigh.

10. The Registrar shall at the end of each quarter of every year or as soon thereafter as possible transmit for publication in the "Gazette" a statement in the form of Schedule "A" hereto of all brands registered under this Ordinance during such quarter with the name and addresses of their respective owners.

11. From such quarterly publications the Registrar as soon as possible after the 31st day of December in each year shall cause a Brand Directory containing all the brands which stand registered up to that date to be compiled and published in the form of the said publications; and he shall cause a copy thereof to be forwarded as soon as possible after publication to the Inspector General of Police and every Inspector of Brands.

12. The person wishing to transfer his right to any registered brand and the person intending to become the transferee thereof shall sign a document in the Form of Schedule "D" and shall transmit it to the Registrar with a fee of Rupees ten who may on receipt thereof cancel the registration of the said brand.

Form of registered brand.

Number of brands allotted to an applicant.

Size of Brand.

How brands are to be imprinted.

Publication in Gazette of registered brands.

Animal Brand Directory.

Transfer of Registered Brands.

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the transferee and such transferee shall thereafter be deemed to be the person having the exclusive right to use such brand as aforesaid; the Registrar may return the fees and decline to register the transfer; provided that on the sale of a holding if the owner does not shall the whole of the stock bearing his brand to the purchaser the Registrar shall not transfer to the purchaser of such holding.

The Registrar shall keep a book in which all transfers, surrenders and cancellations of brands shall be recorded and the Registrar shall notify the same at the end of every quarter in the "Gazette" immediately following the quarterly statement of brands registered.

13. The owner of any brand may surrender the same and the Registrar shall on receipt of notice thereof cancel the registration.

14. When it appears to the Registrar upon the report of an Inspector or otherwise that a registered brand is not in use he may cause notice to be given to the owner thereof calling upon him to show cause why the same should not be cancelled: and if cause is not shown to the satisfaction of the Registrar within six months after such notice he may cancel the brand.

15. No brand which has been surrendered or cancelled shall be reallocated until a period of five years from such surrender or cancellation has elapsed.

16. All cattle above the age of three months owned by any person other than a native and all ostriches above the age of eight months and so owned shall be branded and kept legibly branded by the owners thereof with a brand which has been registered as thereinbefore provided.

17. Notwithstanding anything in the preceding Section provided it shall not be deemed necessary for any cattle or ostrich sold after having been branded in accordance with this Ordinance to be rebranded by the purchaser.

Provided that the purchaser can produce to an Inspector or Constable at all reasonable times when called upon to do so a sale note or other document evidencing the sale or transfer of such cattle or ostrich and provided further that any such cattle, or ostrich shall be kept legibly branded.

18. Any person who shall fail to comply with the provisions of Section 16 shall on conviction be liable to a fine not exceeding Rupees seventy five in respect of each head of cattle or each ostrich with regard to which there shall have been a failure to comply with those provisions.

19. In every case in which there shall be a sale or transfer of any cattle by a non-native to a native it shall be the duty of such non-native to immediately brand each head of cattle so sold or transferred with the reverse of his registered brand.

Any person failing to comply with the provisions of this Section shall be liable on conviction to a fine not exceeding Rupees seven hundred and fifty and in default of payment to imprisonment for a term not exceeding three months.

20. Every broker or auctioneer of stock shall deliver or transmit to the Registrar an application in the Form in Schedule "F" hereto accompanied by a fee of Rupees five for the registration of an auctioneer brand.

The Registrar shall allot to every such applicant and shall register a brand which shall consist of such device as the Registrar shall determine to be the common mark of all auctioneer's brands and such one letter and one numeral as shall identify the brand of each particular auctioneer or firm of auctioneers.

21. It shall be the duty of a broker or auctioneer to immediately cause to be branded with his registered brand all cattle the property of a non-native which he may sell to a native. A broker or auctioneer may deduct from the purchase price the sum of twenty five cents in respect of each head of cattle so branded.

22. Any person who shall fail to comply with the provision of the first paragraph of the preceding Section shall be liable on conviction to a fine not exceeding Rupees seventy-five in respect of each head of cattle with regard to which he shall have failed to comply with these provisions.

23. The Registrar shall allot a brand to every public pound already or hereafter to be established and shall register the same. The first character of every such brand shall be a diamond and the second the dominant letter of the district and the third a numeral; the whole to be in one line and the Poundmaster or other person in charge of a pound shall on the sale of any stock

Surrender of brands.

Disused brands.

Interval before reallocation.

The branding of cattle and ostriches compulsory.

On sale of cattle and ostriches purchaser must either rebrand or be able to produce written evidence of sale.

Penalty for breach of Section 16.

On the sale of cattle by non-native to a native the vendor must brand the cattle with his registered brand reversed.

Penalty.

All brokers or auctioneers must register a brand.

Form of auctioneer's brand.

Auctioneers to brand cattle the property of a non-native which he may sell to a native.

The cost of branding to be paid by the vendor

Penalty for breach of Section 20.

The Registrar to register a brand for every public pound.

The Poundmaster must brand all

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other person in charge of a pound who shall fail to comply with the provisions of this Section shall on conviction be liable to a fine not exceeding Rupees seven hundred and fifty and in default of payment to imprisonment for any term not exceeding six months.

24. The Chief Veterinary Officer may register any brand or brands to be used for the purposes of the Veterinary Department on any stock. Such brand or brands may be of any device provided it is easily distinguishable from any other brand registered under this Ordinance and may be lawfully used for the purposes of the Veterinary Department on any stock by any person or persons authorised by the Chief Veterinary Officer.

Brands of the
Veterinary
Department to be
registered.

25. The Registrar shall on the application of the Secretary of Native Affairs or of such officers as the Governor shall appoint allot and register a brand to be imprinted on the stock the property of native who are resident in any particular native reserve, or in any district or sub-district or of the member of a particular tribe or of a division of a tribe.

Brands for natives.

The first character of all such brands shall be a dagger and of the remaining characters one shall be a numeral and the other shall be the dominant letter of the district, such dagger, numeral and dominant letter shall not be less than two and a half inches.

26. All the cattle the property of the natives to whom a brand has been allotted shall be branded with the registered brand in accordance with the rules made and published as provided by the succeeding Section.

All cattle the
property of natives
to whom a brand
has been allotted
must be branded.

27. (1) The Secretary of Native Affairs or such other Officer as the Governor may appoint may with the approval of the Governor from time to time make, alter, amend and revoke such general or special rules for any or all of the following purposes :—
- i Declaring the time within which the cattle the property of natives to whom a brand has been allotted shall be branded, and the age at which such cattle shall thereafter be branded.
 - ii The person or persons who shall have the custody of the branding iron or branding irons.
 - iii The person or persons by whom the registered brand may or shall be imprinted.
 - iv Prescribing the places on the cattle where the brands shall be imprinted.
 - v To prevent natives from branding with a registered brand any cattle which may have been stolen or unlawfully obtained.
- (2) Any person failing to comply with or offending against any rule made under this Section shall on conviction be liable to a fine not exceeding rupees three hundred or to imprisonment for a period not exceeding six months or to both.

Power to make
rules regarding
the branding of
cattle by natives.

28. Nothing in this Ordinance shall be deemed to make it an offence for a native to mark any stock of which he is the owner with a distinctive mark to identify the ownership of such stock provided that neither letters nor figures form any part of such distinctive mark and that such mark is dissimilar to any registered brand.

Natives may use
distinctive marks
to identify the
ownership of
stock provided
that such marks
are unlike any
registered brand

29. It shall be lawful for the registrar to prohibit the use by any native of a distinctive mark which in his opinion is similar to any registered brand.

The Registrar may
prohibit the use
of certain
distinctive marks.

Any native who shall mark any stock with a distinctive mark so prohibited shall on conviction be liable to imprisonment for a term not exceeding six months and his stock so marked may by the order of the Court be confiscated.

Miscellaneous.

30. The dominant letter of a brand registered in any district or subdistrict shall be that prescribed in Schedule "G" hereto.

The dominant
letters of districts
to be applied to
the brand registered
therein.

The Governor may by proclamation add any district or sub-district to the said Schedule and may prescribe the dominant letter to be applied to brand registered in such district or sub-district, or may remove any district or sub-district from the Schedule.

31. In all brands allotted to natives the letters shall be in Italics or running letters. In all other brands the letters shall be in Roman letters.

Lettering of
Brands.

32. Nothing in this Ordinance contained shall apply to any stock the

Government stock.

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Butchers and
dealers books.

33. Every butcher, poundmaster and auctioneer shall keep a separate book open at all times to inspection by any Inspector of Brands or Police Officer and shall therein truly enter the brands cut or imprinted on every animal slaughtered or sold by him.

Any such person who shall slaughter or dispose of any animal, on whose hide any brand cut or imprinted under the provisions of this Ordinance shall appear to have been altered, blotted or defaced, without first reporting the matter in writing to the nearest Police Officer or Inspector of Brands and for 48 hours thereafter shall on conviction be liable to a fine not exceeding Rupees seventy-five per head for every animal so unlawfully slaughtered or disposed of or to imprisonment for any term not exceeding three months.

34. (1) Any person who shall slaughter or cause to be slaughtered any stock for sale shall retain or caused to be retained in his possession the hides taken off such animals with the brands or ear marks attached thereto without any alteration, disfigurement or effacement of the brands or marks on such hides or ears for the period of five days.

(2) Any Inspector of Brands, Police Officer, owner of stock or any other person may within the period of time mentioned in the last preceding Sub-section demand an inspection of such hides and upon demand being made the aforesaid person shall produce the same for inspection by the said Inspector, owner or other person.

(3) Any person contravening any of the provisions of this Section shall be liable upon conviction to a fine not exceeding Rupees three hundred and seventy five and in default of payment to imprisonment for a period not exceeding three months; or to both such fine or such imprisonment.

35. Every Inspector or Police Officer is hereby empowered to enter on or into any part of any holding or place throughout the Protectorate where stock is kept and to inspect any stock, hides, branding irons or brand and compare the same with the brand certificate and diagram which shall be produced to him; and every such Inspector or Police Officer may seize any stock and any hides in respect of which the owner has committed any breach of this Ordinance and any branding instrument and any certificate in this possession and may take them before the nearest Magistrate. Any person hindering or impeding any such Officer as aforesaid in the execution of his duty or attempting so to do or refusing to produce any branding iron instrument or certificate or to permit such Officer to inspect any stock shall for every such offence upon conviction be liable to a fine not exceeding Rupees one thousand or to imprisonment not exceeding six months or to both.

36. Every Inspector of Brands (other than a Police Officer) shall keep a copy of the latest issue of the brands Directory and a copy of such "Gazette" containing the quarterly statement of registered brands not included in such Directory and shall on receipt of a fee of Rupee one permit search therein at all reasonable hours.

37. It shall be lawful for the Governor from time to time make rules prescribing

- (1) the shape and size of letters and numerals to be used for registered brands and the arrangement of them;
- (2) the shape and pattern of branding irons and other marking instruments;
- (3) the shape and character of distinctive marks and the conditions under which the same by granted surrendered and cancelled and used and registered.
- (4) the persons by whom branding irons and branding instruments may be manufactured and sold.
- (5) the fees and prices payable and forms to be used and for any object or purpose that may be deemed necessary for the efficient administration of this Ordinance.

38. Where under the provisions of this Ordinance it may be necessary to give or send any notice the same may be given in any of the following ways:—

- (1) personally upon the person to whom the notice is addressed.
- (2) by registered letter sent through the post and directed to the last

Preservation of
hides.

Inspector may
enter any building
or place where
stock is kept.

District Commis-
sioner & other Officials
to keep copies of
Brands Directory
and Gazette
containing
statements of
registered brands.

Regulations.

Notice how given,

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(3) by inserting the notice once in the "Official Gazette".

39. From and after the passing of this Ordinance any person who shall make or offer for sale any branding instrument or tool adopted for the purpose of imprinting marks on stock except in accordance with this Ordinance and the regulations thereunder and similar to or resembling in pattern and size those prescribed under this Ordinance; and any person who shall use or attempt to use or knowingly permit to be used or have in his possession any branding iron or instrument similar to or resembling in pattern and size those prescribed under this Ordinance other than the branding iron which he is entitled to use as herein provided shall on conviction be liable for every such offence to a fine not exceeding Rupees one thousand and in default of payment to imprisonment for a period not exceeding six months.

Sale of branding instruments.

40. If any person shall wilfully brand or imprint with his distinctive mark any stock of which he is not the owner or shall wilfully cause, direct or permit any stock of which he is not the owner to be branded with his brand, such person shall on conviction for every such offence be liable to a fine not exceeding Rupees one thousand and five hundred or to imprisonment not exceeding twelve months or to both.

Fraudulently branding the stock of others.

41. Any person other than a native who shall mark or direct, aid or assist in marking or permanently imprinting on any stock or any portion thereof any signs, symbols or characters other than those made and registered in accordance with the provisions of this Ordinance shall on conviction for every such offence be liable to a fine not exceeding Rupees one thousand and in default of payment to imprisonment for any term not exceeding six months or to both.

Using unregistered brands and irregularly using registered brands.

42. Any person who shall wilfully blotch, deface or otherwise render illegible or alter any brand or distinctive mark upon stock or wilfully direct, cause or permit any such brand or mark to be blotched, defaced or otherwise rendered illegible or altered or be a party thereto shall on conviction before a Magistrate for every such offence be liable to a fine not exceeding Rupees one thousand or to imprisonment not exceeding six months or to both.

Defacing brands.

43. Any person who

Forged certificates.

- (a) shall knowingly and unlawfully insert or permit to be inserted any false entry or diagram of any matter relating to any brand in any register, certificate, brands directory, quarterly statement or in any extract from any of them; or
- (b) shall, with intent to defraud, forge, alter, offer, utter, dispose of or put off knowing the same to be forged or altered any such document or extract as aforesaid or which purports to be such; or
- (c) shall with intent to defraud wilfully, and unlawfully destroy, deface or alter or cause to be destroyed, defaced or altered any such document or extract therefrom; or
- (d) shall knowingly and wilfully with intent to defraud use the brand or distinctive mark of any proprietor without his authority shall on conviction for every such offence be liable to imprisonment for a term not exceeding three years.

44. On the trial of any person for the theft of any hide or stock or for receiving any such hide or stock or any part thereof knowing or having reason to believe the same to have been stolen it shall be competent for the prosecution to give evidence that the brand upon the hide or animal alleged to have been stolen is the brand of the person alleged to have been the owner of such hide or animal or of some person through or from whom such owner derived his right to such animal and a certificate purporting to be under the hand of the Registrar or a copy of the Gazette containing the publication of such owner's brand shall constitute *prima facie* proof of the facts therein alleged.

On trial for theft of stock brand to be *prima facie* evidence of ownership.

45. In the case of the prosecution of any person for theft of any stock or hide thereof where the hide is proved to have been mutilated in such a way that any brand or distinctive mark is removed or rendered illegible the onus of proving that he was the proprietor of such animal or hide shall rest on the accused person.

Mutilation so as to remove distinctive mark.

46. Any person wilfully failing to comply with or offending against the provisions of this Ordinance in any case in which no penalty is imposed hereby; and any person failing to comply with or offending against any of the provisions of any regulation or rule made under this Ordinance shall on conviction be liable to a fine not exceeding Rupees three hundred and in default of payment to imprisonment for a term not exceeding three months.

Other offences.

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SCHEDULE A.

District Brand Register.

(The Branding of Stock Ordinance 1907).

Name of owner in full.	Address.	District for which brand is required.	Brand allotted.	No. of certificate.	Date of registration.

SCHEDULE B.

Application for Brand.

(The Branding of Stock Ordinance 1907).

To the Registrar of Brands.

Herewith I / We enclose the prescribed fee of Rupees five and request that you will allot and register a brand for the holding or place mentioned in the Schedule below.

Name of applicant (s) in full.	Address.	District for which brand required.

Fee..... Rupees.....

Signed.....

Applicant (s)

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SCHEDULE C.

(The Branding of Stock Ordinance 1907).

No.....

.....day of.....

I hereby certify that the brand shewn in the diagram at foot hereof was duly registered on the date and as the brand of the person (s) therein set forth in the Schedule hereto

Owner (s) full name (s)	Address.	District for which Brand is registered.	Date of registration.

Fee paid..... Signed.....

Diagram of Brand.

SCHEDULE D.

Memorandum of Transfer of Brands.

(The Branding of Stock Ordinance 1907).

To the Registrar of Brands.

Sir,

I being the registered owner of the brand set forth in the Schedule hereto and desiring to transfer the same to (name in full of the transferee) of (name of holding or place where brand will be used and postal address thereof) hereby request you will record the same in your register accordingly and I herewith enclose the fee therefor (ten Rupees).

A. B. (owner).....

Address

Witness

C. D. (Transferee)

Address

Witness

Brand	Name and address of previous owner of Brand	District where Brand is registered.	No. of certificate.	Date of registration.

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SCHEDULE E.

Certificate of Transfer.

(The Branding of Stock Ordinance 1907).

No.....

Date.....

This is to certify that the brand shewn in the specimen at the foot hereof was this day transferred from of to of

Fee paid

Signed.....

District Commissioner.

Diagram of Brand.	Transferee's name and address.	District where Brand is to be used.	No. of certificate.	Date of registration.

SCHEDULE F.

Application for Auctioneer's Brand.

(The Branding of Stock Ordinance 1907).

To the Registrar of Brands.

Herewith I / We carrying on business as an auctioneer at enclose the prescribed fee of Rupees five and request that you will allot and register an auctioneer's brand to be used by me / us in the course of my / our business as auctioneer of stock. I / We request that the letter may form part of my / our brand.

Signed
Applicant/s.

SCHEDULE G.

Dominant Letters.

(The Branding of Stock Ordinance 1907).

Dominant letter.	District denoted.
A	Nairobi.
B	Machakos.
C	Kitui.
E	Dagoretti.
F	Malindi.
G	Ravine.
H	Baringo.
J	Fort Hall.
K	Nyeri.
L	Kisumu.
M	Mumias.
P	Nandi.
R	Lamu.
U	Mombasa.
V	Naivasha.
W	Vanga.
Y	Teita.
S	Kericho.
T	Tana River.

A Bill

To amend the East Africa Police Ordinance, 1906.

Be it enacted by the Governor of the East Africa Protectorate with the advice and consent of the Legislative Council thereof :—

1. This Ordinance may be cited as the East Africa Police Ordinance 1907 Short title. and shall be read as one with the East Africa Police Ordinance 1906 hereinafter referred to as the Principal Ordinance.

2. The provisions of Section 9 of the Principal Ordinance shall not apply to the appointment of a Police Officer of European birth or extraction.

The provisions of Section 9 of the Principal Ordinance not applicable to the appointment of European Officers.

3. (1) The Governor may confer upon any Provincial Commissioner all or any of the powers which may be exercised by a Deputy Inspector General of Police; Provided however that such powers shall be exercised by the Provincial Commissioner within the limits of his Province only and Provided further that such power may at any time be cancelled by the Governor.

Authority to Governor to confer the powers of a Deputy Inspector General on Provincial Commissioners.

4. The Principal Ordinance shall be and is hereby amended as follows :—

(1) By substituting the words "Deputy Inspector General, Assistant Inspector General" for the words "Assistant Deputy Inspector General" in Section 8 (1).

(2) By substituting for the words "Drinking on duty" the words "Drinking at a time when by the special or general orders of a superior Officer such Police Officer should be on duty" in Section 8 (1) (2).

(3) By substituting the words "Assistant Inspector General" for the words "Assistant Deputy Inspector General" in Section 13.

(4) By substituting the word "establish" for the word "established" in Section 25 (1).

(5) By the omission of the word "ghat" in Section 30.

(6) By substituting the words "this Ordinance" for the words "the Ordinance" in Section 35.

Amendment in Principal Ordinance.

A Bill

To amend the Master and Servant Ordinance, 1906.

Be it enacted by the Governor of the East Africa Protectorate with the advice and concent of the Legislative Council thereof :—

1. This Ordinance may be cited as the Master and Servants Ordinance Short title. 1907 and shall be read as one with the Master and Servants Ordinance 1906.

