



THE
OFFICIAL GAZETTE
OF THE
COLONY AND PROTECTORATE OF KENYA.
(SUPPLEMENT).

Published under the authority of His Excellency the Governor of the
Colony and Protectorate of Kenya

Vol XXIV—Supplement No 8] NAIROBI, December 27, 1922

*His Excellency the Governor has approved of the following
Bills being introduced into the Legislative Council.*

*G. R. SANDFORD,
Clerk to the Legislative Council.*

TABLE OF CONTENTS

	PAGE
1 A Bill intituled an Ordinance to Amend the Registration of Titles Ordinance, 1919	1-2
2 A Bill intituled an Ordinance to Amend the Mohammedan Marriage, Divorce and Succession Ordinance, 1920	2
3 A Bill intituled an Ordinance to provide for the Registration and Licensing of Land Surveyors, to Control the Practice of such Surveyors and for other purposes incidental thereto	3-8

A Bill

Intituled

An Ordinance to amend The Registration of Titles Ordinance, 1919

1 This Ordinance may be cited as "The Registration of Titles (Amendment) Ordinance 1922" and shall be read as one with the Registration of Titles Ordinance, 1919, (hereinafter referred to as "The Principal Ordinance,") and the Registration of Titles (Amendment) Ordinance, 1920 Short title

2 Section 1 of the Principal Ordinance is hereby amended by the insertion of the following sub-section after sub section (2) thereof — Amendment of Section 1 of the Principal Ordinance

"(3) The Governor may by order published in the 'Gazette' apply this Ordinance to any area in the Colony and Protectorate"

3 Part III of the Principal Ordinance shall be deemed to have come into operation in the Coast District comprising the Provinces of Seyidie, Tanaland and Jubaland on the 1st day of November, 1920 Application of Part III of the Principal Ordinance to Coast District

4. Section 34 of the Principal Ordinance is hereby amended by the deletion of the words "may execute" and by the substitution therefor of the words "shall execute, in original only." The words "and such transfer, if it be endorsed on the instrument evidencing the title of any transferor, need not be issued in duplicate" are hereby repealed. Amendment of Section 34 of the Principal Ordinance

5. At the end of Section 49 of the Principal Ordinance there shall be added the following provisoes — Amendment of Section 49 of the Principal Ordinance

Provided that,

(1) A Power of Attorney executed in due and customary form and giving sufficient powers, in the opinion of the Registrar shall, at his discretion, be registerable in like manner as though executed in the said Form M

(2) A Power of Attorney registered before the date of this Ordinance in accordance with the provisions of the East Africa Registration Regulations, 1901, or the Crown Lands Ordinance, 1915, shall be deemed to be duly registered for the purposes of this Section provided that it shall have been so registered prior to any act thereunder being effected in respect to land registered under this Ordinance, but nothing in this Section contained shall make valid a power otherwise invalid, or any transaction under it, by reason of such action

Amendment of
Section 50 of
the Principal
Ordinance

6 The words "unless signed under any then outstanding registration abstract" in Section 50 of the Principal Ordinance are hereby repealed. At the end of the said Section there shall be added the following provisoes —

Provided that,

(1) A Revocation executed in due and customary form shall, at the discretion of the Registrar, be registerable in like manner as though executed in Form N

(2) A Revocation of any Power of Attorney referred to in Section 49 (2) shall be registered in accordance with the provisions of the Ordinance under which such Power of Attorney is registered

Amendment of
Section 57 of
the Principal
Ordinance

7 At the end of Section 57 of the Principal Ordinance there shall be added the following proviso —

"Provided that the provisions of this Section shall not apply to any instrument executed by the Governor, or any duly registered company by means of its common seal affixed in the presence of the Secretary and two or more directors"

Amendment of
Schedule I
forms B1 and
B2

8 The words "and bounded as follows" where they appear in Schedule I, Forms B1 and B2, are hereby repealed

A Bill

Intituled

An Ordinance to amend the Mohammedan Marriage, Divorce and Succession Ordinance, 1920