2. (1) Any written contract of service entered into in British India for service in the East Africa Protectorate shall if it shall have been executed and attested in the manner prescribed by the Indian Emigration Act 1883 or by any law for the time being in force in British India relating to the Emigration of Natives of India be deemed to have been executed in conformity with the Master and Servants Ordinance 1906 anything in Section 37 of the said Ordinance to the contrary notwithstanding.

(2) Any such contract of service shall be deemed to have been made executed and attested in conformity with the laws in force in British India if it shall bear the attesting signature of an Officer or other person purporting to be a person authorised by law to attest such contracts unless it shall be proved that such

A Bill

To define the powers of the High Court and to constitute and define the powers of Courts subordinate thereto.

Be it enacted by the Governor of the East Africa Protectorate with the advice and consent of the Legislative Council thereof :—

PART I.**General.****Definitions.**

1. IN this Ordinance unless the context otherwise requires the following terms shall have the meaning hereby assigned to them :—

“*The High Court*” means His Majesty’s High Court for East Africa as constituted by the East Africa Order-in-Council 1902.

“*Protectorate*” means the East Africa Protectorate.

“*Civil Procedure Code*” means the Indian Code of Civil Procedure as applied to the Protectorate or any law of civil procedure hereinafter substituted for such code and in force in the Protectorate.

“*Criminal Procedure Code*” means the Indian Code of Criminal Procedure as applied to the Protectorate or any other law of Criminal Procedure in force in the Protectorate or any law of Criminal Procedure hereinafter substituted for such code or for such other law.

2. There shall be and are hereby constituted Courts subordinate to the High Court.

3. These Courts shall be known as Subordinate Courts of the first class, second class, and third class and Subordinate Native Courts.

4. The Subordinate Judge or Magistrate in the respective Courts shall be by virtue of their office

Subordinate	in a Court of 1st Class	A Provincial Commissioner or a Town Magistrate.
	„ „ 2nd „	A District Commissioner.
	„ „ 3rd „	An Assistant District Commissioner.
Native	„ „ Liwali	A Liwali.
	„ „ Kathi	A Kathi.
	„ „ Mudir	A Mudir.

Proviso.

Provided always that in case of incapacity from illness or of absence of a presiding officer or for any other good and sufficient reason the Governor may by notice in the Official Gazette appoint any European officer of the Administration to hold a subordinate Court, and any Native officer to hold a Subordinate Native Court.

Additional powers.

5. The additional powers set forth in the 1st Schedule hereto annexed may be granted to a Subordinate Judge or Magistrate holding a Subordinate Court by the Governor on the recommendation of the High Court.

6. The limits within which Subordinate Courts shall exercise their jurisdiction shall be as follows :— that is to say,

a Court of the 1st class.

Within the limits of the Province in which it is situated

„ „ 2nd „

Within the limits of the District in which it is situated

„ „ 3rd „

Within the limits of the District in which it is situated

a Court of a Liwali

In the Coast Districts within the limits of the District in which it is situated

„ a Kathi

In the Coast Districts within the limits of the District in which it is situated

„ a Mudir

In the Coast Districts within the limits of the District in which it is situated

Provided that where there is more than one Subordinate Court in the same District the High Court may direct the distribution of business between such Courts.

Place of sitting.

7. Subordinate Courts shall ordinarily be held at such places as the Governor may direct, but should necessity arise they may also be held at any other place within the limits of their jurisdiction.

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8. Subordinate Courts may in any case call in the assistance of one or more assessors to aid them in deciding matters of native law and custom Power to call in assessors.
9. (a) All Subordinate Courts shall keep written records and furnish returns of cases tried by them to the High Court in such manner as the High Court may from time to time direct. Records and Returns.
- (b) A Judge of the High Court shall periodically inspect the records of all Subordinate Courts and may give such instructions and advice thereon as he may deem necessary.
10. (i) Nothing herein shall affect the power of the Governor to recognise the jurisdiction of a Tribal Chief or Council of elders or village Headman or Headmen over the members of his or their tribe or village or the exercise by such Tribal Chief or Council of Elders or village or village Headman or Headmen of such authority as may be vested in him or them by the custom of his or their tribe or as may be granted to him or them by the Governor. Jurisdiction of Tribal Chief.
- ii. Provided that all jurisdiction granted by the Governor under sub-section (i.) of this section to a Tribal Chief or Council of elders or village Head-man or Headmen shall be exercised in accordance with Rules made by the Governor hereunder and published in the "Official Gazette."
11. A Subordinate Court may transfer to any recognized tribal Chief or Council of Elders the determination of any suit or proceeding in such Subordinate Court where the parties thereto are natives. Transfer of cases to Tribal Chiefs.
12. A Subordinate Court may take such steps as it may think fit to enforce the orders of any recognised tribal Chief or Council of Elders or Village Headman or Headmen within its jurisdiction. Enforcement of order of Tribal Chiefs.
13. A Subordinate Court shall exercise supervision over but shall not unduly interfere with the procedure, orders or punishments of any tribal authority within its Jurisdiction except where such procedure, orders or punishments are contrary to justice or morality or the laws in force for the time being within the Protectorate. Supervision by Subordinate Courts over Tribal authority.
14. Subject to the provisions of this Ordinance and to Rules of Court all Courts shall follow the principles of procedure laid down in the Civil and Criminal Procedure Codes so far as the same may be applicable and suitable. Procedure.
15. The High Court shall have the same power to deal with cases of contempt of its authority as the High Court of Justice in Great Britain, such power shall extend to the upholding of the authority of Subordinate Courts. Contempt of Court.
- Provided that nothing in this Section shall affect the provisions of the Criminal Procedure Code relating to offences of contempt committed in the face of the Courts.
16. All Subordinate Courts shall use seals of such nature and pattern as the Governor may by notice in the "Official Gazette" direct. Seals.

PART II.

Civil Jurisdiction.

17. The High Court shall be the principal Court of Original Civil Jurisdiction, and shall exercise general powers of supervision over all Subordinate Courts. High Court.

18. Unless otherwise expressly provided by this Ordinance or by any law for the time being in force in the Protectorate an appeal shall lie from the decrees or from any part of the decrees and from the orders of the High Court to the Court of Appeal for Eastern Africa. Appeals from High Court to Court of Appeal for Eastern Africa.

Civil Jurisdiction.

19. The Subordinate Courts constituted by this Ordinance shall exercise the following jurisdiction in civil matters, that is to say:— Subordinate Courts Civil Jurisdiction.

Courts of 1st Class : Full jurisdiction over all persons in all matters in which the value of the subject in dispute does not exceed.....Rs. 750

Where the Defendant is a native the limit of jurisdiction shall be

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Subordinate Native Courts Mixed cases may be brought in Liwalis' and Mudirs' Courts.	Courts of 2nd Class ; Full jurisdiction over all persons in all matters in which the value of the subject in dispute does not exceed.....Rs. 500 Where the Defendant is a native the limit of jurisdiction shall be.....Rs. 750
	Courts of 3rd Class : Full jurisdiction over all persons in all matters in which the value of the subject in dispute does not exceed.....Rs. 250
	Courts of Liwalis Full jurisdiction over natives in all matters in which the value of the subject in dispute does not exceed.....Rs. 750
	Courts of Kathis Full jurisdiction over Mohamedan natives in all matters relating to personal status, marriage, inheritance and divorce.
	Courts of Mudirs Full jurisdiction over natives in all matters in which the value of the subject in dispute does not exceed.....Rs. 250

Appeals from Subordinate Courts to High Court.

Appeals from Kathis' Courts to High Court with Sheikh-ul-Islam.

All appeals lie to High Court of two Judges.

If Judges disagree.

Power to refer to High Court.

Powers of High Court.

Power of High Court to call for records.

Procedure in Revision.

20. Mixed cases *i.e.* when the Defendant is a native and the Plaintiff is not may subject to the other provisions of this Ordinance be brought either in a Subordinate Court or in a Subordinate Native Court as the Plaintiff may prefer ; but in any action so brought in the Court of a Liwali or Mudir the Court shall have jurisdiction to adjudicate on any counter claim or set off raised by the Defendant by way of defence to the action.

21. Unless when otherwise expressly provided by this Ordinance or by any law for the time being in force in the Protectorate an appeal shall lie from the decrees or from any part of the decrees, and from the others of all Subordinate Courts other than Kathis' Courts to the High Court.

22. Appeals from Kathis' Courts shall lie to the High Court with the Sheikh-ul-Islam or Chief Kathi as assessor.

23. All appeals from Subordinate Courts shall be heard by not less than two Judges of the High Court but may with the consent of the parties be heard by one Judge.

24. If the event of an appeal being heard by two Judges who disagree the Judgement shall follow the finding of the Senior Judge.

25. Any Subordinate Court may at the request of the parties or of its own motion refer to the High Court for its decision any question of law or usage having the force of law or the construction of a document which construction may affect the merits of the case, provided always that any such reference shall not affect the rights of the parties to appeals on any other ground than that so referred.

PART III.

Criminal Jurisdiction.

26. The High Court may pass any sentence authorised by law.

27. The High Court may call for and examine the records of any Criminal proceedings before any Subordinate Court for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed and as to the regularity of any proceedings of such Subordinate Court.

28. (1) In the case of any proceeding the record of which has been called for by itself or which has been reported for orders or which has otherwise come to its knowledge the High Court may in its discretion exercise any of the powers conferred on it when hearing appeals from a Subordinate Court by Section 39 of this Ordinance and may enhance the sentence.

(2) No order under this section shall be made to the prejudice of the accused unless he has had an opportunity of being heard either personally or by pleader in his own defence.

(3) Nothing in this section shall be deemed to authorise the High Court to convert finding of acquittal into one of conviction.

(4) Where the sentence dealt with under this Section has been passed by a subordinate Court the High Court shall not inflict a greater punishment for the offence which in the opinion of such Court

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29. When a case is revised by the High Court it shall certify its decision or order to the Court by which the finding, sentence or order so revised was recorded or passed and the Court to whom the decision or order is so certified shall thereupon make such orders as are conformable to the decision so certified and if necessary the record shall be amended in accordance therewith.

30. Magistrate holding Subordinate Courts of the first, second and third class shall when the accused is a non-native have the powers hereinafter respectively conferred upon them specified in the second Schedule to this Ordinance.

31. A Subordinate Court may commit for trial to the High Court all cases which under the Criminal Procedure Code may be committed for trial to the High Court or Session.

32. Except where otherwise expressly provided by law any person committed for trial to the High Court shall be tried by a Judge of the High Court sitting with not less than 3 assessors.

33. Magistrates holding Subordinate Courts of the first, second and third class shall have full jurisdiction over natives.

Provided that cases of offences against the State and cases of culpable homicide and murder and attempt and abetment of such offences shall be committed for trial to the High Court, and provided that no Magistrate holding a Subordinate Court of the third class shall pass a sentence exceeding six months' imprisonment of either description or a fine of Rupees two hundred or both.

34. (1) Subordinate Courts of the first or second class may when the accused is a native impose a sentence of whipping not exceeding 24 lashes in addition or in lieu of any other punishment prescribed by law.
- (2) A sentence of whipping shall not be inflicted except in the presence of a Medical Officer of the Protectorate or if no Medical Officer is available in the presence of a Magistrate nor before such officer or Magistrate has after the examination of the prisoner certified that he is physically fit to undergo the sentence imposed upon him.
- (3) The Medical Officer or Magistrate may at any time during the execution of a sentence of whipping intervene and prohibit the remainder of the sentence being carried out if he considered the prisoner unable to bear it without risk of serious physical injury.
- (4) No sentence of whipping shall be carried out in instalments.
- (5) The instruments used in whipping shall be such as the Governor from time to time may direct.
- (6) Subject to the provisions of Sub-Section 2 of this Section any sentence of whipping passed or imposed shall not be inflicted in a case which is subject to appeal until 15 days from the date of the sentence or if an appeal is made within that time until the sentence is confirmed by the Appellate Court but the whipping shall be inflicted as soon as possible after the expiry of such 15 days or in the case of an appeal after receipt of the order of the Appellate Court confirming the sentence.

In cases not subject to appeal any sentence of whipping passed or imposed shall be inflicted as soon as possible after such sentence has been passed or imposed.

off flogging 35. No sentence imposed on a native by a Subordinate Court exceeding ~~12 months~~ or six months imprisonment shall be carried into effect and no fine exceeding Rupee five hundred shall be exacted until the record of the evidence or a certified copy thereof has been transmitted to, and the sentence confirmed by the High Court.

36. A court of a Liwali or Kathi shall have in Criminal proceedings with respect to natives the same powers as a Court of the second class with respect to non-natives.

37. A Court of a Mudir shall have in Criminal proceedings with respect to natives the like powers as a Court of the third Class with respect to non-natives but without power to commit for trial.

38. An appeal shall lie to the High Court from any finding, sentence or order of any Subordinate Court passed or made in the exercise of its Criminal Appeals from Subordinate Courts jurisdiction.

Certifying order of revision.

Jurisdiction of Subordinate Courts over non-natives.

Power to commit for trial.

Trial by High Court with assessors.

"Subordinate Court" Jurisdiction over natives.

Power to whip natives.

Sentences needing confirmation by High Court.

Liwalis and Kathis Criminal jurisdiction.

Mudirs Criminal jurisdiction.

Appeals from Subordinate Courts

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Appellate powers
of High Court.

39. The High Court may in the exercise of its appellate jurisdiction exercise any of the powers conferred upon the High Court or a Court of Appeal by the Criminal Procedure Code and may,

- (i) dismiss the appeal;
- (ii) in an appeal from an order of acquittal reverse such order and direct that further enquiry be made or that the accused be retried or committed for trial as the case may be or find him guilty and pass sentence on him according to law;
- (iii) in an appeal from a conviction:
 - (a) reverse the finding and sentence and acquit or discharge the accused or order the accused to be committed for trial or retried by a Court of competent jurisdiction, or
 - (b) alter the finding maintaining the sentence or with or without altering the finding reduce the sentence, or
 - (c) with or without such reduction and with or without altering the finding alter the nature of the sentence but not so as to enhance the same.
- (iv) in an appeal from any other order alter or reverse such order.
- (v) make any amendment or any consequential or incidental order that may be just or proper.

Composition of
Courts for the
hearing of
appeals.

40. All proceedings before the High Court in the exercise of its appellate or revisional jurisdiction in criminal matters shall ordinarily be heard by not less than two Judges but any finding, sentence or order thereon may be made or passed by one Judge of such Court if more than one Judge is not available.

41. (1) An appeal shall lie to the Court of Appeal for Eastern Africa from any finding, sentence or order recorded or passed by the High Court in the exercise of its original Criminal jurisdiction and not otherwise.

Provided that such finding, sentence or order is appealable under the Criminal Procedure Code.

(2) The Court of Appeal for Eastern Africa shall not have any power of revision or appeal over or from any finding, sentence or order recorded or passed by the High Court in the exercise of its Criminal jurisdiction other than that provided by Sub Section 1 of this Section.

Repeals.

42. The Regulations, Rules and Ordinances specified in Schedule 3 annexed hereto shall be repealed to the extent specified in such Schedule.

Short title.

43. This Ordinance may be cited as the Courts Ordinance 1907.

Schedule I.

ADDITIONAL POWERS.

I. Civil.

A Judge of a first Class Subordinate Court may be invested with the powers in Bankruptcy conferred by Chapter XX of the Civil Procedure Code.

II. Criminal.

(1) Powers with which a Magistrate holding a First Class Subordinate Court may be invested by the Governor.

(2) Powers with which a Magistrate holding a Second Class Subordinate Court may be invested by the Governor.

(3) Powers with which a Magistrate holding a Third Class Subordinate Court

The additional powers with which a Magistrate of the First Class may be invested under the provisions of the Criminal Procedure Code 1898 Section 27 as applied to the Protectorate.

The additional powers with which a Magistrate of the Second Class may be invested under the provisions of the Criminal Procedure Code 1898 Section 37 as applied to the Protectorate.

The additional powers with which a Magistrate of the Third Class may be invested under the provisions of the Criminal Procedure Code 1898 Section 27 as applied to the Protectorate.

Schedule II.**Ordinary Criminal Powers.**

Magistrates holding Subordinate Courts of the First, Second or Third Class shall respectively exercise the ordinary powers of Magistrates of First, Second or Third Class under the Criminal Procedure Code 1898 as applied to the Protectorate save in so far as such powers are modified by any law or Criminal Procedure in force for the time being and aave as aforesaid may pass the following sentences, namely :—

(1) A Magistrate holding a Sub-ordinate Court of the First Class

{ Imprisonment for a term not exceeding two years including such solitary confinement as is authorised by law.
Fine not exceeding Rupees one thousand.
Whipping.

(2) A Magistrate holding a Sub-ordinate Court of the Second Class.

{ Imprisonment for a term not exceeding six months including such solitary confinement as is authorised by law.
Fine not exceeding Rupees two hundred.
Provided that no sentence exceeding one month's imprisonment or a fine of Rupees fifty be inflicted on an European or American.

(3) A Magistrate holding a Sub-ordinate Court of the Third Class

{ Imprisonment for a term not exceeding one month.
Fine not exceeding Rupees fifty.

Provided that Magistrates holding a Subordinate Court of the Third Class shall not have jurisdiction to try Europeans or Americans but may take cognizance of an offence committed by an European or American in any case in which they could take cognizance of a like offence if committed by another person but so that if any such Magistrate issue process for the purpose of compelling the appearance of any European or American accused of an offence such process shall be made returnable before a Magistrate having jurisdiction to enquire into or try the case.

Schedule III.

Ordinance, Regulation and Notice repealed.	Extent of Repeal.
The Native Courts Regulations 1897 (No. 15 of 1897)	The whole.
Notification respecting limits of Jurisdiction of Judges and Magistrates (No. 1 of 1900)	The whole.
Notice respecting the ordinary jurisdiction of Protectorate Officers in Civil cases (No. 4 of 1900)	The whole.
The Village Headmen Ordinance 1902 (No. 22 of 1902)	Section 6.
The Appeals Ordinance 1902 (No. 28 of 1902)	The whole.
The East Africa Native Courts Amendment Ordinance 1902 (No. 31 of 1902)	The whole.
The East Africa Native Courts (Amendment) Ordinance 1903 No. 11 of 1903)	The whole.
The Native (Special) Courts Amendment Ordinance 1904	The whole.
The East Africa Native Courts Amendment Ordinance 1905 (No. 13 of 1905)	The whole.
The Bombay Civil Court Act 1869 as applied to the East Africa Protectorate by the East Africa Order-in-Council 1897	The whole.
Provincial Small Cause Courts Act 1887 (Indian Act No. 9 of 1887 as applied by the East Africa Order-in-Council 1897)	The whole.

A Bill

To make better provision for the levying of Custom Duties in the East Africa Protectorate and for the organization and management of the Customs Department.

Be it enacted by the Governor of the East Africa Protectorate with the advice and consent of the Legislative Council thereof:—

CHAPTER I.**Preliminary.**

Short title.

Extent of application.

Definitions.

1. This Ordinance may be cited as the Customs Ordinance 1907.

2. This Ordinance shall apply to East Africa Protectorate and to the Protectorate waters.

3. For the purpose of this Ordinance, the following terms shall be understood as hereafter defined, unless there is something in the subject or context repugnant to such definitions; that is to say:—

“Chief of Customs” means the person authorised to exercise, subject to the Governor, the chief control in matters relating to Customs throughout the Jurisdiction;

“Customs Collector” means a person authorised to receive declarations and payments of Customs duty and to appraise goods;

“Customs Superintendent” and “Customs Master” include every officer of Customs for the time being in charge of a Custom House, or duly authorised to perform all, or any special duties of an officer so in charge;

“Customs Port” means any place declared to be a port, sub-port or place of entry under section 12 for the importing, exporting, shipment and landing of goods;

“Customs Yard” shall mean any place provided by the Government wherein goods may be temporarily placed until all duties and charges thereon be paid;

“Drawback” means the amount of duty to be refunded or remitted under the provisions of this Ordinance on the exportation to a foreign port of the goods whereon such duty has been paid;

“Exportation” or “Exporting” shall include and mean the conveyance of goods across the frontier or shipment from a port in the Protectorate to a Foreign port;

“Exporter” shall mean the person who actually exports the goods, but shall also include any person who acts for or on behalf of such person;

“Foreign Port” means any place beyond the limits of the Protectorate or of the Uganda Protectorate;

“Gazette” means the “Official Gazette” of the Protectorate;

“Goods” shall mean any article whatever, including animals;

“Importation” or “Importing” shall include and mean the bringing of goods into or within the jurisdiction by sea or land;

“Importer” shall include any owner or other person for the time being possessed of or beneficially interested in any goods imported within the jurisdiction from the time of the importation thereof until they shall, on payment of the duties thereon or otherwise, be delivered or discharged from the custody or control of the Customs;

When any person is expressly or impliedly authorised by the owner of any goods to be his agent in respect of such goods for all or any of the purposes of this Ordinance, and such authorisation is approved by the Chief of Customs or other Chief Officer of Customs at the Customs port; such person shall, for such purposes, be deemed to be the owner of such goods;

“Jurisdiction” shall mean the local limits to which this Ordinance extends, as defined in the last preceding section;

“Master” when used in relation to any ship, means any person, except a pilot or port officer, having command or charge of a ship;

“Officer of Customs” shall include all godown keepers, baggage examiners, tally clerks and all other persons employed in the service of the Customs;

“Port” includes sub-port and place or entry;

“Protectorate” shall mean the East Africa Protectorate;

“Ship” shall include any vessel, whether or not registered;

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"Transit Agent" means the person in charge of goods declared for transit through the Protectorate whether such person be the owner thereof or his agent;

"Warehouse" shall mean any place provided by the Government for lodging goods therein for the security of the Customs duties.

CHAPTER II.

Appointment and powers of Officers, &c.

4. Every person employed on any duty or service relating to the Customs, trade or navigation, by the orders or with the concurrence of His Excellency the Governor (whether previously or subsequently expressed or implied) shall be deemed to be an officer of Customs and all appointments granted to any officers of the Customs in force at the commencement of this Ordinance shall continue in force as if the same had been granted under the authority of this Ordinance.

Persons employed on service of the Customs to be deemed officers for such service.

Existing appointments to remain in force.

5. Subject to the provisions of this Ordinance, the Chief of Customs shall have the general superintendence and control of the entire Customs Department of the Protectorate, with full power and authority at all time to carry into effect the laws relating to the Customs, and to trade and navigation, and the powers and authority of the Chief of Customs and of all his Assistants and other persons acting under his orders and authority, shall extend to and through out all places within the limits of the jurisdiction.

Chief of Customs to have supervision of the appointment of officers, ports, &c.

6. The Assistants to the Chief of Customs shall be competent, in the temporary absence of the Chief of Customs, to exercise all or any of the powers conferred on the Chief of Customs.

Assistants to Chief of Customs.

7. Every Officer appointed a Customs Superintendent or Customs Master shall act for such port and district as shall be assigned to him for that purpose by the Chief of Customs, and shall, in all matters connected with his duties as Customs Superintendent or Customs Master or otherwise in relation to Customs, correspond with and be subject to the orders and directions of the Chief of Customs. Provided always that the Governor may from time to time make and issue orders for the guidance and Government of the Chief of Customs and the other Officers of Customs and may annul or disallow any order issued by the Chief of Customs or any other Officer of Customs.

Customs Superintendent or Customs Master to act for port or district assigned to him.

Every such Customs Superintendent or Customs Master shall carry out any instructions not being inconsistent with the provisions of this Ordinance, which he may receive from the Administrative Officer of the district in which he is located. Provided always that such instructions shall be subject to confirmation or annulment by the Chief of Customs.

Administrative officers to give instructions.

8. Any Officer of Customs is liable to be transferred from one place to any other place within the Protectorate and shall act for such ports or district as shall be assigned to him for that purpose by the Chief of Customs and shall perform such duties as may be required of him by the senior Customs Officer at any particular port or place at which any such officer of Customs may be stationed.

Customs officers liable to be transferred from one place to any other place.

9. The Chief of Customs, with the approval of His Excellency the Governor, may appoint the hours of general and special attendance of the Customs Officers in the Custom House and of all other officers and persons in the service of the Customs at their offices and places of employment.

Hours of attendance of Customs Officers.

10. The powers to confiscate and the power to impose any penalty hereunder shall be vested in the Chief of Customs.

Confiscation by Chief of Customs.

11. When any goods are seized by an Officer of Customs for any infringement of the provisions of this Ordinance, and any penalty or confiscation shall have been adjudged in consequence, it shall be competent to the Chief of Customs to award to such seizing officer a part of the penalty imposed, or a part of the sale proceeds of such confiscated goods, not exceeding two-fifths of the whole, after deducting the Government duty, if any, and any charges which may have been incurred by or are due to Government.

Rewards for detection of smuggling.

CHAPTER III.

Appoitnment of Ports, Warehouses, Wharves, Custom Houses, Boarding and Landing Stations.

12. His Excellency the Governor may, by notice in the "Gazette" from time to time, appoint ports, sub-ports and places of entry within the jurisdiction, and declare the limits of such ports, sub-ports and places of entry, and appoint proper places within the same to be legal quays or places for the importing,

The Governor may appoint ports, quays and alter or annul the same.

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Existing ports &c.
to continue.

any such quays or places, or annul the limits of any port, sub-port, place of entry or legal quay or place already appointed, or to be hereafter set out and appointed, and declare the same to be no longer a port, sub-port, place of entry or legal quay or place, or alter or vary the names, bounds, and limits thereof; and all ports, sub-ports and places of entry and the respective limits thereof, and all legal quays or places appointed, set out, and existing as such at the commencement of this Ordinance, shall continue to be such ports, sub-ports, places of entry, legal quays and places until annulled, varied, or altered; and any port, sub-port, place of entry, legal quay or place, or the limits thereof now annulled or altered, shall continue so annulled or altered until otherwise varied or altered as aforesaid.

Until altered or added to, the places described in Schedule A to this Ordinance shall be ports, sub-ports and places of entry within the meaning of this section.

The Governor
may declare
what foreign
ports shall be
regarded as
Customs ports
for certain
purposes.

The Governor
may appoint
stations and
sufferance wharves,
and regulate
discharge of cargo.

The Governor
may appoint
warehousing ports.

Appointment
of warehouses
and regulations
for them.

Storage of
Kerosine oil &c.

Rates of storage
for goods
deposited in
warehouses to be

13. His Excellency the Governor may from time to time direct, by notice in the "Gazette" that all goods or any specified class of goods imported from, or exported to, any Foreign port to or from a Customs port shall, with such limitations and on such conditions (if any) as he thinks fit, be treated for any of the purposes of this Ordinance as imported from or exported to a Customs port as the case may be.

14. His Excellency the Governor may from time to time appoint stations or places for ships arriving at or departing from any Customs port to bring to for the boarding or landing of officers of Customs, and may also appoint places to be sufferance wharves for the lading and unlading of goods by sufferance in such cases, under such restrictions, and in such manner as His Excellency the Governor shall see fit, and may also direct at what particular part or parts of any roadstead harbour, dock, quay, or other place in any Customs port, ships laden with any particular cargo, shall moor and discharge such cargo, and the Chief of Customs or other chief officer of Customs of any Custom port may station officers on board any ship while within the jurisdiction.

15. His Excellency the Governor may, by notice in the "Gazette" from time to time, appoint any Customs port to be a warehousing port for the purposes of this Ordinance, and such Customs port shall thereafter have and possess all the rights and privileges of a warehousing port until the appointment thereof be annulled by His Excellency the Governor and all appointments of warehousing ports existing at the commencement of this Ordinance shall continue in force until so annulled.

Until altered or added to, the places mentioned in Schedule B to this Ordinance shall be warehousing ports within the meaning of this section.

16. (1) Subject to the directions of the Governor, the Chief of Customs may from time to time approve and appoint warehouses at any warehousing port for the warehousing and securing of goods without payment of duty upon the first entry thereof, and may in such appointment direct whether such warehouses shall be used for the purposes of storing goods imported for home consumption only, or for home consumption and exportation or for exportation only, and all goods to be stored in such warehouses shall be stored in such manner as the Chief of Customs or other officer of Customs shall direct; and the warehouses shall be locked and secured in such manner, and shall be opened and visited at such times only and in presence of such officers and under such rules and regulations as the Chief of Customs, subject to the approval of the Governor, shall direct, and all such goods after being landed on importation, shall be carried to the warehouse or shall, after being taken out of the warehouse for exportation, be carried or waterborne to be shipped under such rules and regulations as the Chief of Customs subject to the approval of the Governor, shall direct.

(2) No kerosine oil or inflammable oil shall be stored in any warehouse in any port without duty having been first paid thereon or in any warehouse not specially provided or approved for the purpose by the Government.

17. The Governor may, by notice in the "Gazette," fix, from time to time, the rates of rent which shall be payable in respect of any goods deposited

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be lawful for the Chief of Customs or other officer of Customs to detain the goods of any person who shall omit or refuse to pay any money due for rent on goods stored in any of the said warehouses or yards.

Goods landed at the Custom House except when otherwise provided for shall be allowed three days *i. e.* seventy-two hours (from the time of final discharge of goods from lighters) rent free, and shall thereafter be charged single rents for a period not exceeding seven days, and for every week or part of week in excess of that period, double rent.

Transhipment goods shall be charged single rent for the period of six months.

Until altered or added to, the rates mentioned in Schedule C to this Ordinance shall be the rates of single rents chargeable within the meaning of this section.

18. It shall be lawful for the Chief of Customs to licence any private building within or near any Custom port and to grant a renewal of such licence upon application being made before the expiration of such licence for the warehousing and securing therein of goods imported for home use only and also in such licence to declare what sort of goods may be warehoused and also by notice in writing to revoke or alter such licence at any time.

Power to licence private warehouses.

19. There shall be payable in respect of each such licence the sum of rupees four hundred and fifty per annum and each such licence shall be renewable on January 1st in each year.

Fee for private warehouse licence.

20. A notification of every licence granted under the last two proceeding sections shall be published in the "Gazette."

Private warehouse licence to be published in the Gazette.

21. The proprietor or occupier of every warehouse licensed under the provisions of section 18 or someone on his behalf shall give or procure to be given security by bond with one or more sufficient securities or such other security as the Chief of Customs subject to the direction of His Excellency the Governor may approve for the payment of the full duties of importation or exportation on all such goods as shall from time to time be warehoused therein and no goods shall be warehoused in any such warehouse until such security shall have been given.

Proprietor or warehouse keeper to give general security.

22. The proprietor or occupier of every licensed warehouse shall on the requisition of the Chief of Customs or other Chief officer of Customs at the Customs port where such licensed warehouse is situate receive all goods to whomsoever belonging which may be offered for warehousing so far as the extent of the building will admit and such proprietor or occupier shall be entitled to receive from the owners of any goods deposited or secured in such licensed warehouse rent in respect of such goods at a rate not exceeding that which may hereafter be fixed from time to time by the Governor and published in the "Gazette" and the Chief of Customs or other officer of Customs shall at the request of such proprietor or occupier detain the goods of any person who may omit or refuse to pay any money due for such rent.

Occupier of licensed warehouse to receive all goods on requisition of Chief of Customs.

23. The proprietor or occupier of any warehouse licensed under the provisions of section 18 hereof who fails to renew the licence and continues to warehouse goods thereunder, after the expiration of such licence shall be liable to a fine of Rupees seventy five for every day or part of a day during which he shall continue to so warehouse goods without licence.

Penalty for continuing private warehouse without licence.

24. All licensed warehouses shall be locked and secured in such manner and shall be opened and visited at such times only and in the presence of such officer and under such rules and regulations as the Chief of Customs subject to the approved of His Excellency the Governor shall direct. And all goods to be stored in such warehouses shall be stored in such manner as the Chief of Customs or other officer of Customs may direct.

Locking and securing of private warehouses.

CHAPTER IV.

Levy of, and exemption from, Customs duties.

25. Customs duties shall be levied at such rates as may be prescribed hereinafter or under any law for the time being in force, on goods imported or exported by sea or land into or from any Customs port from or to any Foreign port.

Goods dutiable.

26. Except for articles imported by parcel post, import duty shall be collected and paid in the currency of the Protectorate at the Customs port in the Protectorate where the goods are first imported or if in the custody of the

Import duty to be collected in the currency of the Protectorate at the Customs

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Export duty to be collected at the first Customs port from which goods are exported.

Goods partially composed of dutiable articles.

Chief of Customs may fix tariff values.

The Governor may authorize, in special cases, exemption from Customs-duties.

Re-imported articles of country produce.

Proviso.

Re-imported articles of foreign produce.

Proviso.

Re-importation of articles sent out for repairs and alteration.

Duty on importation of country goods which have undergone process of manufacture.

Goods derelict and wreck.

Real value defined.

27. Export duty shall be collected in the currency of the Protectorate at the first Customs port in the Protectorate from which goods are exported.

28. Except as otherwise expressly provided by any law for the time being in force, goods whereof any article liable to duty under this Ordinance forms a part or ingredient shall be chargeable with the full duty which would be payable on such goods if they were entirely composed of such article, or, if composed of more than one article liable to duty than with the full duty which would be payable on such goods if they were entirely composed of the article charge with the highest rate of duty.

Exception. Drugs and chemical preparations containing alcohol, perfumes scents or essences other than Eau de Cologne and Lavender water.

29. The Chief of Customs may from time to time by notification in the "Gazette," fix for the purpose of levying duties tariff values of any goods exported or imported by sea or land on which Customs duties are leviable.

30. His Excellency the Governor may, by special order in each case, exempt from the payment of Customs duty, under circumstances of an exceptional nature, to be stated in such order, any goods on which Customs duties are leviable.

This provision shall not be used for giving a general exemption to a particular article, but only to allow free entry in specific cases.

31. If goods produced or manufactured in the Protectorate be imported into the Protectorate from any Foreign port, such goods shall be liable to all the duties, conditions and restrictions (if any) to which goods of the like kind and value not so produced or manufactured are liable on the first importation thereof.

Provided that, if such importation takes place within a year after the exportation of such goods, and it be proved to the satisfaction of the Customs Collector that the property in such goods has continued in the person by whom, or on whose account, they were exported, the goods shall be admitted without payment of duty.

32. (1) If goods on which import duty shall have been paid in the Protectorate shall be re-imported into the Protectorate, such goods shall be liable to all the duties, conditions and restrictions (if any) to which such goods would be liable on first importation.

Provided that if such re-importation takes place within a year after the exportation of such goods, and it be proved to the satisfaction of the Customs Collector that the property in such goods has continued in the person by whom, or on whose account, they were exported, the goods shall be admitted without payment of duty.

(2) Owners of goods sent out of the Protectorate for alteration and repairs which have previously paid duty shall obtain a Customs pass at the time of exportation in order that same may be identified when re-imported.

33. Full duty shall be levied on all goods which have undergone any process of manufacture after exportation from the Protectorate when such goods are re-imported into the Protectorate.

34. All goods derelict, jetsam, flotsam and wreck, brought or coming into any place in the Protectorate, shall be subject to the same duties, if any, to which goods of the like kind are for the time being subject on importation at any Customs port, and shall in other respects be dealt with, as if they were imported from a foreign port, unless it be shown to the satisfaction of the Customs Collector that import duty has already been paid on such goods or that such goods are the produce or manufacture of any place from which they are entitled to be admitted free of duty.

35. (1) The value of goods upon which duty is leviable *ad valorem* shall be either;

(a) the wholesale cash price, less trade discount, for which goods of the like kind and quality are sold, or are capable of being sold, in the place of importation.

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case may be, without any abatement or deduction whatever, except (in the case of goods imported) of the amount of duties payable on the importation thereof; or,

- (b) when such price is not ascertainable, the cost at which goods of the like kind and quality could be delivered in the Custom House at such place, without any abatement or deduction except as aforesaid.
- (2) The Chief of Customs may, with the approval of the Governor, fix a scale or scales of percentages to be added to the first cost of goods to be valued under paragraph (b) to cover any charges which should be taken into consideration in estimating the cost at which such goods can be delivered at the place of importation and which are difficult to ascertain.

36. On the importation into, or exportation from, any Customs port of any goods, whether dutiable or not, the owner of such goods shall, in his import or export declaration of goods, as the case may be, state the real value, quantity and description of such goods, and shall subscribe his name at the foot of such declaration. The goods may be examined by an officer of Customs after such declarations have been signed.

Owner to declare
real value, &c.,
of goods in
bill-of-entry or
shipping-bill.

37. Importers or exporters shall produce their original invoices or other documents, if any, in support of their declarations.

Importers or
exporters to
produce invoices.

If the owner from want of full information, is unable to state the real value or contents of any case, package or parcel, of goods, the officer of Customs shall permit him, previous to the entry thereof to open such case, package, or parcel, and examine the contents in the presence of a Customs officer and declare the value thereof.

Deposit of money
for duty may,
in certain cases,
be accepted.

38. If the importer, consignee or his agent does not wish to open the package or packages if the nature of the goods will not permit of it, he may, subject to the approval of the senior Customs Officer at the port where the goods are imported, deposit a sum equal to $1\frac{1}{4}$ times the estimated value of such goods and unless a declaration of real value, quantity and description be made within three calendar months against such deposit, the sum paid shall from part of the Customs revenue of the Protectorate and no refund shall be made therefrom.

One day...
Declaration
against deposits
to be cleared up
in three months.

39. No Importer shall obtain goods on a deposit for Customs duty if the goods upon which a previous deposit for Customs duty has been paid more than three months previously have not been fully declared and supported by certified documents or original invoices.

Examination of
ad valorem goods.

40. Goods chargeable with duty upon the value thereof but for which a specific tariff value is not fixed hereunder for the purpose of levying duties thereon may without unnecessary delay be examined by an officer of Customs. If it appears that the real value of such goods is correctly stated in the declaration form the goods shall be assessed in accordance therewith.

Procedure when
such goods are
undervalued.

41. If it appears upon examination that any goods are properly chargeable with a higher rate or amount of duty than that to which they would be subject according to the value thereof as stated in the Import or Export Declaration form, the Examining Officer of Customs may detain such goods. In every such case, the detaining officer shall forthwith give notice in writing to the owner of the goods of their detention, and of the value thereof as estimated by him; and the Chief Customs Officer of the port shall, within two clear working days after such detention, or within such reasonable period as may with the consent of the parties be arranged, determine either to deliver such goods on payment of duty charged according to the entry of such owner, or to retain the same for the use of Government.

If the goods be retained for the use of Government, the Customs Collector shall cause the full amount stated in the Declaration as their real value to be paid to the owner in full satisfaction for such goods, in the same manner as if they had been transferred by ordinary sale, and shall, after due notice and without unnecessary delay, cause them to be put up to public auction for cash on delivery.

If the Customs Collector deems the highest offer made at such sale to be inadequate, he may either adjourn the sale to some other day to be publicly notified or buy in the goods, and without unnecessary delay dispose of them for the benefit of Government.

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Amendment of real value allowed in certain cases.

Reward for detection of undervaluation.

Duty in kind allowed in certain cases.

Disposal of duty-in-kind goods.

Abatement allowed on damaged goods.

No abatement when duty is levied on quantity.

Restriction on amendment of bill-of-entry or shipping-bill.

Application of Import duty or tariff valuation.

Application of Export duty or tariff valuation.

Refund of duty allowed on goods not landed.

Payment on duty short levied or erroneously refunded.

No refund of charges erroneously levied or paid, unless claimed within three months.

Valuation and Customs duty on postal parcels.

If the proceeds arising from such sale exceed the sum paid to the owner, together with the duty to which the goods are liable and all charges incurred by Government in connection with them, a portion not exceeding one-half of the surplus shall, at the discretion of the Chief of Customs be payable to the Officer or Officers who detected the under valuation of the goods.