Short title

1 This Ordinance may be cited as "The Mohammedan Marriage, Divorce and Succession (Amendment) Ordinance, 1923," and shall be read as one with the Mohammedan Marriage, Divorce and Succession Ordinance, 1920, hereinafter referred to as the Principal Ordinance

Amendment of
Section 3 Sub
section 2 of the
Principal
Ordinance

2 Section 3 sub-section 2 of the Principal Ordinance is hereby amended by the deletion of the word "domiciled" where it last appears therein and by the substitution thereof of the word "resident"

A Bill

Intituled

An Ordinance to provide for the Registration and Licensing of Land Surveyors, to Control the Practice of such Surveyors, and for other purposes incidental thereto

1 This Ordinance may be cited as "The Land Surveyors Ordinance, 1923" Short title

2 In this Ordinance unless the context otherwise requires — Interpretation

- (a) "Director" means the Director of Land Surveys
- (b) "Board" means the Land Surveyors' Board for Kenya
- (c) "Land Surveyor" means a surveyor duly registered and licensed to carry out land surveys under the provisions of this Ordinance

3 This Ordinance applies to all surveys in the Colony and Protectorate of Kenya, made for the purpose of preparing any plan for attachment to any instrument of conveyance, lease, assignment or transfer, requiring to be registered under any Registration of Land or Titles Ordinance for the time being in force Application of Ordinance

4 (1) There shall be a Board of Land Surveyors, which shall consist of — Land Surveyors Board

- (a) The Director, who shall be *ex-officio* Chairman of the Board
- (b) At least two Land Surveyors, appointed from time to time by the Governor, on the nomination of the Director, for such period as he may direct

(2) The Governor may, on the nomination of the Director, appoint one or more Land Surveyors for the purpose of filling the place of any member or members of the Board who may, through illness or other cause, be unable to attend any meeting of the Board

(3) The Board shall conduct the examination of candidates for admission as Land Surveyors, and shall meet at such times and places as may be necessary for the purpose of conducting such examinations and for other duties as hereinafter prescribed by this Ordinance

(4) Notice of all appointments to the Board and meetings thereof for examination purposes shall be published in the Gazette

- Oath of office** **5** Every member of the Board shall take an oath of office in the form A in the Schedule to this Ordinance, which may be administered by any Judge of the Supreme Court of the Colony and Protectorate of Kenya
- Secretary and other officers** **6** The Board may from time to time appoint a Secretary and such examiners and other officers as may be necessary for giving effect to this Ordinance and all such persons shall hold office during the pleasure of the Board
- Persons eligible to be registered** **7** The following persons only shall be entitled to be registered as Land Surveyors under this Ordinance —
- (a) Persons licensed by the Board as hereinafter set forth
 - (b) Persons duly registered to practice as Licensed Surveyors before the enactment of this Ordinance
 - (c) Persons holding a licence to practise as Land Surveyors in the countries of South Africa, Canada, Australia, New Zealand, and in such other countries as may be notified in the Gazette by the Governor-in-Council provided that such persons shall appear before and satisfy the Board that they are capable of conducting land surveys in accordance with the provisions of this Ordinance
- Unqualified persons for bidden to survey** **8** No person unless duly registered as a Land Surveyor shall survey any land for the purpose of preparing any plan for attachment to any instrument of conveyance, lease, assignment or transfer, requiring to be registered under any Registration of Land or Titles Ordinance for the time being in force
- Conditions precedent to examination** **9** Except as hereinafter provided no person shall be entitled to be examined for a licence as a Land Surveyor unless —
- (a) he has previously served regularly and faithfully, for a period as required by the Board, with a Land Surveyor licensed in this Colony or in one of the countries set forth in Section 7 (c) of this Ordinance, and
 - (b) produces an affidavit from such Land Surveyor in form B of the Schedule to this Ordinance, or if for some good and valid reason the Surveyor's affidavit cannot be produced unless —
 - (c) he produces such evidence of service as the Board may require
- Persons entitled to examination** **10** Any person who —
- (a) has graduated from any University recognised by the Board and shall have taken a degree in Engineering, or
 - (b) is an Associate Member of the Institution of Civil Engineers,
- shall be entitled to an examination for a licence, and shall be exempt from examination on all subjects which, in the opinion of the Board may be unnecessary, provided that such person produces affidavits in forms B and D of the Schedule to this Ordinance
- Form of application for examination** **11** Each application for examination as prescribed in the Ordinance shall be made to the Secretary in writing at least one month previous to the date on which such examination is to take place, and such application shall be accompanied by —
- (a) all information required by this Ordinance,
 - (b) an examination fee of Five Pounds, which fee shall be refunded if the application for examination be disallowed,
 - (c) all such fees shall be paid over, by the Secretary, to the Colonial Treasurer
- Examining candidate on oath** **12** The Board may require the attendance of any person who applies for examination as prescribed by this Ordinance and may examine or question such person upon oath, affirmation or otherwise as to his actual practice in the field and other matters relevant thereto. For such purposes any member of the Board may administer an oath or affirmation