42. Nothing in the preceding sections shall prevent the Chief of Customs, when he has reason to believe that any such under valuation was solely the result of accident or error, from permitting the owner of the goods on his application for that purpose, to amend such entry, on payment of such increased rate of duties on the excess of the amended over the original valuation, or on such other terms as the Chief of Customs may determine.

43. Whenever an amendment of the valuation is permitted under section 42 in an import or export declaration form, and excess duty is levied in consequence, a part of such excess duty not exceeding one half shall, at the discretion of the Chief of Customs, be payable to the officer who detected the undervaluation of goods.

44. (1) It shall be lawful for the importer or exporter if he so desire to pay the import or export duty leviable on goods imported or exported, by him in kind, if the nature of such goods permit of such payment.

Explanation. The number of per cent shall be the number out of every hundred and the importer or exporter shall be entitled to the remaining number.

For example—if a person imports or exports one hundred bales of goods on which Customs duty is ten per cent, he gives ten bales to Government and imports or exports ninety bales.

(2) Goods received in payment of duty shall be sold by public auction and the sum received therefor accredited to the revenue of the Protectorate.

45. If imported goods have sustained damage before delivery, the owner may apply to the Customs Collector to assess the value thereof and the Customs Collector may allow a proportionate abatement of duty if such assessed value is less than the declared value.

46. No abatement of duty on account of damage shall be allowed on spirits or any other article on which duties are levied on quantity and not on value.

47. No abatement of duty on goods assessed for duty on the declared value, quantity or description thereof may be claimed after such goods have been removed from the Custom House, provided that the Chief of Customs may grant a refund on good cause being shown.

48. If goods are warehoused duty thereon shall be payable on the value of the goods at the time when such goods are cleared from the warehouse and duty is paid.

49. The valuation for duty on goods exported shall be that at the time when an export declaration is made and duty paid thereon.

50. When import duty has been paid on any goods and such goods have not been actually imported, it shall be lawful for the Chief of Customs to refund the duty in respect thereof.

51. When the Customs charges or duties have been short levied through inadvertence, error, collusion or misconstruction on the part of Customs Officers or through misstatement as to real value, quantity, or description on the part of the owner, or when any such duty or charge, after having been levied, has been, owing to any such cause, erroneously refunded, the person chargeable with the duty or charge so short levied, or to whom such refund has erroneously been made, shall pay the deficiency or repay the amount paid to him in excess, on demand being made ; and the Customs Collector may refuse to pass any goods belonging to such person until the said deficiency or excess be paid or repaid.

52. No Customs duties or charges which have been paid, and of which repayment wholly or in part is claimed in consequence of the same having been paid through inadvertence, error, or misconstruction, shall be returned, unless such claim is made within three Calendar months from the date of such payment.

53. On arrival of any postal parcels from a foreign port, the Postmaster-General shall not deliver such parcels until the Customs duty payable thereon has been received. Should the value be absent from any postal parcel or should the Customs Officer have reason to doubt the correctness of the declaration of any postal parcel, he may order the examination of the contents so as to verify

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54. The Postmaster General shall not accept any postal parcels intended for transmission by Foreign or Colonial parcels post containing any article liable to duty, unless accompanied by a Customs pass showing that the Customs duty has been paid thereon.

Duty on goods exported by parcel post.

55. The transmission by the Foreign Letter Post of articles liable to Customs duty is prohibited. Any letter or packet received in the Protectorate by the Foreign post and suspected to contain any such article shall be opened at the post office of delivery in the presence of the addressee or his agents, and the contents, if found to be dutiable, shall be retained, until the amount of the duty is assessed by the Customs authorities and collected.

Articles liable to Customs duty not allowed by letter post.

56. The Chief of Customs may permit the entry, clearance or exportation of goods in such form and manner, and on such conditions as he may direct, to meet the exigencies of any case to which the general laws and regulations may not be strictly applicable.

Power to allow special entries.

57. If goods are sold by public auction the duty shall be paid by the seller and shall be assessed on the gross amount realised without any abatement or deduction.

Duty on gross value when goods are sold by public auction.

58. (1) All goods which have been imported free of duty on the grounds that they are the property of the Crown, or of an officer of the Government or of any Company, firm, or individual privileged by contract or otherwise to import such goods free of duty, shall, in case of sale thereof, be liable to, and be charged with, the same duties as may be payable on the importation of similar goods not being the property of the Crown, of such officer, company, firm or individual.

Crown goods or goods exempted from duty to be liable thereto sold

(2) The Officer of a Public Department in whose charge such goods may be sold, or whoever shall cause goods to be sold, shall furnish the Chief of Customs with particulars of the sale thereof, and out of the proceeds of the same pay to the said Chief of Customs the duties which may be due thereon.

59. Customs duties shall be paid on the importation into the Protectorate of any goods imported for transmission to the Uganda Protectorate in accordance with the provisions of the succeeding section.

Importations for Uganda Protectorate to pay duty to East Africa Protectorate.

60. Import duty shall be levied on all goods imported into the East Africa Protectorate at the rate of 10% *ad valorem* other than distilled liquors and those exempted from payment of duty by this Ordinance or any other law.

Rate of Import duty.

61. The import duty on distilled liquors (other than drugs or medicines imported for *bonâ fide* medical purposes) eau de Cologne and lavender water is Rupees two per gallon at 50 degrees of the Gay Lussac alcoholometer at a temperature of 15 degrees Centigrade and the duty is augmented proportionally for each degree above 50 degrees and diminished proportionally for each degree below 50 degrees.

Special rates for distilled liquors, Eau-de-Cologne, and Lavender water imported.

62. Goods claimed to be exempt from Customs duties shall, in the declaration thereof, be described and set forth in the words by which they are described to be free under this Ordinance.

How goods claimed to be exempt duty must be described in declaration.

63. The following goods shall be exempt from the payment of import duties.

List of exemptions from Import duty.

(1) Personal baggage consisting of wearing apparel and other articles of personal use, as are in actual use at the time of importation, or have been actually in use previously, and are the property of the person whose baggage is being passed or of any member of such person's family.

(2) Bicycles which have been used, binoculars, photographic cameras, sewing machines, and instruments intended for the professional use of passengers forming part of a passenger's baggage and not intended for trading purposes.

(3) Goods when imported by, and consigned to and for the use of the Governments of the Protectorate or of the Uganda Protectorate.

(4) All horses and mules.

(5) Live stock imported for breeding purposes, provided that:—

(a) All live stock imported for breeding purposes for which exemption from Customs duty is claimed shall, except in cases where special permission is given by a Veterinary Officer, be landed at Mombasa or Kilindini.

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- (b) All such live stock shall in order to be admitted free of duty be of a class which in the opinion of the examining Veterinary Officer is likely to improve the existing stock in the country.
- (c) Live stock for the purposes of this exemption means bulls, cows, heifers, calves, sheep, goats, donkeys, swine, ostriches and poultry.
- (6) Goods consigned direct to officers and men on board vessels of His Majesty's Navy for their personal use or consumption.
If goods imported by a merchant are sold to His Majesty's Navy, such goods shall be treated as goods re-exported.
- (7) Ships and vessels for inland navigation imported entire or in sections.
- (8) Materials for the construction and maintenance of Railways, tramways and roads; such goods shall include permanent way and rolling stock, that is to say, cylinders, girders, and other material for bridges, rails, sleepers, bearing and fish plates, fish bolts, chairs, spikes, crossings, sleeper fastenings, switches, interlocking apparatus, break gear, couplings and springs, signals, turn tables, weigh bridges, engines, tenders, carriages, waggons, traversers, trollies, trucks, and the component parts thereof: also cranes and water cranes, water tanks, and standards, wire, and other material for fencing. Provided that for the purpose of this exemption "railway" means a line of railway subject to the provisions of the Indian Railways Act, 1890 as applied to the Protectorate.
- (9) Trees, plants and seeds intended for cultivation.
- (10) Tombstones and ornaments for graves.
- (11) Coal.
- (12) Books, maps and printed matter.
- (13) Gold bullion and gold coins.
- (14) Coin admitted to circulation in the Protectorate.
- (15) Agricultural implements which shall include:—

A. CULTURAL IMPLEMENTS AND MACHINES.

Ploughs
Cultivators
Harrows
Rollers
Sowers
Drills
Sprayers
Forks
Spades
Shovels
Hoes

B. HARVESTING IMPLEMENTS AND MACHINES.

Reapers
Mowers
Scythes
Sickles
Tenders
Rakes
Binder twine

C. IMPLEMENTS AND MACHINES FOR MANIPULATING PRODUCE.

Thrashers
Balers
Trusses
Winnowers
Corn and Cake crushers
Chaff Cutters
Cookers
Dairy Utensils

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D. IMPLEMENTS AND MACHINES FOR STOCK.

Dippers
Troughs
Shears
Clipping Machines
Castrators
Incubators and Poultry appliances

E. IMPLEMENTS AND MACHINES WHICH MAY BE AGRICULTURAL.

Motors
Saws
Axes
Fencing Material
Carts
Waggons
Harness
Barrows
Baskets
Belts
Gates
Gate mountings
Weighers
Grindstones
Ladders
Pumps
Ropes
Sacks
Tanks

(16) (a) Sheep and cattle medicines whether for internal or external application. For the purpose of this exemption, medicines shall be deemed to include powders and other preparations for the composition of sheep and cattle dips.

(b) This exemption shall have effect on and after the first day of January 1906 and all such duties paid in respect of such medicines imported after the 1st day of January 1906 shall be refunded.

(17) Chemical manures and insecticides.

(18) Industrial machinery.

64. Export duty shall be levied on goods exported from the Protectorate in accordance with the tariff contained in Schedule D. Export duty.

65. Goods which are exempt from Customs duty shall, upon importation or exportation by sea or land, be liable equally with all other goods to the payment of rent, cranage or any other charge that may be due under this Ordinance.

All goods imported or exported shall be liable to cranage and other charges.

CHAPTER V.

Transit, Transhipment and Re-Export of goods.

66. All goods of whatever description imported by sea for conveyance by the Uganda Railway and declared for transit through the Protectorate shall pass through the Custom House at Kilindini.

Transit goods to land at Kilindini.

67. Should any such goods be landed at the Port of Mombasa they may, at the discretion of the Chief of Customs, be treated as goods liable to the payment of full Customs duty; in such case no part of such duty shall be refunded to the transit agent or any other person, notwithstanding any provisions in this Ordinance to the contrary.

No refund on goods landed at Mombasa.

68. The transit agent shall pay the import duty on the declared value of goods declared for transit through the Protectorate; such duty shall be repayable as hereinafter provided.

Transit agent to pay duty on declared value of goods.

69. Goods in transit shall be liable to warehouse rent and to all the usual landing and other charges for the time being chargeable on imported goods and further to a charge of 4 annas per package to cover administration expenses in connection with the transit traffic.

Transit goods liable to all other charges in addition to a fee of four annas per package.

70. A manifest in triplicate written in English shall be presented by the

Manifest ..

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Such manifest shall be signed by the transit agent and shall state the correct description of the merchandise, its place of origin, its value at the place of entry, its weight or quantity if in bulk and the number and marks of the parcels if packed and the intended place of exit from the Protectorate.

Visé manifest
to be retained
by the transit
agent and produced
whenever required.

71. One of the triplicate manifests shall be retained by the Customs Authority and the others shall be marked with "visé" by him and returned to the transit agent. The manifests bearing the "visé" shall then be the transit manifests of the goods and shall be produced whenever required by any officer of Customs or any District Commissioner or Assistant District Commissioner of the Protectorate.

Transit packages
to be sealed
or stamped.

72. Every package or parcel of goods in transit shall be roped, corded or otherwise securely fastened and shall be stamped with the transit stamp or sealed with the Customs seal as the case may require unless the nature of the goods shall not permit of such being done.

Transit manifest
to be endorsed
by the Chief
Officer of Customs
at place of exit.

73. The transit manifest shall be delivered to the Chief Officer of Customs at the place of exit and the Customs seals or stamps removed and on the goods being identified and found intact a note to that effect shall be endorsed on the transit manifest and signed by such Chief Officer of Customs at the place of exit.

Goods may be
removed from
manifest with the
sanction of a
Customs Officer.

74. Should the transit agent desire to vary the transit manifest by having removed from the manifest any of the merchandise specified therein as for transit, he may apply to any Customs Officer within the Protectorate to expunge the same from the manifest; and such officer may, upon sufficient reason being shown, and if he deem it expedient, endorse the manifest with a description of the merchandise which it is desired to remove, and such merchandise shall be deemed to be eliminated from the transit manifest accordingly, and no application for refund of duty in respect of such merchandise shall afterwards be entertained.

A fee of rupees two shall be charged for every such endorsement.

Treble duty to be
charged if
deficiency is not
satisfactorily
accounted for.

75. If the quantity of goods in transit be found at the place of exit to be less than that specified in the transit manifest the Chief Officer of Customs at such place of exit shall endorse on the transit manifest a note of the amount of the deficiencies and unless such deficiency is accounted for by reasons for which the transit agent is not responsible, treble the import duty leviable on goods of the like kind shall be charged on such deficiency and such duty shall be deducted from the amount to be refunded.

Where Import duty
to be refunded

76. The import duty payable on goods declared for transit shall be repaid, less the deductions, if any, in respect of any deficiency, at the option of the transit agent either at the place of entry or the place of exit. In either case the Chief Officer of Customs shall make such payment and shall receive in exchange the endorsed transit manifest and the Customs receipt which shall forthwith be cancelled.

No refund of duty,
unless claimed
within six months.

77. If no application for the return of any duty paid in respect of goods declared for transit be made within six Calendar months of the date of the issue of the transit manifest the goods shall be deemed to be imported.

Transit goods to
be examined in a
manner similar
to goods imported
for home
consumption.

78. The provisions of this Ordinance relating to the appraisement and examination of goods imported for home consumption and the assessment of duty thereon shall apply to the appraisement, examination and assessment of duty on goods declared in "transit."

Transit goods to
remain property
of original owner.

79. Goods declared in "transit" shall whilst in the Protectorate remain the property of the owner at the time of importation. If the ownership of such goods be changed while in transit, the duty, if any, leviable thereon shall be paid as if such goods were imported for use in the Protectorate.

Prohibited goods
not allowed in
transit.

80. Prohibited goods shall not be admitted to pass in transit.

Drawback
allowed on
re-export.

81. When any goods, capable of being easily identified, which have been imported by sea or land, into any Custom port, and upon which duties of Customs have been paid on importation, are re-exported by sea or land from such Customs port to a Foreign port, three-fourths of such duties shall be refunded.

Provided that, in every case, the goods are identified to the satisfaction of the Customs authorities, and are in the original condition and packing and bulk has not been broken and that the application for such refund is made within

THE OFFICIAL GAZETTE

82. Notwithstanding anything herein contained, no drawback shall be allowed.

- (a) on goods on which duty has been paid and which have been used in the Protectorate.
- (b) upon goods not included in the export manifest, or any other proof showing the goods have left the Protectorate.
- (c) upon goods entered for drawback, which are of less value than the amount of drawback claimed thereon. Such goods are liable to confiscation and the owner shall be liable to a penalty not exceeding rupees one thousand.
- (d) upon goods exported from one Customs port to another in the Protectorate.
- (e) unless the claim is entered in the name of the owner who has paid duties originally.
- (f) where the claim is for drawback amounting, in respect of any single shipment, to less than five rupees.

83. In the event of goods on which drawback has been allowed being re-imported the full duty shall be payable thereon, in addition to the portion of duty already paid.

84. Goods brought in any ship to any port in the Protectorate for transhipment to any other ship or ships for conveyance to a specified foreign port or ports shall be declared for transhipment by the Master, Consignee or his agent within 24 hours after arrival.

85. If goods declared for transhipment are not actually shipped for the same Foreign port as originally declared within a period of six months from the date of such declaration, they shall be treated as goods imported; and while lying in the Custom House shall be liable to the import duties leviable thereon and the prescribed charges and rent.

86. If goods declared for transhipment change owners while within the Protectorate they shall be charged such import duties as are leviable on similar goods imported for home consumption provided that the importer may claim drawback on exportation and such claim is made within 12 calendar months from the date of payment of import duty.

87. Except in the case of imminent danger, the transhipment of goods from ship to ship in a port shall be made in the presence of a Custom Officer or Customs constable, and a fee shall be charged for the attendance of such officer or Customs constable to be hereafter fixed by the Chief of Customs with the approval of the Governor.

88. The Chief of Customs or other chief officer of Customs at the Customs port may, on application by the Master of any ship which is obliged before completing her voyage to put into any Customs port for repairs of damage caused by stress of weather or other disasters at sea, permit him to tranship or land the cargo or any portion thereof, and to place it in the custody of an officer of Customs during such repairs and to re-ship and export the same free of duty on board of the same ship, or if the latter shall have been condemned or her departure delayed, in any other ship.

All expenses attending such transhipment or custody shall be borne by the Master.

CHAPTER VI.

General provisions affecting ships in port.

89. The Master of any ship or his agent shall within 24 hours after such ship has anchored within the limits of the port deliver to the Customs house a true and full manifest of all goods to be landed or transhipped and no goods shall be landed or transhipped until such manifest has been delivered.

90. (1) The Chief of Customs or other Chief officer of Customs at the

Customs port may at any time depute at his discretion one or more officers of Customs to board any ship in or arriving at such port.

(2) Every officer of Customs so sent shall remain on board of such ship by day and by night unless or until the Chief of Customs or other Chief officer of Customs at the Customs port otherwise orders.

Conditions of grant of drawback.

Full duty on re-imported goods, on which drawback has been paid.

Goods to be declared for transhipment within 24 hours after arrival.

Transhipment goods can only be shipped to the same foreign ports within six months.

If transhipment goods change owners they pay duty.

Superintendence of transhipment.

Landing of cargo during repairs.

Delivery of manifest by the Master or his agent.

Power to depute Customs-Officer to board ship.

See the change of words in original.

Duty of such officers.

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| Accommodation of officer and servant. | <p>(3) Whenever an officer of Customs is so deputed to board any ship, the Master of such ship shall be bound to receive on board such officer and one servant of such officer, and to provide such officer and servant with suitable shelter and accommodation, and likewise with a due allowance of fresh water, and with the means of cooking on board</p> |
| Officer of Customs to have free access to every part of ship, and may seal and secure goods. | <p>(4) Every officer of Customs so deputed shall have free access to every part of the ship, and may fasten down any hatchway or entrance to the hold and mark any goods before landing, lock up, seal, mark or otherwise secure any goods on board of such ship.</p> |
| Power to authorise search and open locks. | <p>(5) If any box, place or closed receptacle in any such ship be locked, and the key be withheld, such officer shall report the same to the Chief of Customs or other Chief officer at the Customs port, who may thereupon issue to the officer on board, or to any other officer under his authority a written order to search.</p> <p>On production of such order, the officer bearing the same may require that any such box, place or closed receptacle be opened in his presence; and, if it be not opened upon his requisition, he may break open the same.</p> |
| Goods not to be landed, on Sundays or holidays without permission, nor except within fixed hours. | <p>91. Unless permission is obtained from the Chief of Customs or other chief officer of Customs at the Customs port, no goods, other than passengers' baggage, shall in any Customs port be discharged from any ship, or be shipped or water-borne to be shipped :—</p> <p>(a) On Saturday afternoons and Sundays or on any holiday or day on which the discharge or shipping of cargo as the case may be, is prohibited by the Chief of Customs or other Chief Officer of Customs at the Customs port.</p> <p>(b) On any other day, except between such hours as the Chief of Customs from time to time shall appoint and notify in the "Gazette" provided that until other provision is made as herein provided,</p> <p>The Custom House shall be open daily for the landing and shipping of goods.</p> <p>from 7 a. m. to 12 noon ; and 2 p. m. to 5 p. m.
for paying duty, making declarations, delivery of goods, application for passes and general business.</p> <p>from 8 a. m. to 12 noon : and 2 p. m. to 4 p. m.</p> |
| Permission to ship or land goods. | <p>92. Shipping and landing of goods shall be permissible on Saturday afternoons, Sundays and public holidays from steamers for the purposes of warehousing, on special application being made and permission obtained from the Chief of Customs or other chief officer of Customs at the Customs port.</p> |
| Fees for keeping Custom house open after working hours. | <p>93. The fees chargeable for keeping Custom House open after working hours shall be :—</p> <p>Rupees ten per hour or part thereof for night or day at Mombasa and Kilindini and Rupees five per hour or part thereof for other Ports.</p> <p>The fees for overtime shall be distributed among the staff of the Customs department by the Chief of Customs subject to the directions of the Governor.</p> |
| Goods not to be shipped, &c., except at Customs ports. | <p>94. (1) No person shall import or export any goods in or from the Protectorate at any port or place other than a Customs port.</p> |
| Goods not to be Shipped or landed, except at appointed places. | <p>(2) No person shall in any Customs port land or ship any goods at or from any place other than a quay or other place appointed for that purpose under this provisions of section 12 hereof. Provided that permission may be obtained from the Chief of Customs or other chief officer of Customs at the Customs port to land goods or to ship goods from any place not duly appointed as a legal quay.</p> <p>Such permission shall be valid for one shipment only.</p> |
| Penalty for landing or shipping goods in contravention. | <p>(3) Any goods landed or shipped, imported or exported in contravention hereof may be forfeited, and the person so landing, shipping, importing or exporting such goods shall be liable to a penalty not exceeding Rupees one thousand and five hundred.</p> |

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95. When any goods are water-borne for the purpose of being landed from any ship and warehoused or cleared for home consumption, or of being shipped for exportation on board of any ship, there shall be sent with each boat load or other separate despatch a boat-note specifying the number of packages so sent and the marks and numbers or other description thereof.