13 Except as otherwise provided in this Ordinance no person shall receive a licence from the Board authorising him to practise as a Land Surveyor until —

Conditions precedent to issue of licence

- (a) he has attained the age of twenty one years, and,
- (b) has complied with the general requirements of this Ordinance, and
- (c) has passed a prescribed examination to the satisfaction of the Board

14 Every person who qualifies in the manner prescribed by this Ordinance shall be entitled to receive a licence from the Board in form C in the Schedule to this Ordinance constituting him a Land Surveyor

Issue of licence

15 The Board shall cause a register to be kept which shall contain the names, addresses and qualifications of all Land Surveyors, the respective dates of registration and any other particulars as may be required

Register of Land Surveyors

16 (1) Upon a charge duly made and after enquiry, if it is shown with respect to any Land Surveyor that —

Power of Board to deal with offences

- (a) he has certified to the accuracy of any survey knowing the same to be inaccurate, or has negligently certified as aforesaid without having taken reasonable precautions to verify the accuracy thereof or
- (b) he wilfully or by culpable negligence has made, or caused to be made under his immediate supervision, any survey which is so inaccurate or defective as to be unreliable, or
- (c) his licence has been obtained by misrepresentation, or
- (d) after registration under this Ordinance he has been convicted of any misdemeanour or crime, or
- (e) he has certified as his own any survey not made by himself or under his personal supervision or
- (f) he has been guilty of such improper conduct as in the opinion of the Board renders him unfit to practise as a Land Surveyor or
- (g) his licence or registration in any country as set forth in Section 7 (c) of this Ordinance has been suspended or cancelled in such country

The Board may —

(i) erase the name of such Land Surveyor from the register, or

(ii) suspend such Land Surveyor from practice as a surveyor for any period not exceeding three years, and enter the reasons for such suspension in the register, or

(iii) caution such Land Surveyor, and if the Board thinks fit, order him to pay the cost of any correction of an error and the whole or any part of the cost of the enquiry

(2) The Board may reinstate a Land Surveyor whose name has been erased from the register or who has been suspended from practice

(3) The erasure of a Land Surveyor's name from the register, his suspension from practice, or his re-instatement, shall be notified in the Gazette

17 (1) Every charge against a Land Surveyor under the last preceding Section shall be submitted to the Board in writing signed by the person making the charge and, if it appears to the Board that such charge justifies an enquiry, the Board shall fix a time and place for that purpose

Charge against Land Surveyor, how dealt with

(2) At least thirty days prior to the date fixed for such enquiry, notice in writing by registered post shall be sent by the Secretary to the last known postal address of the Land Surveyor so charged, informing him of the time and place fixed for the enquiry, and supplying him with a copy of all charges made

(3) At such enquiry the Land Surveyor charged shall be entitled to be heard in his defence either personally or by an advocate

(4) The finding and decision of the Board on such enquiry shall be given in writing, and shall be signed by at least two members of the Board, and shall be countersigned by the Secretary, and such writing shall be conclusive evidence of the matters therein contained and of the decision of the Board, which shall be final

Surveyor may
enter upon
lands

18 (1) Any Land Surveyor when engaged in the performance of his duties may with such other persons as may be authorised by him, enter upon any land and may do all things necessary for the proper performance of such duties.

(2) This Section however shall not exempt any Land Surveyor from liability for any damage he may commit

Surveys to be
carried out in
accordance with
regulations for
the time being
in force

19 All surveys under this Ordinance shall be carried out in every particular in accordance with the Regulations for the time being in force as issued by the Board

Confirmation of
plans

20 (1) The confirmation by the Director of the plan of any surveyed land shall be held to be a confirmation of the survey or re-survey as the case may be and the confirmed plan shall be the official plan but no land shall be deemed to have been surveyed or re-surveyed until the plan thereof has been confirmed by the Director

(2) No plan shall be confirmed —

(a) until such plan has been compared with the field notes and computations lodged with the Director by the Land Surveyor making such survey and found to be correct, and

(b) unless such survey shall have been conducted as prescribed in the preceding Section of this Ordinance

General
regulations and
duties of the
Board

21 (1) The Board, with the approval of the Governor in Council may make regulations for all or any of the following purposes namely —

(a) regulating the meetings and procedure of the Board and the conduct of the business thereof the election of a member to perform the duties of the Chairman and act as Deputy Chairman during the illness or absence of the Chairman

(b) prescribing the duties of the Secretary and other officers as may be appointed under Section 6 of this Ordinance

(c) regulating the manner of keeping the register, and the particulars to be entered therein,

(d) varying any of the forms in the Schedule to this Ordinance or to any Ordinance amending it

(e) determining the evidence to be produced and conditions to be fulfilled by any person applying for a registration as a Land Surveyor under this Ordinance,

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

(g) regulating the issue of licences,

(h) prescribing what certificates of examination will be recognised by the Board as a substitute for the examinations of the Board,

(i) prescribing what certificates diplomas degrees licences and other titles will be recognised by the Board for purposes of exemption,

(j) regulating the conduct of proceedings in connection with charges against Land Surveyors,

(k) for the direction and guidance of Land Surveyors,

(l) generally for carrying into effect the objects of this Ordinance

(2) A regulation may impose a penalty not exceeding Twenty Pounds for any breach thereof

22 The enactments mentioned in the Schedule hereto are hereby repealed, but such repeal shall not affect any matters and things lawfully done thereunder

SCHEDULE

Enactment	Extent of Repeal
The East Africa Lands Survey Ordinance, 1901	The whole
The Crown Lands Ordinance, 1915	Section 158 (I) and (III)

FORM A

Oath of Member of Land Surveyors' Board

I, do solemnly swear (or affirm, as the case may be) that I will faithfully discharge the duties of a member of the Land Surveyors' Board according to Law, without favour, affection, or partiality

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

}

FORM B

Affidavit required under Sections 9 and 10

I, do solemnly swear that has been professionally and continuously employed with me as an Assistant in the Practice of Land Surveying for a period of years months from to and that he is fully competent to undertake surveys in accordance with the Survey Regulations

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

SUMMARY

In the field years months
In the office years months

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

}

SCHEDULE

FORM C

Land Surveyor's Licence

No

COLONY OF KENYA

Land Surveyors' Board

Constituted under

" The Land Surveyors Ordinance 1923 "

This is to certify that

of having duly passed his
Examination and satisfactorily proved his qualifications is hereby
duly licenced and registered as a Land Surveyor under the
provisions of " The Land Surveyors Ordinance, 1923 "

Dated this day of

One thousand nine hundred and

*President**Secretary*

Office of the Land Surveyors' Board,
Department of Lands,
Nairobi

FORM D

Affidavit required under Section 10

I,
of do hereby solemnly
swear that I am (1) a Graduate of the
University and have taken a Degree in Engineering (2) am
Associate Member of the Institute of Civil Engineers, and am
still of good standing and repute

(The words which are irrelevant should be deleted)

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