96. Each boat-note for goods to be landed shall be signed by an officer of the ship, and likewise by the officer of Customs, if any, on board, and shall be delivered on arrival to an officer of Customs authorised to receive the same.

97. Each boat-note for goods to be shipped shall be signed by the proper officer of Customs, and, if an officer of Customs is on board of the ship on which such goods are to be shipped, shall be delivered to such officer. If no such officer be on board, every such boat-note shall be delivered to the Master of the ship, or to an officer of the ship appointed by him to receive it.

98. The officer of Customs who receives any boat-note of goods landed and the officer of Customs, Master or other officer, as the case may be, who receives any boat-note of goods shipped, shall sign the same and note thereon such particulars as the Chief of Customs may from time to time direct.

99. All goods water-borne for the purpose of being landed or shipped shall be landed or shipped without unnecessary delay.

Boat notes.

Goods water-borne
to be shipped or
landed without
delay.

CHAPTER VII.

Of discharge of cargo and entry inwards of goods.

100. After the manifest of cargo has been delivered, the cargo shall be landed and brought to the Custom House and remain for entry.

101. Upon the landing and entry of any goods to be warehoused, the proper officer of Customs shall take account of the same at the quay, or wharf at which they shall be so landed, or in the warehouse, if they be goods for which the account is permitted to be taken in the warehouse, and grant receipts for such goods.

102. The receipts will be issued to the person or firm actually handing the goods over to the Customs department: such goods shall only be delivered against the production of a "delivery order" signed by the person or firm to whom the receipt was originally issued.

103. All goods which shall be warehoused or lodged in any of the warehouses shall be stored therein in such manner as the Chief of Customs or other officer of Customs at the port wherein the same shall be so warehoused shall direct, and by and at the expense of the importer or owner of such goods; and if any such importer or owner shall neglect to stow the goods warehoused therein by him so that easy access may be had thereto, or if any importer or owner using any of the warehouses or any part thereof, shall by himself or his agent, or workmen, disarrange the storage of any other goods in the said warehouse and shall neglect to properly re-stow the same, he shall for every neglect, after twenty-four hours notice given to him by the Chief of Customs or other officer of Customs as last aforesaid, to properly stow or re-stow the said goods, be liable to a penalty not exceeding Rupees one hundred and fifty.

104. All goods lodged or deposited in any warehouse, or other place of deposit provided by the Government, shall be so deposited at the risk of the owner, importer or consignee thereof and no liability shall lie on the Crown to compensate for loss by fire, theft, damage or other cause, except such loss be proved to have been caused by the neglect or wilful act of an officer of Customs.

105. If any goods are not taken delivery of by the owner within six months from the date of landing, after due notice being given, the same shall be sold by public auction, and the proceeds applied to the payment of duties leviable on such goods and to the payment of other charges (if any) payable in respect of the same.

The surplus, if any, shall be paid to the person from whom such goods were received, and no claim shall thereafter lie against the Customs authorities.

Provided that the Master or his Agent may apply to the Chief of Customs or other chief officer of Customs at the Customs port for a postponement of sale in order to communicate with the parties interested in such goods; any such postponement granted shall not exceed one calendar month.

Proviso.

106. If the Chief of Customs or other chief officer of Customs at the Customs port has taken charge of goods of a perishable nature, he may at any time direct the sale thereof and shall apply the proceeds in like manner as stated

Discharge of cargo.

Officer of Customs
to take account
of goods landed.

Receipt for
goods landed.

Goods to be
properly stored
by importer
or owner.

No compensation
for loss or injury
except on proof
of neglect or
wilful act.

Sale of goods not
taken delivery of,
within six months.

Power to direct
sale of perishable
goods.

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Clearance of goods. 107. When the owner of any goods entered for home consumption or for transit has paid duty (if any) and any charges payable under this Ordinance in respect of same, the Customs officer may issue a gate pass clearing the same and such pass shall be sufficient authority, subject to the provisions of section No. 108, for the removal of such goods by the owner.

Gate passes. 108. Gate passes are available for the day of issue only, but in the case of goods not removed the same day on which the pass has been issued, it will be necessary that the alteration in date be noted and signed by the Customs officer.

Scales. 109. Only Government scales and weighing machines are allowed in the Custom house : the scales shall be certified from time to time.

Animals. Merchants can have the weight of their goods certified on payment of one cent per package.

Crane fees. 110. The Chief of Customs or other Chief officer of Customs at a port may require any animal imported or exported by sea to be lifted by the crane.

Passenger jetty. 111. The fees set forth in Schedule E thereof shall be chargeable for the use of the Government steam cranes at any Customs port.

Hand cranes shall be half these charges plus the amount paid for labour.

Not responsible for incorrect delivery arising out of wrong marks. 112. The passenger jetty shall not be used for the discharge or shipping of goods unless permission is previously obtained from the Chief of Customs or other Chief officer of Customs at the Customs port, in which case half the rates in Schedule E shall be charged.

113. The Customs authority shall not be responsible for the incorrect delivery of goods in consequence of :—

- (a) illegible marking,
- (b) absence of marks,
- (c) the same marks for two or more different consignees.

Clearance of passengers' baggage. 114. Passengers arriving by ships on Saturday afternoons, Sundays and holidays shall have their personal baggage examined and cleared through the Custom House, free of overtime expense to the ship or the passenger, agent or other person concerned.

The examination and clearance of passengers' baggage shall only take place between 7 a.m. and 8 p.m. and no baggage shall be embarked or disembarked between 8 p.m. and 7 a.m. without a special permit from the Chief of Customs or other chief officer of Customs at a port.

CHAPTER VIII.

Exportation or shipment and re-landing.

Shipping order vised at Custom house. 115. No goods for export other than passengers' baggage shall be taken on board any ship unless accompanied by a shipping order issued from the ship's agent's office and duly vised at the Custom House; in the case of dhows a pass-note is sufficient.

No goods to be shipped unless export declaration is made, and duty, if any, paid. 116. (1) No goods (other than passenger's baggage which contains nothing dutiable) shall be shipped or waterborne to be shipped in any ship in a Customs port until a declaration of the value of the goods has been made, the duty and other charges paid and an order permitting export given.

(2) The duty on passengers' baggage containing dutiable articles shall be paid in the baggage room before it is shipped on board.

Examination of export cargo. 117. The provisions of this Ordinance applicable to appraising and examining import cargo shall apply to appraising and examining export cargo unless otherwise provided.

Notice of non-shipment or re-landing, and return of duty thereon. 118. If any goods mentioned in the export declaration are not shipped or are shipped and afterwards re-landed, the owner shall before the expiration of five clear days after the ship on which such goods were intended to be shipped, or from which they were re-landed, has left the port, give information of such short shipment or re-landing to the Chief of Customs or other officer of Customs at the Customs port, and upon an application being made to the Chief of Customs or other chief officer of Customs at the Customs port, any duty levied upon such goods not shipped or upon goods shipped and afterwards re-landed, shall be refunded to the person on whose behalf such duty was paid: provided that no such refund shall be allowed unless information has been given as above required.

Export manifest may be delivered. 119. The Master or his agent shall deliver to the Customs authority a manifest of all goods exported on such forms and in such manner as the Chief of

CHAPTER IX.

Of the admission of goods in a licensed warehouse.

120. When any goods have been entered for warehousing under section 101 of this Ordinance the owner of such goods may apply for leave to deposit the same in any warehouse licensed under this Ordinance.

Application to
warehouse.

121. Every such application shall be in writing signed by the applicant, and shall be in such form as is from time to time prescribed by the Chief of Customs and shall be accompanied by the necessary proof of the ownership of the goods.

Form of
application.

122. When any such application has been made in respect of any goods, the owner of the goods to which it relates shall execute a bond, binding himself in a penalty of twice the amount of duty payable on such goods

Warehousing bond.

- (a) to observe all rules prescribed under this Ordinance.
- (b) to pay, on demand, all duties, rent, and charges claimable on account of such goods under this Ordinance, together with interest on the same from the date of demand, at such rate not exceeding 9% per annum as is for the time being fixed by the Chief of Customs.
- (c) to discharge all penalties incurred for violation of the provisions of this Ordinance in respect of such goods.

123. When the provisions of sections 120 and 121 have been complied with in respect of any goods such goods shall be forwarded in charge of an officer of Customs to the warehouse in which they are to be deposited.

Forwarding of
goods to
warehouse.

A pass shall be sent with the goods specifying the name of the importing ship and of the bonder, the marks, numbers, and contents of each package and the warehouse or place in the warehouse wherein they are to be deposited.

124. On receipt of goods the pass shall be examined by the warehouse-keeper, and shall be returned to the Customs officer, duly signed by the warehouse-keeper if the goods be found to correspond with the pass.

Receipt of goods
at warehouse.

125. Except as provided in section 127, all goods shall be warehoused in the packages, butts, casks or hogsheads in which they have been imported.

Goods how
warehousd.**Rules relating to goods in a licensed warehouse.**

126. The Chief of Customs or any officer deputed by him for the purpose, shall have access to any private warehouse licensed under this Ordinance.

Access of Customs
officer to private
warehouse.

127. The Chief of Customs or other chief officer of Customs at the Customs port may at any time in writing direct that any goods or packages lodged in any warehouse shall be opened, weighed or otherwise examined; and after any goods have been so opened or examined, may cause the same to be sealed or marked in such manner as he thinks fit.

Power to cause
packages lodged
in warehouse
to be opened
and examined.

When any goods have been so sealed and marked after examination, they shall not be again opened without permission of the Chief of Customs or other chief officer of Customs at the Customs-port; and when any such goods have been opened with such permission, the packages shall, if he thinks fit, be again sealed or marked as before.

128. Any owner of the goods lodged in a licensed warehouse shall, at any time within the hours during which the Custom house is open for general business, have access to his goods in the presence of an officer of Customs.

Access of owners to
warehoused goods.

129. With the sanction of the Chief of Customs, and under such rules and conditions as the Chief of Customs from time to time prescribes, any owner of goods may, either before or after warehousing the same:—

Owner's power
to deal with ware-
housed goods.

- (a) sort, separate, pack, and repack the goods, and make such alterations therein as may be necessary for the preservation, sale, shipment or disposal thereof (such goods to be repacked in the packages in which they were imported, or in such other packages as the Chief of Customs permits);
- (b) fill up any casks of wine, spirit or beer from any casks of the same secured in the same warehouse;
- (c) bottle off wine or spirit from any casks;
- (d) take such samples of goods as may be allowed by the Chief of Customs with or without entry for home consumption;

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Goods not to be taken out of warehouse except as provided by this Ordinance.

Coasting trade.

Country produce moving from one port to another in the Protectorate.

Dispensation as to Coasting ships.

Restrictions during coasting voyage.

Prohibitions.

130. No warehoused goods shall be taken out of any warehouse except on clearance for home consumption or shipment, or for transit or for removal to another warehouse, or as otherwise provided by this Ordinance and on paying duty (if any) and other charges that may be due under this Ordinance.

131. All trade by sea from any place within the limits of jurisdiction to any other place within the said limits shall be deemed to be a coasting trade, and all ships while employed therein shall be deemed to be coasting ships.

132. (1) A Customs Superintendent or a Customs Master may require any person who may ship any goods from one place to another within the jurisdiction to pay the duty which would be leviable upon such goods if exported and may detain any such goods until such duty has been paid.

(2) such officer shall grant to the shipper a receipt showing the amount paid and the particulars of the goods shipped and the amount of such duty shall be refunded on the arrival of such goods at the place of destination and on the production of such receipt.

133. The Chief of Customs may, subject to the approval of His Excellency the Governor, by notice in the Gazette, dispense with any of the requirements of this Ordinance which he deems it inexpedient to enforce, with regard to ships engaged in the coasting trade or inland navigation.

134. If any goods shall be taken into or put out of any ship employed as a coasting ship whilst hovering within the Protectorate waters, or not being at a port or subport, or if the Master of any coasting ship, which shall have touched at any place other than the port for which she was cleared, shall not declare or report the same to the Chief of Customs or other Chief officer of Customs at the Customs port within the jurisdiction where such ship shall next afterwards arrive, the Master of such ship shall be liable to a penalty not exceeding the sum of Rupees one thousand and five hundred.

CHAPTER XI.

Prohibitions and restrictions of importation.

135. If any goods enumerated or described in the following table of prohibitions and restrictions shall be imported or brought within the jurisdiction then such goods shall be forfeited and the importer thereof shall be liable to a penalty not exceeding Rupees one thousand and five hundred.

A table of prohibitions and restrictions.

Coin, viz : false money or counterfeit sterling or counterfeit Protectorate currency.

Coin : Silver of the realm or any money purporting to be such not being of the established standard in weight or fineness.

Indecent or obscene prints, paintings, books, cards, lithographic or other engravings or any other indecent or obscene articles.

Manufactured articles bearing the name, address or trade mark of any manufacturer or dealer, or the name of any place in the United Kingdom or any British possession, calculated to import to them a special character of British Manufacture, and not of such manufacture.

And any other article or articles which His Excellency the Governor by Proclamation in the "Gazette" may prescribe.

CHAPTER XII.

Micellaneous.

Power to open packages and examine goods.

Power to take samples of goods.

136. Any officer of Customs under the direction of the Chief of Customs at Mombasa or chief officer of Customs at any other Customs port may open any package, and examine any goods brought by sea or land to or shipped or brought for shipment to any Customs port.

137. The Customs officers may on the entry or clearance of any goods, or at any time while such goods are being passed through the Custom House, take samples of such goods, for examination or for ascertaining the value thereof, on which duties are payable or for any other necessary purpose : and such samples

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application be made within the space of one calendar month, they may be sold and the proceeds of sale carried to the credit of the general revenue of the Protectorate.

138. The unshipping, carrying, shipping and landing of all goods, and the conveyance thereof to the proper place for Customs examination or weighing and all labour necessary for such examination of weighing and opening, unpacking, bulking, sorting, lotting, marking and numbering of goods, where such operations are necessary or permitted, and the removal of goods to their destination shall be performed by or at the expense of the owner of such goods.

Owner to pay expenses incidental to compliance with Customs law.

139. An importer or exporter entering any timber or wood to be charged with duty by measurement, shall, at his expense, pile, sort, frame, or otherwise place the same in such manner as the Chief of Customs or other Customs officer may deem necessary to enable the officers to measure and take the account thereof.

Timber to be stacked for measurement for purposes of duty.

140. In the event of loss to injury occurring to goods while they are being landed, liability in respect thereof shall not lie with the Customs unless it be proved that such loss or damage was occasioned by the neglect or wilful act of an officer of Customs.

No compensation for loss or injury when landing or shipping goods except on proof of neglect or wilful act.

141. No owner of goods shall be entitle to claim from any officer of Customs compensation for any loss or damage occurring to such goods at any time while they remain or are lawfully detained in any Customs house, or any Custom house wharf, or under charge of any officer of Customs, unless it be proved that such loss or damage was occasioned by the neglect or wilful act of such officer of Customs.

No compensation for loss or injury when goods remain or are detained in Custom house, except on proof of neglect or wilful act.

142. Certificates of cargo landed, goods damaged, or short landed, contents of a case, package, bundle or bag, or a duplicate of any certificate, manifest, declaration, pass-note or any other document may, on payment of a fee not exceeding rupees ten, be furnished, at the discretion of the Chief of Customs, to any person applying for the same, if the Chief of Customs is satisfied that no fraud has been committed or intended by the applicant.

Chief of Customs may give certificate of cargo landed, damaged, &c., &c.

143. His Excellency the Governor may from time to time make rules for governing and controlling porters, coolies, cartmen and others carrying goods or using trucks and carts within the Customs premises.

The Governor may make rules for governing and controlling of porter, coolies, cartmen, &c., within the Customs premises.

144. The burden of proof that the proper duties payable with respect to any goods have been paid, and that all requirements of this Ordinance with regard to the entries of any goods or otherwise have been complied with and fulfilled, shall, in all cases, lie upon the person whose duty it was to comply with and fulfil the same.

Burden of proof of due entry, on whom to lie.

145. All boats, lighters, or other craft used in landing or shipping any goods from or to any ship in any port shall be properly registered and marked, in such manner as may from time to time be prescribed by the Port Authority.

Boats, lighters, &c., conveying goods to and from ship to be registered.

146. The Chief of Customs may from time to time fix the period after the expiration of which goods left on any Custom house wharf, or other authorised landing place or part of the Custom house premises shall be subject to payment of fees, and the amount of such fees.

Wharfage fees.

147. Whenever services of a Customs constable are required for watching shipment or otherwise at places other than those duly appointed, a fee of rupee one for every six hours or part thereof shall be charged and such fees shall be paid into the Treasury of the Protectorate.

Attendance of Customs Constables.

148. The Governor may by rules prescribe the forms of any documents to be used under this Ordinance and may make rules generally for the better carrying out of the provisions of this Ordinance.

CHAPTER XIII.

Offences and penalties.

149. If any goods shall be removed from any ship, quay, wharf, or other place previous to the examination thereof by the proper officer of Customs, unless with the authority or under the care of the proper officer of Customs and in such manner, by such persons, within such time and by such roads or ways as such officer shall direct, such goods shall be liable to a penalty not exceeding Rupees

Penalty for removing goods from any ship or wharf without authority.

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Penalty for removing goods from warehouse without authority.

150. If any goods be removed from the warehouse in which they were originally lodged, except in the presence or with the sanction of the proper officer, or under the proper authority for their delivery by any importer, owner, consignee or his agent, such goods shall be forfeited and any person so removing such goods shall be liable to a penalty not exceeding Rupees one thousand and five hundred.

Penalty for illegally taking away goods from warehouse without payment of duty.

151. If any person illegally takes away any goods out of any warehouse without payment of duty, or aids, assists, or is concerned therein such person shall be liable to a penalty not exceeding Rupees one thousand and five hundred.

Penalty for gaining access to goods without authority.

152. If the importer or proprietor of any goods warehoused, or any person in his employ, shall clandestinely open the warehouse, or except in the presence of the proper officer of the Customs, acting in the execution of his duty, gain access to the goods, such importer or proprietor shall for every such offence be liable to a penalty not exceeding Rupees one thousand and five hundred.

Penalty for making false declaration of Goods imported or exported.

153. Any person making in any particular whatever a false declaration of any goods imported or exported or an untrue statement in connection with any matter relating to the Customs, shall be guilty of an offence punishable by a fine not exceeding Rupees one thousand and five hundred. Such punishment shall not affect the liability of any such person to any forfeiture or penalty otherwise prescribed by law provided that he shall not be punished twice for the same offence.

Penalty for not removing timber or any bulky article on quay, jetty, wharf beach or landing place.

154. If any timber or other heavy or bulky article be left on any public quay, jetty, wharf, beach or landing place in any port or sub-port in the Protectorate for more than one day, so as to interrupt or hinder the free use of such public quay, jetty, wharf, beach, or landing place, it shall be lawful for the Chief of Customs, or other Chief officer of Customs at a port after twelve hours notice in writing given to the owner thereof, or to his agent, to remove the same; and such owner shall be liable to a penalty not exceeding Rupees one hundred and fifty and such goods shall not be delivered up to the owner thereof until after payment of the said penalty together with the charges attending the removal of the same. And if such goods shall not be removed within six days after the notice given as aforesaid, it shall be lawful for the Chief of Customs or other Chief officer of Customs to sell the same by public auction, and to deduct from the proceeds the amount of such penalty, and all charges which may have been incurred on account of such goods, and the surplus if any shall be paid to the owner.

Penalty for not removing tar, pitch, or other article of combustible or dangerous nature.

155. If the importer, consignee, his agent or any person having charge of any tar, pitch, spirituous liquors, liquor, turpentine, oil, aqua fortis, lucifer matches or any other article of a combustible or dangerous nature whatever shall suffer the same to remain in the Customs premises beyond the space of five hours after he shall have been required by any Customs officer to remove the same therefrom, then and in every such case every person so offending shall for every such offence be liable to a fine not exceeding Rupees fifteen and not less than Rupees three for every hour that any of the said articles or goods shall be or remain in the place aforesaid after the expiration of the said five hours.

Penalty for wrong description, misstatement, concealment, &c.,

156. If it be found, when any goods are entered at, or brought to be passed through a Custom house, either for importation or exportation, that

- (a) the packages in which they are contained differ widely from the description given in the bill-of-entry or application for passing them; or
- (b) the contents thereof have been wrongly described in such bill or application as regards the denominations, characters or conditions according to which such goods are chargeable with duty, or are being imported or exported;
- (c) the contents of such packages have been mis-stated in regard to sort, quality, quantity or values; or
- (d) goods not stated in the bill-of-entry or application have been concealed in or mixed with, the articles specified therein, or have apparently been packed so as to deceive the officers of Customs, and such circumstance is not accounted for to the satisfaction of the Chief of Customs or other Chief officer of Customs, the person guilty of such omission or misdescription, shall be liable to a penalty not exceeding ten times the amount of duty

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or misdescription, unless it be proved to the satisfaction of the Chief of Customs, or other Chief officer of Customs that the variance was accidental.

CHAPTER XIV.

Smuggling, seizures, and recovery of penalties.

Procedure relating to offences, appeals, &c.

157. A person shall be guilty of an offence of smuggling who smuggles or imports or exports from any place any goods with intent to avoid payment of any duty payable thereon to the Government, or any goods the importation or exportation whereof (as the case may be) into such place is prohibited by the Government.

158. Any person who shall evade or attempt to evade the payment of Customs duties or who shall be in any way concerned in the evasion of such payments or in carrying or concealing uncustomed goods shall be liable to a penalty not exceeding Rupees one thousand and five hundred.

159. It shall be lawful for any officer of Customs to search any person who shall have landed from any ship or any person passing or having passed through a Custom house or Yard provided such officer shall have good reason to suppose that such person shall have any uncustomed or prohibited goods secreted about his person and if such person shall obstruct any such officer in the performance of any such duty, he shall be guilty of an offence and shall be liable to a fine not exceeding Rupees one thousand and five hundred.

160. Before any person shall be searched as aforesaid it shall be lawful for such person to require the Customs officer to take him before a Magistrate or before the Chief of Customs or an Assistant to the Chief of Customs who shall determine if there is reasonable ground for supposing that such person has any uncustomed or prohibited goods about his person and if it shall appear to such Magistrate, Chief of Customs or Assistant to the Chief of Customs that there is such reasonable ground he shall direct such person to be searched in such manner as he shall think fit, but if it shall appear to such Magistrate, Chief of Customs or Assistant to the Chief of Customs that there is not such reasonable ground for supposing that such person has any uncustomed or prohibited goods about his person, then such Magistrate, Chief of Customs or Assistant to the Chief of Customs shall discharge such person who shall not in such case be liable to be searched and every Custom officer is hereby authorised to and required to take such person on demand before such Magistrate, Chief of Customs or Assistant to the Chief of Customs detaining him in the meantime.

Provided that no female shall be searched by any person other than a female duly authorised for that purpose by the Chief of Customs.

161. It shall be lawful for any officer of Customs upon reasonable suspicion to stop and examine any ship, cart, carriage, or other means of conveyance for the purpose of ascertaining whether any smuggled goods are contained therein and if no such goods shall be found therein, then the officer so stopping and examining such ship, cart, carriage, or other conveyance having had probable cause to suspect that such ship, cart, carriage, or other conveyance had smuggled goods contained therein shall not on account of such stoppage and search be liable to any prosecution or action on account thereof, and all persons driving, conducting, or in charge of such ship, cart, carriage, or conveyance refusing to stop when required so to do shall be guilty of an offence and liable on conviction to a fine not exceeding Rupees one thousand and five hundred.

162. Under the authority of a writ of assistance granted by any Judge of the High Court (who are hereby authorised and required to grant such writs of assistance upon application made to them for that purpose by the Chief of Customs) it shall be lawful for any officer of Customs taking with him a police officer to enter into and search any building or other place in the day time and in case of resistance to break open doors, chests, trunks or other packages and seize and to secure any goods upon which the duties have not been paid or are supposed not to have been paid or which are liable to forfeiture under this Ordinance.

And all such writs of assistance shall continue to be in force during the

Definition of smuggling.

Penalty for smuggling.

Persons reasonably suspected may be arrested.

Persons arrested to be taken to nearest Magistrate or Chief of Customs.

Penalty for refusing to allow search.

Power for issue search warrant.

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Packages and contents, ship, boat, carriage, or other conveyance and animals used in removal included in confiscation.

Things seized how dealt with,

Option to pay fine in lieu confis- cation.

Goods on which penalty incurred not to be removed till payment.

Other goods of persons liable to fine or penalty may be detained.

Enforcement of payment of penalty.

Appeals from Customs officers to Chief of Customs.

Power to remit penalty or confiscation.

Penalty on officers and persons making collusive seizures of taking bribes, and on persons offering them.

163. Any ship, cart, carriage, or other conveyance used for the purpose of concealing or removing any goods in contravention of the provisions of this Ordinance shall be liable to forfeiture.

All goods and all ships, carts, carriages, or other conveyance which by this Ordinance are declared to be forfeited or liable to forfeiture shall and may be seized by an officer of Customs, and such forfeiture of any ship, cart, carriage or other conveyance shall include the guns, tackle, apparel and furniture of the same and such forfeiture of any goods shall include all other goods which be packed with them as well as the packages in which they are contained.

And such forfeiture of any cart, carriage or other means of conveyance, shall include all horses or other animals made use of therewith.

164. All things seized on the ground that they are liable to confiscation under this Ordinance shall, as soon as conveniently may, be delivered into the care of Chief officer of Customs or other officer of Customs at the Customs port.

If there is no such officer at hand, all such things shall be carried to and deposited at the Custom house nearest to the place of seizure.

165. Whenever confiscation is authorised by this Ordinance, the Officer adjudging it shall give the owner of the goods an option to pay in lieu of confiscation such fine as the officer thinks fit.

166. When any fine, penalty or increased rate of duty is leviable under this Ordinance, the goods in respect of which such fine, penalty or rate is leviable shall not be removed by the owner until such fine, penalty or rate is paid.

If any person has become liable to any such fine, penalty or rate in respect of any goods, the Chief of Customs or other chief officer of Customs at the Customs port may detain any other goods belonging to such person passing through the Custom house until such fine, penalty or rate is paid.

167. When a penalty or increased rate of duty is adjudged against any person under this Ordinance by any officer of Customs, such officer, if such penalty or increased rate be not paid may levy the same by sale of any goods of the said person which may be in his charge, or in the charge of any other officer of Customs.

When an officer or Customs who has adjudged a penalty or increased rate of duty against any person under this Ordinance is unable to realize the unpaid amount thereof from such goods, such officer may notify in writing to any Magistrate within the local limits of whose jurisdiction such person or any goods belonging to him may be, the name and residence of the said person and the amount of penalty or increased rate of duty unrecovered; and such Magistrate shall thereupon proceed to enforce payment of the said amount in like manner as if such penalty or increased rate had been a fine inflicted by himself.

168. If any dispute shall arise between any masters or owners of ships, merchants, importers, consignees, shippers, or exporters of goods, or their agents, and any officer of Customs, with reference to the seizure or detention of any ship or goods, or to any apparently accidental omission, inadvertence or non-compliance with the laws or regulations relating to the Customs, it shall be lawful for the Chief of Customs to dispose of or determine such dispute, in such manner as he may deem just.

169. If upon consideration of the facts and circumstances out of which any dispute shall have arisen, the Chief of Customs shall be of opinion that any penalty or forfeiture has been incurred by any master, owner, merchant, importer, consignee, shipper, exporter, or agent, he may, in case he shall be of opinion that the penalty ought to be remitted, remit and forego the same accordingly, or in case he shall be of opinion that a mitigated penalty should be imposed and enforced, mitigate any such penalty or forfeiture to such amount as he may deem a sufficient satisfaction for the breach of law or regulation complained of.

170. If any officer of Customs or any other person duly employed for the prevention of smuggling shall make any collusive seizure or deliver up or make any agreement to deliver up or not to seize any ship or goods liable to forfeiture or shall take any bribe, gratuity, recompense, or reward for the neglect or non-performance of his duty or conspire or connive with any person to import within the limits of the jurisdiction or be in any way concerned in the importation within the said limits of any goods prohibited to be imported or liable to duties of Customs or in the exportation from the said limits of any goods liable to duties of Customs for the purpose of seizing any ship or goods and obtaining any reward for such seizure or otherwise, every such officer or other person

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rendered incapable of serving the Government of the Protectorate in any capacity whatever and every person who shall give or offer or promise to give or procure to be given any bribe, recompense or reward to or shall make any collusive agreement with any such officer or person as aforesaid to induce him in any way to neglect his duty or to do, conceal, or connive at anything whereby any of the provisions of this Ordinance or any law relating to the Customs may be evaded shall forfeit the sum of Rupees three thousand.

171. All offences for which no special punishment is provided shall be cognisable in any Magistrate's Court and punishable by fine not exceeding Rupees one thousand and five hundred or imprisonment of either kind not exceeding six Calendar months or both according to the ordinary jurisdiction of such Court.

172. Proceedings shall lie to the High Court to set aside any forfeiture, seizure, confiscation or penalty made or imposed by the Chief of Customs or any other officer of Customs provided that such proceedings shall be instituted within one Calendar month from the date of such forfeiture, confiscation, decision or penalty being made or imposed.

173. When the decision or order appealed against relates to any duty or penalty leviable in respect of any goods, the owner of such goods, if desirous of appealing against such decision or order, shall, pending the appeal, deposit in the hands of the Chief of Customs or other Chief officer of Customs at the port where the dispute arises the amount demanded by the officer passing such decision or order.

174. Any Officer of Customs shall have the power in all cases where a person is detected or is concerned in an attempt to import, land, or export goods illegally or to evade the payment of duties upon any goods to forthwith take the offender or offenders before a Magistrate to be summarily dealt with or to secure such offender in the Police station until he can be so taken before a Magistrate.

175. The contravention, infringement, or wilful disregard of any obligation or prohibition imposed by this Ordinance or by any rules or regulations hereunder shall be deemed an offence.

176. The enforcement of the penalties and forfeitures imposed by this Ordinance or by any rules or regulations here under shall be by criminal prosecution in any competent Court or any such penalties or forfeitures may be sued for by a civil action at the instance of the Chief of Customs without prejudice however to the exercise of any powers of seizure and forfeiture competent to him under this Ordinance.

177. If any penalty be not paid on conviction the Judge or Magistrate may forthwith commit the offender to prison there to suffer imprisonment of either kind for such term not exceeding six Calendar months as such Judge or Magistrate shall see fit to order and as shall be within the competency of the Court.

178. The Regulations and Ordinances set forth in Schedule F are hereby repealed to the extent therein specified.

Offences not specially provided for how tried.

Appeal from Chief of Customs to H. M. High Court.

Deposit, pending appeal, of duty demanded.

Customs officer may take offender to Magistrate.

Offence.

Penalties and forfeitures: how to be sued for.

Imprisonment in default of payment of penalty.

Extent of repeal.

SCHEDULE A.

The places set forth in the following Table are ports, sub-ports and places of entry within the meaning of Section 12 of this Ordinance:—

Ports.	Sub-ports.	Places of entry.
Vanga	Wassein	Vanga
Shimoni	Gazi	Yonte
Kilindini	Leven House (Mombasa)	Gobwen
Mombasa	Mtwapa	Taveta
Kilifi	Tanganiko	Karungu
Malindi	Takaungu	
Lamu	Siyu	
Kismayu	Faza	
Kisumu	Kyunga	
	Kinini	

Loam

Mtanganyiko

Kisumu

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SCHEDULE B.

The following places shall be the warehousing Ports within the meaning of section 15.

Import warehouses.	Export warehouses.
Vanga	Vanga
Kilindini	Kilindini
Mombasa	Tanganiko
Takaungu	Takaungu
Malindi	Malindi
Lamu	Lamu
Kismayu	Kismayu
Kisumu	Kisumu

SCHEDULE C.

The following shall be the rates of rent for goods deposited or secured in the Customs warehouses and yards within the meaning of section 17.

	Single rates. Per week or under. Rs. Cents.
1 Very large packages, as those from Cutch, bales of empty gunnies, &c., and per ton of wooden or iron material	0 25 25
2 Bundles of empty mkandas, casks, bundles of corrugated sheeting and large cases, &c.	0 12 10
3 Bales of piece goods, tobacco and ordinary cases	0 6 5
4 Rice and grain bags, spirit and wine cases	0 3
5 Ordinary mkanda, per tin, ghee, asali and small packages	0 2
6 Every three planks	0 2
7 Kerosine oil cases stored in Kerosine godown <i>per year</i> or part of a year ...	0 6

SCHEDULE D.

Export duties.

	<i>ad valorem.</i>
1 Cloves	30 per cent.
2 Ivory	15 "
3 Gum copal	15 "
4 India rubber	10 "
5 Borities (Zanzibar poles)	10 "
6 Hides and skins	10 "
7 Rhinoceros horn and hippopotamus teeth	10 "
8 Tortoise shell	10 "
9 Chillies	10 "
10 Ostrich feathers	10 "
11 Ebony and other woods than borities	5 "
12 Cowries and sea shells	5 "
13 Horses	Rs. 21 each.
14 Camels	" 4 "
15 Donkeys	" 2 "

Exception.—Sportsmen's trophies other than ivory acquired under a licence.

SCHEDULE E.

Crane tariff.

	Rs. Cents
1 Very large packages, as those from Cutch, bales of empty gunnies, &c., and per ton of wooden or iron material	0 25
2 Bundles of empty mkandas, casks, bundles of corrugated sheeting and large cases, &c.	0 12
3 Bales of piece goods, tobacco and ordinary cases	0 6
4 Rice &c. bags, spirit and wine cases	0 3
5 Ordinary mkandas, per tin of ghee, asali and small packages	0 2
6 Every three planks	0 2
7 Per day	35 0
8 Per half day	17 50
9 Per quarter day	4 0

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SCHEDULE F.

Title of Enactment.

			Extent of Repeal
The Customs Regulations 1899 The whole.
The Transit and Re-export Regulations 1900 "
The Liquor Ordinance 1902 Section 7.
The Customs Ordinance 1904 The whole.
The Transit and Re-export Ordinance 1905 "
The Transit and Re-export Ordinance 1906 "

SCHEDULE G.

**Goods sold by public auction in the Customs premises by
Customs officer or Licensed Auctioneer.**

Rates of Commission inclusive of sorting, collecting and auctioneer's brokerage.			
Piece goods	1% on proceeds of sale.
Ivory	½% " "
Other goods	2% " "

Rupees five is the minimum commission for which an auction shall be held.

In case of goods withdrawn Rupee one per lot shall be charged.

For use of Customs premises without auctioneer, half the above rates shall be charged.

A Bill

To provide for the establishing of Municipal Councils in the certain townships in this Protectorate.

WHEREAS it is expedient to provide for the establishing of Municipal Preamble.
Councils in the certain Townships in this Protectorate.

Be it enacted by the Governor of the East Africa Protectorate with the advice and consent of the Legislative Council thereof.

1. This Ordinance may be cited as the Municipal Corporations Ordinance Short title.
1907.

2. This Ordinance shall apply to every Municipality constituted under the provisions of this Ordinance. Application of
Ordinance.

3. Whenever any Township proclaimed under the East Africa Townships Ordinance 1903 shall come under the operations of this Ordinance the following provisions shall apply :—

(1) The provisions of the East Africa Townships Ordinance 1903, shall save as hereinafter mentioned cease to apply to such township.

(2) All rules made under the said Ordinance and then in force in such township shall (unless repugnant to the provisions of this Ordinance) be deemed to be bye-laws made under this Ordinance and shall continue in force in the Municipality until altered or amended under this Ordinance.

(3) All assessments, valuation, measurements, divisions and appointments made, powers conferred and notification served or published under the said Ordinance in such Townships shall (so far as they are consistent with this Ordinance) be deemed to have been respectively, made, conferred, served, and published under this Ordinance.

(4) All works and undertakings authorised to be executed, all rights, liabilities and engagements existing and all actions and suits and proceedings pending by or against the Committee of such Township shall be vested in attached to and be enforced, carried on and prosecuted by or against the Municipality under this Ordinance and no such action, suit or proceedings shall abate or be discontinued or prejudicially affected by such constitution.

(5) All rates, fees and charges due or payable to or recoverable under the said Ordinance by the Government or by a Committee of such Township in respect of such Township shall be vested in and recoverable by the Municipality, and the valuation and assessment roll in use at such time shall continue to be used until a new one shall be made.

(6) All property moveable or immoveable vested in or held in trust for the Committee of such Township shall be vested in and belong to the Municipality, and all rights and duties of whatever description used enjoyed or possessed by or imposed on such Committee shall become vested in and imposed upon the Municipality.

(7) All licences, registrations and permits issued, made or granted under or in pursuance of the said Ordinance shall continue in force for the period if

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(8) The provisions of the East Africa Township Ordinance and all rules thereunder relating to the valuation assessment of lands, houses and buildings and the levying of rates within the Township shall remain in force until other provision shall be made by Ordinance and the powers and duties conferred and imposed on the District Commissioner or other person or persons empowered to carry out those provisions shall be transferred to and performed by the Council appointed under this Ordinance. Provided that such Council may appoint a Committee or a sworn valuer or valuers to make such valuation and assessment.

Definitions.

4. In this Ordinance unless there be something repugnant in the context or subject matter the following expressions in inverted commas shall have the meanings placed opposite to them.

“Owner” shall include any person other than His Majesty receiving the rent or profits of any lands or premises from any tenant or occupier thereof or who would receive such rent or profits if such land or premises were let whether on his own account or as agent for any person other than His Majesty entitled thereto or interested therein. The term includes any lessee from the Crown holding under a longer tenure than a tenancy from year to year and any Superintendent, Overseer or Manager of such lessee residing on the holding.

“Occupier” shall include any person in actual occupation of land or premises without regard to the title under which he occupies and in case of premises subdivided and let to lodgers or various tenants the person receiving the rent payable by the lodgers or tenants whether on his own account or as an agent for any person entitled thereto or interested therein.

5. Subject to the provisions of this Ordinance the Governor may from time to time exercise all or any of the powers following:—

(1) declare any Township to be a Municipality constituted under the provisions of this Ordinance:

(2) assign a name to such Municipality:

(3) describe the boundaries thereof:

(4) alter from time to time the boundaries of any Municipality.

Constitution.

Constitution of Councils.

6. There shall be within every Municipality established under this Ordinance a Council thereof constituted and nominated or elected as hereinafter provided and the said Council shall under such name or designation as the Governor may by Proclamation declare be a body corporate with perpetual succession and a common seal with power to alter and change the same from time to time and shall by such name be capable in law of suing and being sued, of purchasing, holding and alienating land and of doing and performing such acts and things as bodies corporate may by law do and perform subject to the provisions of this Ordinance.

Councillors to be appointed by the Governor.

7. (1) The Council of any Municipality shall consist of so many Councillors as the Governor shall from time to time by notice in the “Gazette” determine in respect of such Municipality not being less than eight to be appointed by the Governor and to hold office during the Governor’s pleasure. A Chairman and Deputy Chairman of the Council shall be appointed by the Governor from among the Councillors and shall hold office during the Governor’s pleasure.

(2) Should any Law or Ordinance whereby provision shall be made for the election of all or any of the members of Municipal Councils be applied to a Municipality established under this Ordinance, then from the date of the application of such Law or Ordinance to any Municipality the provisions of the preceding sub-section shall cease to apply to such Municipality and the Council of such Municipality shall thereafter be constituted and elected and nominated in accordance with the provisions of such Law or Ordinance provided that in such case any Council appointed under the preceding sub-section shall continue in office until a Council shall have been elected or nominated under such Law or Ordinance.

Councillors.

Resignation of Councillors.

8. (1) It shall be competent for any Councillor to resign his seat on the Council by giving one month’s notice in writing of such intention to resign to the Governor.

(2) No person holding any office or place of profit under or in the gift of

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(3) No person nominated or elected a Councillor shall have or receive any salary or shall take or accept any fee or reward whatsoever for or on account of anything done as such Councillor nor shall he act as agent for any ratepayer at any meeting of any Court, Board or Committee appointed to assess the value of property for rating purposes. Any Councillor contravening the provisions of this section shall *ipso facto* become disqualified from continuing as Councillor.

(4) All proceedings of the Council or of any person acting as Chairman, Deputy Chairman or Town Clerk as the case may be shall notwithstanding that it be discovered that there was some defect in the election or appointment of any Councillor, Officer or person as aforesaid or any disqualifications be as valid and effectual as if every such Councillor, Officer or person had been duly elected or appointed and qualified.

CHAPTER III.

Meeting of Council.

9. The Council shall meet for the despatch of business as often as may be necessary but not less than once in every month and the meeting of the Council shall be open to the public and press provided that nothing in this section shall apply to any Committee of the Council or to a Committee of the whole Council.

Meeting of Council.

10. The Chairman may and shall on the request of not less than 4 Councillors in writing call a special meeting of the Council at any time at the Town Hall. The notice of such meeting shall be signed by the Town Clerk and circulated among all the members of the Council together with an agenda list shewing all the subjects to be dealt with at such meeting and no other subject than those on the agenda list shall be discussed at such meeting.

Special meeting.

Provided that no act, matter or thing shall be done by the Council at a special meeting unless two-thirds of the members of such Council shall be present at such meeting.

11. Save where it is otherwise specially provided in this Ordinance all acts, matters or things hereby authorised or required to be done by the Council, and all questions that may come before it shall be done and decided by the majority of the Councillors who shall be present at any meeting at which not less than one half or such larger proportion as the Council may from time to time fix of the members of the Council shall attend.

Quorum to be not less than one half or such larger proportion of the members as the Council may fix.

12. (1) At every meeting of the Council the Chairman if present shall preside and in the case of his absence the Deputy Chairman and if the Deputy Chairman be absent then the Councillors present shall elect a Chairman from among themselves to preside at such meeting.

Proceedings.

(2) In the case of equality of votes the Chairman of the meeting shall have a second casting vote.

Casting vote of Chairman.

(3) In case the Chairman be absent from duty owing to illness, incapacity or any other cause then the Deputy Chairman if there be one shall act as Chairman during such absence as aforesaid, and if there be no Deputy Chairman or if he is also absent the Council shall at the first meeting held during such absence elect from among themselves a Chairman who shall act during such absence as aforesaid.

13. Minutes of the proceedings of every meeting of the Council shall be regularly entered in a book to be kept for that purpose and minutes of proceedings at a meeting of the Council signed at the next ensuing meeting by the Chairman or by a member of the Council describing himself as or appearing to be Chairman of the meeting at which the minutes are signed shall be received in evidence without further proof, except as otherwise provided in this Ordinance.

Minutes to be recorded and signed.

14. (1) The minutes of proceedings of the Council shall at all reasonable times be open to the inspection of any ratepayer of the Municipality who may obtain a copy thereof or an extract therefrom on payment of such fee as may be prescribed by regulation.

Minutes of proceedings and Treasurer's accounts open to inspection.

(2) The Treasurer's accounts shall be open to the inspection of any member of the Council who may make a copy thereof or an extract therefrom.

(3) The monthly, half yearly or yearly balance sheets shall be open to the inspection of any ratepayer on payment of such fee for such copy as may be prescribed by the regulation.

15. The members present at any meeting may from time to time adjourn such meeting and if at any meeting of the Council a sufficient number of

Adjournment.

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Committee.

16. It shall be lawful for the Council to appoint out of their own body such and so many Committees either of a general or special nature and constituted of such number of members as to the Council may seem fit for any purpose which in the judgment of the Council would be better managed of a Committee; provided always that the proceedings of the Committee shall be regularly entered in a minute book to be kept for that purpose and reported to the Council. Each Committee shall elect its own Chairman and the Chairman of the Council shall be ex-officio a member of all such Committees.

Finance Committee.

17. The Council shall from time to time appoint a Finance Committee for regulating and controlling the finances of the Council; and an order for payment of a sum out of the funds of the Council shall not be made by the Treasurer except in pursuance of a resolution of the Council passed on the recommendation of the Finance Committee, and no cost, debt or liability exceeding Rupees seven hundred and fifty shall be incurred except upon a resolution of the Council passed on an estimate submitted by the Finance Committee.

Adjournment and quorum of Committee.

18. Every Committee appointed by the Council may meet from time to time and may adjourn from place to place as it may think proper and no business shall be transacted at any meeting of the Committee unless the quorum of members (if any) fixed by the Council and if no quorum be fixed two members be present; and at all meetings of the Committee if the Chairman of the Committee be not present one of the members present shall be appointed Chairman and all questions shall be determined by majority of votes of the members present and in case of an equal division of votes the Chairman shall have a casting vote in addition to his vote as a member of the Committee.

Contracts for execution of works.

19. Except in cases of emergency, before any contract for the execution of any work or the furnishing of any goods to the amount of Rupees seven hundred and fifty or upwards is entered into by the Council, fourteen days clear notice at the least shall be given in some newspaper circulating in the Municipality expressing the purpose of such contracts and inviting any person willing to undertake the same to make proposals for that purpose to the Council. The Council shall accept the proposal which on a view of all the circumstances appears to them to be most advantageous and may take security for the due and faithful performance of every such contract, or the Council may decline to accept any such proposals. Where such contracts are entered into or purchases made amounting to the said sum of Rupees seven hundred and fifty or upwards without being put up to public tender the reasons shall be stated by the Finance Committee in a report to be read out to the Council before the resolution to make such contract or purchase has been passed and such report shall be attached to the resolution and entered in the minutes of the Council.

Authentication of documents.

20. Every order, notice or other document requiring authentication by the Council shall be sufficiently authenticated without the common seal of the Municipality if signed by the Councillors and the Town Clerk or by any Officer of the Council duly authorised thereto by any resolution, bye-law or regulation of the Council.

pecuniary interest of Councillors in matters coming before Council.

21. No Councillor shall be disqualified by his office from contracting with the Council either as vendor, purchaser or otherwise nor shall any such contract or any contract or arrangement entered into by or on behalf of the Council in which any Councillor shall be in any way directly or indirectly interested be on account of such cause avoided or set aside nor shall any Councillor so contracting or being so interested be on account of such cause avoided or set aside nor shall any Councillor so contracting or being so interested be liable to account to the Council for any profit realised by any such contract or arrangement by reason of such Councillor holding that office or of the fiduciary relation thereby established; provided that the nature and extent of his interest must be disclosed by him so that such disclosure is duly minuted prior to or at the meeting of the Council at which the contract or arrangement is determined on, if his interest then exists, or in any other case at the first meeting of the Council after the acquisition of his interest; and provided further that no Councillor shall speak or vote in respect of any contract or arrangement in which he is so interested as aforesaid. Any Councillor contravening the provisions of this section shall be liable on conviction to a penalty not exceeding fifty pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding three months and 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 by reason of any such contract or arrangement.

Accounts and Audit.

22. The Council shall cause proper books to be provided and true and regular accounts to be entered therein of all sums of money received and paid on account of and for the Municipality and of the several purposes for which such sums of money have been received and paid.

23. (1) A Government Auditor shall as often as the Governor shall direct and once at least in every year examine the accounts of the Municipality.

(2) The Town Clerk shall produce and lay before the Auditor the accounts so balanced as aforesaid with all vouchers in support of the same and all books, papers, and writings in his custody relating thereto.

(3) If the Auditor, after due inquiry, is satisfied that all monies received have been duly accounted for, and that all payments charged have been duly authorised and made, he shall sign the accounts in token of his allowance thereof, but if he disapproves of any part of the accounts he may disallow any part of the accounts so disapproved of.

24. (1) The accounts so balanced and audited as aforesaid and either allowed or disallowed by the Auditor shall be produced at the first ordinary meeting of the Municipal Council or at some adjournment thereof.

(2) The accounts shall then be finally examined and settled by the Municipal Council and if the same are found to be just and true they shall be allowed and certified accordingly under the hand of the Chairman of such meeting.

(3) After such accounts have been so allowed, and signed by such Chairman, and also by the Auditor, as hereinbefore provided, the same shall be final as against all persons whomsoever.

25. (1) The Auditor shall forthwith, after the examination of the accounts of the Municipality, report to the Government Treasurer the result thereof and if it appears to the Treasurer that any money forming part of any fund under the control of the Municipal Council has been wilfully or corruptly misapplied to purposes to which it was not lawfully applicable, or that any member has wilfully or by culpable negligence misapplied or connived at or concurred in the misapplication of such money, he shall certify accordingly to the Governor.

(2) The Governor may by an order in writing within three months from the date of such certificate confirm or disallow such certificate.

(3) The Treasurer, before certifying as aforesaid, shall give notice that he will receive and consider such explanation as may be offered by or on behalf of the Municipal Council, or any member thereof, and he shall receive and consider such explanation accordingly.

(4) Every such order of confirmation of a certificate shall be conclusive evidence for all purposes whatsoever of the fact of the misapplication of the monies therein mentioned, of the amount so misapplied, and of the liability of the member or members named in such order as having so misapplied the same or connived at or concurred in the misapplication thereof to pay the same.

(5) Any sum of money mentioned in any such order of confirmation as having been so misapplied may be recovered in any Court of competent jurisdiction, together with full costs of suit, from any one or more of the members mentioned in such order as liable to pay the same, at the suit of the Municipal Council, or at the suit of any ratepayer of the area, or at the suit of the Government Treasurer.

(6) Any sum of money so recovered shall be paid into the fund from which the amount sued for was improperly taken.

26. (1) For the purpose of any examination the Auditor may take evidence upon oath (which oath the Auditor is hereby empowered to administer) and may by summons under his hand require all such persons as he thinks proper to appear personally before him, at a time and place to be fixed in and by such summons, and to produce to him all such books and papers as appear necessary for such examination.

(2) Any person so required who :—

(i) without just excuse, neglects or refuses to comply with the tenor of the summons; or

(ii) having appeared before the Auditor, refuses, without just excuse, to be examined on oath concerning the premises, or to take such

Keeping of accounts.

A Government auditor to audit accounts once at least in every year.

Accounts balanced and audited to be passed by the Council.

Power to discharge.

Auditor may take evidence on oath.

Penalties for refusal to attend or give evidence.

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Auditors
remuneration
to be paid out
of the revenues
of Council.

Council to prepare
and forward to the
Governor a yearly
budget of revenue
and expenditure.

Appointments
of Town Clerks
and other officials.

No officer or
servant to be
interested in any
bargain or
contract of the
Council.

Exemption of
servants and
members of
Council from
personal
liabilities.

- (iii) having taken such oath, refuses without just excuse, to answer such questions concerning the premises as are put to him; shall or may be liable to a penalty not exceeding Rupees three hundred for every such refusal or neglect and in default of payment to be imprisoned with or without hard labour for any period not exceeding three months provided that no conviction under this section shall be taken to exempt the person convicted from liability to do or perform the act, matter or thing required of him.

27. The Auditor shall receive out of the revenue of the Council such remuneration as the Governor may direct.

28. The Municipal Council shall in each year prepare a budget showing the estimates of revenue and expenditure of the Council for the ensuing year and such budget shall be forwarded to the Governor for his sanction and when approved shall be published in the "Official Gazette" and shall come into force from the first day of April in the year for which such estimates shall be prepared; and the Council shall not incur any expenditure which has not been included in such estimates and approved in such manner except with the sanction of the Governor.

Powers and Duties of Council.

29. The Council shall from time to time appoint a Town Clerk and a Medical Officer of Health who shall be a legally qualified medical practitioner and such other officials as it may consider necessary and pay such salaries and allowances to such officials as it may determine; and unless it shall be stipulated otherwise in the contract with or in the appointment of an employé the Council may at any time remove such employé upon notice of not less than one month or in case of misconduct immediately.

Provided that if from financial or other reasons the Council is unable to appoint any official who may be required for the purpose of carrying out the provisions of this Ordinance the Governor may make the necessary appointment from the Protectorate staff and any official so appointed shall be deemed to be seconded to the Municipality and for the time being shall be responsible solely to the Council notwithstanding that his salary may be paid from Protectorate funds.

30. Officers or servants of the Council, shall not in anywise be concerned or interested in any bargain, contract or agreement whatsoever made by or with the Council.

If any officer or servant so concerned or interested or under cover of his office or employment exacts or accepts any promise fee or reward whatsoever other than his proper salary wages and allowances he shall be incapable of afterwards holding or continuing in any office or employment under this Ordinance and shall be liable to a penalty not exceeding Rupees seven hundred and fifty and in default of payment to imprisonment with or without hard labour for a period not exceeding three months. Any profits fee or reward which may have accrued to him by reason of such bargain contract or arrangement may be recovered by the Council.

31. No matter or thing done or omitted and no contract entered into by the Council and no matter or thing done or omitted by any member of or officer or servant or other person acting under the direction of the Council shall if the matter or thing were done or omitted or the contract was entered into *bona fide* for the purpose of executing the Ordinance subject any such person personally to any action, liability, claim or demand whatsoever and any expense incurred by the Council or any such person as aforesaid shall be paid by the Council out of the fund applicable to the general purpose of this Ordinance, provided that nothing in this section shall exempt any such member from liability to be surcharged with the amount of any payment which may be disallowed by the Auditor in the accounts of the Council and which such member authorised or joined in authorising.

32. The Council shall have the power to acquire land for Municipal purposes and for allotments in the name and on behalf of the Municipality and with the approval of the Governor, and such land shall be vested in the Council.

33. The Council shall have the power to name any street, thoroughfare,

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shall have the power to number the houses in any street or square provided that public notification is published beforehand in the local paper or papers for two consecutive weeks.

34. The Council shall have the general control and care of all public roads, streets, bridges, squares and all other open public places and over all gardens, parks and other enclosed spaces within the Municipality which have been or shall be at any time set apart and appropriated by proper authority for the use of the public or to which the inhabitants of the Municipality shall at any time have or acquire a common right and over all water furrows within the Municipality and not used for conveying water beyond the limits thereof, and the same shall be vested in the Council in trust to keep the same open for the use and benefit of the inhabitants, and the Council may make, construct, alter, repair and if necessary temporarily close all roads, streets, open spaces, bridges, ferries, furrows, sewers, drains and culverts vested in them or under their control and may make new roads, streets, bridges, ferries, dams, furrows, sewers, drains or culverts within the Municipality, and if it shall be necessary may carry any sewers, drains and pipes and water furrows through and across any private property, provided that compensation shall if not mutually agreed upon be settled by arbitration.

Provided that notwithstanding anything in the preceding subsection contained the Council shall have power with the consent of the Governor to erect and maintain on any square or other open public place buildings for public purposes, or set apart any such open public place or portion thereof for any such building.

35. The Council shall have the power anything to the contrary in this Ordinance notwithstanding to close or divert any street, road or thoroughfare vested in the Council under the last preceding section of this Ordinance provided that the Council shall in the exercise of its power to close or divert any street, road or thoroughfare be subject to the following conditions and restraints:—

(1) Before the Council shall sanction any such closing or diversion, not less than fourteen days' notice shall be given at a Council meeting of the intention to move therefor.

(2) Before any such closing or diversion is carried out the Council shall prepare a plan shewing the nature thereof and shall give notice of the proposed work not less than one month before its commencement in the Gazette and in one or more newspapers circulating in the Municipality as well as by a sufficient number of conspicuous placards posted on or near the street, road or thoroughfare which it is proposed to close or divert, setting forth a place where the said plan shall be open for inspection at all reasonable hours, and shall also serve a copy of such notice on the Commissioner of Lands and on the owners or reputed owners, lessees or reputed lessees and occupiers of all property abutting upon the said street road or thoroughfare whose addresses can after reasonable enquiry be ascertained.

(3) Where notice in writing of any claim for compensation is served on the Council within the period of one month above mentioned by the Commissioner of Lands or any such owner, lessee or occupier or any other person aggrieved by such closing or diversion, the Council shall make compensation to such person for any damage occasioned to him thereby and such compensation shall in default of agreement be fixed by arbitration; provided that in assessing the amount of compensation payable to any person hereunder the benefit or damage derived or to be derived by such person by reason of such closing or diversion shall be taken into account.

(4) If any person interested as owner, lessee or occupier in any property abutting on the street, road or thoroughfare which it is proposed to close or divert shall at any time within the period of one month above mentioned serve written notice on the Council of any objection to such closing or diversion, then unless such objection shall be withdrawn such closing or diversion shall not be carried out without the sanction of the Governor.

(5) After the serving of any such objection the Governor may on the application of the Council appoint an officer to make an enquiry into the proposed closing or diversion and the objection thereto and to report thereon and on receiving the report of such officer the Governor may make an order disallowing the proposed closing or diversion or allowing it with such modification (if any) as he may deem necessary.

Public streets and squares vest in Council.

Power of Council to close or divert any street, road or thoroughfare vested in the Council.

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- (16) Compelling owners to fence unoccupied plots ; and regulating the use of barbed wire for fencing.
- (17) Regulating and charging fees for the removal of carcases.

Public Health.

- (18) The prevention and suppression of infectious or contagious diseases and the maintenance of the public health.
- (19) Regulating and compelling the provision, construction, use and repair of drains, privies and receptacles for solid or liquid refuse or slops, and all other conveniences, and the connection of any premises with any sewer or drain established by the Council.
- (20) Compelling the use of any sanitary service established by the Council and the method of dealing with all night soil, slops, rubbish or refuse whatsoever.
- (21) The prevention and abatement of nuisances including such as though arising beyond the Municipality cause annoyance or danger or injury to health within the Municipality.
- (22) Regulating wells, tanks and cesspools and closing the same if expedient.
- (23) Regulating and licensing slaughter-houses and meat shops and the killing of cattle or other animals and the sale of meat.
- (24) Licensing and controlling hawkers and keepers of dairies, cowsheds, milk-shops, restaurants, cafes, tea-rooms, hotels, eating and lodging houses and all places where articles of food or drink or drugs are manufactured or prepared for sale or sold.
- (25) Preventing the possession, conveyance, handling, sale or offering for sale and for the destruction, when necessary in the Council's opinion, of diseased animals and of any article of food or drink which is diseased or unfit for human consumption.
- (26) Regulating stables, cattle sheds, and the keeping of live-stock and poultry.
- (27) Regulating and licensing livery stables and any place where horses or other animals are kept for hire.
- (28) Notification of death and disposal of the dead.
- (29) Erecting, regulating and maintaining and appointing a Committee of management for isolation Hospitals.
- (30) For cleansing of persons infected with vermin.
- (31) For closing by order schools on account of epidemic disease.
- (32) For regulating means of ingress and egress in places of public resort.
- (33) For the prevention of Malaria and other mosquito-born diseases.
- (34) Preventing the adulteration, misdescription or reduction below a proper standard of quality and for ensuring the sale in a pure state of any article of food or drink or any drug.
- (35) Regulating purveyors of milk.
- (36) Regulating the washing of clothes in public or private places and licensing persons engaged in washing or laundry work.

Buildings.

- (37) Regulating the construction, alignment and elevation of all buildings or other structures and all parts thereof and compelling the demolition, removal or rendering safe of any building or structure whatsoever which in the Council's opinion is dangerous or unfit for use either for structural or sanitary reasons.
- (38) Preventing the erection, alteration or use of any building or structure whatsoever which either in itself or from the circumstances or nature of the locality in which it is placed is a disfigurement to the town or any annoyance to the inhabitants thereof and for securing the removal or alteration of projections over streets.
- (39) Regulating the erection and use of scaffolding and hoarding during the construction and demolition, alteration or repair of any buildings and charging fees in respect thereof.
- (40) Regulating the amount of space to be allowed in and about buildings for securing the proper ventilation thereof and a free circulation of air.

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(42) Regulating the giving of notice and the deposit of plans and sections by persons wishing to construct or alter buildings and the approval or disapproval thereof by the Council and the removal or alteration of any work begun or done in contravention of any bye-law or regulation of the Council and preventing the use of any new or altered building until it shall have been certified by the Council to be fit for use, and for charging of fees for inspection of plans and buildings.

(43) Regulating the giving of notice and deposit of plans by persons wishing to lay out building lots or new Townships, securing the continuity and uniformity of streets on or leading to private property, and preventing the laying out of new Townships or building lots except with the approval of the Council, or the closing up of any streets roads or open spaces shown on any plan previously submitted to and approved by the Council,

(44) Regulating the construction and position of gutterings and down pipes and the discharge of the outflow therefrom.

Provided that no bye-laws relating to the erection, re-erection, construction, alteration or maintenance of buildings shall apply to the Government or to any department of the Government or to any building belonging to the Government.

Sales, Weights and Measures.

(45) Regulating the holding of sales by auction on land or premises under the control of the Council and for charging of fees in respect of such sales.

(46) Regulating the verification, stamping, sale and use of weights, measures and weighing instruments and charging fees in respect thereof.

(47) Regulating the sale of goods, wares or merchandise by weight or measure.

(48) Regulating the carriage, sale or use and licensing and regulating the manufacture and storage of petroleum, explosives, fireworks, gas and all other combustibles.

Control of Streets and Traffic.

(49) Regulating the traffic and preventing and removing obstruction in public roads, streets and open spaces and dealing with live-stock or dead or injured animals found in any public place.

(50) Regulating and licensing road-locomotives, tramcars, omnibuses, cabs, rickshaws, trolleys, bicycles and all other vehicles whatsoever, whether private or plying or working for hire, and the drivers or haulers thereof, and porters, and fixing the charges to be made for the hire of any such vehicle plying or working for hire.

(51) Regulating, prohibiting or licensing the erection of wires in, along, under, on, over any street or public place and of placards, boards or other advertisements or notices in or near or in view of any public street or place ; provided that no such permission or licence shall be required for posts or wires erected or laid by the Government.

(52) Regulating street decorations and the erection and removal of temporary platforms or other structures for the use of the public at any meeting or entertainment or at any procession, ceremony or other spectacular display.

Water and Light.

(53) Regulating the use and preventing the misuse or waste of or any interference with any water, gas or electric power or the pollution of any water supplied by or under the control of the Council or which the public have right to use.

(54) Preventing the pollution of gathering grounds, springs, wells, reservoirs, tanks, cisterns, filter beds or other sources of water supply or storage, whether within or beyond the Municipality, the water wherein or wherefrom is used or is likely to be used by man within the Municipality.

(55) Securing a proper and sufficient supply of water to all dwelling houses, schools, stores, factories and workshops.

Natives.

(56) Regulating the use of public streets by Natives and prohibiting the

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(57) Regulating, suppressing and charging fees for Native dances, Ngomas and nautches.

(58) Regulating the housing of Natives by their employers.

(59) Regulating and licensing wash boys and Native labourers other than those employed in industrial concerns or domestic service.

(60) And generally for such things as are necessary for the maintenance of the health and safety of the inhabitants or for the good rule and government of the Municipality;

Provided always that no such bye-law shall be made contrary to the provisions of this Ordinance.

How bye-laws
to be made.

43. No bye-law or regulation shall be made or amended by the Council until a copy of such proposed bye-law or amendment be deposited at the office of the Council for inspection by any person at all reasonable times, and a notice be published in some newspaper circulating in the Municipality or affixed to the principal door of the offices of the Council seven days prior to the meeting of the Council held for the purpose of making such bye-law or regulation or amendment, setting forth the general purport of the proposed bye-law or regulation or amendment of the same and stating that a copy thereof is open to inspection as aforesaid.

Bye-laws and
regulations to
be approved by
the Governor
and published
in the Gazette.

44. After any bye-law or regulation has been passed by the Council, it shall be submitted for the approval of the Governor and if approved it shall be published in the "Gazette" and thereupon such bye-law shall have the force of law in the Municipality.

Penalties for
breach of bye-laws.

45. The Council may by regulation or bye-law impose a penalty for any breach of any bye-law or regulation made under this or any amending Ordinance and may also impose different penalties in case of successive breaches, but no such penalty shall be imposed exceeding Rupees seven hundred and fifty, and any bye-law or regulation may provide that in addition to any such penalty any expense incurred by the Council in consequence of any breach of such bye-law or regulation or in the execution of any work directed by any such bye-law or regulation 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.

Power of arrest.

46. (1) Any Police Officer may arrest without warrant any person who shall commit any offence against this Ordinance or against any regulation or bye-law in force in the Municipality and any officer of the Council in uniform or bearing a visible badge of office authorised thereto in writing by the Council shall have power to arrest without warrant any person who shall in his presence commit any offence against this Ordinance or any bye-law in force in the Municipality and detain such person until he can be delivered into the custody of a Constable or Police Officer to be dealt with according to law; provided that no person shall be arrested or detained without warrant unless there shall exist reasonable ground for believing that except by the arrest of the person offending he could not be found or made answerable to justice without delay, trouble or expense.

(2) Section 33 of the East Africa Police Ordinance 1906 is hereby extended to and shall apply in every Municipality constituted under the provisions of this Ordinance.

Prosecution for
contravention
of bye laws.

47. All offences against any bye-law or regulation in force in the Municipality shall be deemed to be offences against this Ordinance and in any prosecution for contravening the provisions of any bye-law or regulation it shall be sufficient to allege that the accused is guilty of contravening a bye-law or regulation of the Council and to allege the act constituting such contravention describing the bye-law or regulation by number.

Prosecutions by
Council for breach
of bye-laws.

48. The Town Clerk or any other person authorised thereto by the Chairman may prosecute in the Court of the Town Magistrate for all breaches of the Council bye-laws or regulations and the provisions of any laws relating to prosecutions by private persons shall apply to all such prosecutions.

Penalties.

49. Every person guilty of an offence against this Ordinance or any bye-law in force in the district shall for every such offence be liable to the penalty expressly imposed by this Ordinance or by the bye-law and if no penalty be imposed then to a penalty not exceeding Rupees one hundred and fifty.

Recovery of
penalties.

50. All penalties or other monies payable in respect of any offence against this Ordinance or any bye-law in force in the Municipality may be recovered

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51. Save and except where it is otherwise specially provided whenever any penalty shall have been imposed under the provisions of this Ordinance or of any bye-law in force in the Municipality and the person convicted shall not forthwith pay the same, the Court may direct that such person be imprisoned with or without hard labour for a period not exceeding one month if the penalty imposed does not exceed Rupees seventy five or for a period not exceeding three months if the penalty be above Rupees seventy five and such person shall be imprisoned as aforesaid unless he shall sooner pay the penalty.

Default of payment of penalties.

52. All penalties recovered for offences against the bye-laws of the Council or for offences against this Ordinance shall be paid into the revenue of the Council.

Application of penalties.

53. All actions against the Council shall be brought within six months of the time when the causes of such actions arose and all such costs, charges and expenses as the Council shall be put to or become chargeable with by reason of the prosecution or defence of any such action or under the judgment of the Court shall be paid out of the revenue of the Council.

54. The following persons shall be liable to a penalty not exceeding Rupees two hundred or to imprisonment with or without hard labour for three months :—

Obstructing officers of the Council.

- (1) any person who wilfully obstructs any member of the Council or any person duly employed by the Council in the execution of his duty as such ;
- (2) any occupier of premises who prevents the owner of such premises from complying with any of the requirements of the Council ;
- (3) any occupier of premises who on demand refuses or wilfully omits to disclose or wilfully mis-states the name of the owner of such premises.

55. If the Council shall fail to make, alter or revoke such regulations as in the opinion of the Governor are necessary for the purposes of section 42 sub-sections (18), (19), (20), (21), (22), (23), (25) and (54) so far as it applies to the provision relating to the pollution of water which the public have to use for drinking purposes, it shall be lawful for the Governor to give notice to the Council in default requiring it to make, alter or revoke such regulations ; if such Council shall fail to comply within one month after the receipt of such notice it shall be lawful for the Governor to proclaim such regulations as may be considered necessary, which regulations shall thereupon have the force and effect of law within the Municipality.

Power of Governor under certain circumstances to make regulations.

56. In cases of urgent necessity arising from the existence of threatened outbreak in the Municipality of small pox, cholera, diphtheria, typhus, yellow fever, bubonic plague or any contagious or infectious disease which the Governor may from time to time proclaim to be a disease within the meaning of this section, it shall be lawful for the Governor to make and proclaim such regulation to be in force within such Municipality as may be required to prevent the outbreak or check the progress of or eradicate such disease ; any regulations so made and proclaimed under the provisions of this section for the Municipality shall have the force of law therein until repealed or amended by the Governor.

Governor may make regulations for prevention checking or eradication of disease.

CHAPTER VII.

Financial.

57. The revenue of the Council shall consist of :—

Revenue of Council.

- (1) all rates levied by the Council ;
- (2) all licence monies on licences issued by the Council and all market dues, pound fees and taxes on goods ;
- (3) all charges levied by the Council for the supply of sanitary services ;
- (4) all other fees or charges or rents recoverable by the Council ;
- (5) all revenue accruing to the Council from the Government either as a grant in aid or otherwise.

All charges due for sanitary or other services shall be recoverable either from the occupier for the time being or failing him from the owner of the premises.

58. The Council shall have the power to refuse to grant any licence to carry on any trade or business which it has power to grant in accordance with

Power of Council to refuse licences.

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- (a) that the applicant has been convicted three times within the three years preceding his application of contravening the law or the bye-law of any Municipality with regard to the conduct of the trade for which the licence is applied for in such a manner as to cause danger to the public health;
- (b) that the premises on which the applicant intends to conduct his trade do not conform to the requirements of the Council's bye-laws;
- (c) that the granting of such licence would be contrary to the public interest;

Provided however that any applicant for a licence whose application has been refused may appeal against the Council's decision to the Court of the Town Magistrate and on such appeal, in the event of the Council failing to satisfy such Court that the licence was refused on good and sufficient grounds, such Court may make an order requiring the Council to grant such licence and such licence shall be granted accordingly; and provided further that it shall be within the discretion of the Council to refuse to grant licences to the hauler of any jinricksha or to the driver of any road locomotive, tramcar, omnibus, motorcar, and trolley or other vehicle plying for hire, anything to the contrary in this Ordinance notwithstanding.

59. The Council shall have power to refuse to licence any premises as a theatre, music-hall, public-hall, concert-room or other place of amusement, or Asiatic or African eating houses, on any of the grounds mentioned in the preceding section and also on any one or more of the following grounds:—

- (a) that the applicant has failed to produce satisfactory evidence of good character;
- (b) that the premises in respect of which a licence is sought or any adjacent premises owned or occupied by the applicant are frequented by persons of bad character;
- (c) that the granting of such a licence in respect of the premises for which the same is sought is calculated to cause nuisance or annoyance to persons residing in the neighbourhood; provided however that the refusal of the Council to grant any licence on any of the grounds herein stated shall be subject to the same appeal as is provided in the preceding section.

60. On the conviction of any person holding a trade licence granted by the Council for any contravention of the law or the Council's bye-laws with regard to the conduct of such trade, it shall be lawful on the application of the Council for the Magistrate before whom such person is convicted to cancel or suspend his licence and order that no new licence to carry on such trade within the same Municipality shall be granted to such person for a period not exceeding two years from the date of such cancellation, and thereupon such person shall become disqualified to hold a licence during such period of cancellation or suspension.

61. It shall be lawful for the Governor to advance from time to time to the Council such monies as he may think fit for the proper carrying out of the provisions of this Ordinance and on such terms and conditions as to repayment as to the Governor may seem proper. The monies so advanced and the interest thereon shall constitute a liability of the Council and shall be a charge on the property and revenues of the Council present and future.

62. (1) It shall be lawful for the Council from time to time to raise loans in such amounts and on such conditions as may be allowed by the Governor with the approval of His Majesty's Secretary of State subject to the provisions of this Ordinance.

(2) Such loan shall be secured on the property and revenues of the Council including any lands which may be specially placed at the disposal of the Council under the provisions of any law, provided always that this section shall not be deemed to confer any powers of alienating such lands other than are conferred by such law.

(3) Where any such loan shall be raised by means of stock, the provisions of any borrowing powers Ordinance that may be applicable and in force in the Protectorate with regard to the issuing of such stock, the provision to be made for repayment of interest thereon and for the redemption thereof at the time

Power of Council
to refuse to
licence certain
premises.

Penalty on
conviction of
licence holder for
contravention of
law or Council's
by-laws.

Advances by the
Government.

Borrowing powers.

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(4) If at any time any interest due on any loan other than stock shall remain unpaid for three months after demand therefor in writing has been lodged with the Town Clerk by the person entitled thereto or his duly authorised representatives, application may be made by such person or his representatives to any competent Court for the appointment of a receiver of the property and revenues on which the loan is secured.

(5) On the hearing of such application the Court may make such order and give such directions as under the circumstances shall seem expedient for raising and payment of the monies due. In particular, the Court may order and declare that a rate or rates of such amount or amounts as it shall fix be levied upon all rateable property within the Municipality. And such rate so ordered shall have the same incidence as any rate imposed by the Council, and may be enforced in like manner, and the proceeds thereof shall be paid into Court or otherwise as the Court shall direct.

(6) If at any time default shall be made in the repayment of any loan after a period of one month from the date on which such loan shall have become repayable the like proceedings may be instituted on the application of the person to whom such repayment shall be due or his duly authorised representative.

(7) The Court on such application, in addition to any order which it is empowered to make under sub-section (5), may if it shall think fit order the sale of any property on which the loan may be secured, subject always to the provisions of any law as regards the alienation of any lands vested in the Council under such law.

CHAPTER VIII.

Miscellaneous.

63. When any matter or thing is by this Ordinance or by any order or notice made and published under the authority thereof directed or forbidden to be done or where any authority is given by this Ordinance to any person to direct any matter or thing to be done or to forbid any matter or thing to be done, and such act so directed to be done remains undone or such act so forbidden to be done is done, in every such case every person offending against such direction or prohibition shall be deemed guilty of an offence against this Ordinance.

Persons offending
against order or
notice under this
ordinance to be
deemed guilty of
offence against
Ordinance.

64. In case of any dispute or difference arising in regard to any matter necessitating settlement by arbitration, or in case of reference either by agreement or by operation of any law, under which other provision is not made, of any dispute in which the Council shall any time be concerned to arbitration, the provisions of any arbitration law or Ordinance that may be in force within the Protectorate shall except as hereinafter provided apply to arbitration proceedings by the Council as if the said provisions were inserted in this Ordinance.

Arbitration.

65. The costs of an incidental to any reference to arbitration shall be in the discretion of and be settled by the Arbitrator or Arbitrators, or Umpire as the case may be.

Cost of arbitration.

66. Upon all proceedings before any Arbitrator or Arbitrators, or Umpire at the case may be each party may appear in person or by pleaders and may produce such witnesses and documentary evidence as the Arbitrator or Arbitrators or Umpire as the case may be shall allow.

Before arbitrators
each party may
appear by Council.

67. A copy of the "Official Gazette" containing any bye-law or regulation of the Council shall be evidence of the due making of such bye-law or regulation and of the contents thereof.

68. The Nairobi Municipal Regulations 1901 shall be repealed from the date on which Nairobi Township shall be declared to be a Municipality under this Ordinance.

Repeal.

2nd November 2/9/02**A Bill****To amend the East Africa Volunteer Reserve Ordinance of 1905.**

Be it enacted by the Governor of the East Africa Protectorate with the advice and consent of the Legislative Council thereof:—

1. This Ordinance may be cited as the East Africa Volunteer Reserve Amendment Ordinance 1907, and shall be read as one with the East Africa Volunteer Reserve Ordinance 1905 hereinafter referred to as the Principal Ordinance.

2. The Principal Ordinance shall be amended to the following extent:—

- (1) In Section 4 after the words "European parentage" add "or a Goanese or Parsi."
- (2) For section 16 substitute the following:—

"Each Corps must hold an annual rifle meeting for rifle practice and for competition for prizes. Each registered member must fire annually the Musketry course laid down in Schedule D (in Ordinance 1905) and must obtain 42 points in it in order to rank as efficient, provided a member who from any sufficient cause may be unable to attend the annual rifle meeting of his corps may be allowed by the Senior Officer to comply with the requirements for efficiency at another meeting of his corps which has been specially called for practice or competition for prizes, or a member may also qualify at any station where there is a detachment of King's African Rifles and a Military Range and must obtain a certificate signed by the Officer Commanding the detachment to the effect that he has so qualified. Any registered member who shall fail to qualify without good and sufficient cause shall be liable to be fined by the Senior Officer a sum not exceeding Rupees fifteen to be recovered in accordance with Section 9 of Volunteer Reserve Ordinance 1907."

- 5/
- (3) In Section 17 substitute the words and figures "31st March" for the words and figures "31st December."
 - (4) In Section 19 substitute the words "up to 500 rounds of ammunition per annum at six cents per round" for the words "an additional 300 rounds of ammunition per annum at cost price."
 - (5) In Schedule A Form 1 after the words "So help me God" add in brackets "(or in case of a Parsi such other form of oath as may be binding upon him)."

3. Notwithstanding anything in Section 4 of the principal Ordinance contained the Governor may in special cases and when satisfied that good and sufficient reason exists direct that any person of European parentage and a British subject residing at Mombasa desirous of becoming a member of the corps shall take an oath set forth in form No. 1 of Schedule A of the Principal Ordinance but that there shall be substituted for the words "in the East Africa Protectorate" the words "on Mombasa Island."

4. The Governor may sanction the issuing to every member of a corps the following equipment:—

- 1. Belt and frog for bayonet.
- 1. Bayonet.
- 1. Water bottle.
- 1. Haversack.

5. The equipment mentioned in the last Section shall remain the property of the Government and any member of the corps who shall sell any of such equipment issued to him or shall part with the same except to a member of a corps under this Ordinance or to the Government or shall through negligence permit the same to be lost or damaged, shall be liable to a fine not exceeding Rupees one hundred and fifty which fine may be imposed by the Senior Officer of the corps to which such person belongs and may be recovered in the manner prescribed by Section 9 of the Principal Ordinance.

delete.