

S U P P L E M E N T
TO
O F F I C I A L G A Z E T T E
O F T H E

EAST AFRICA



PROTECTORATE.

Published under the authority of His Excellency the Governor of East Africa.

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His Excellency has approved of the following Bills being introduced at the next Session of the Legislative Council.

*T. S. W THOMAS,
Clerk to the Legislative Council.*

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(This Bill is in substitution for the Bill published in Supplement
No 7 of July 24th, 1918)

A Bill

Intituled

An Ordinance to amend the Law Relating to Compulsory Service.

1 This Ordinance may be cited as "The Compulsory Service Short title
Amendment Ordinance, 1918" and shall be read together with
the Compulsory Service Ordinance, 1915, and the Compulsory
Service Amendment Ordinance, 1917, and such Ordinances
5 together with this Ordinance may be cited as the Compulsory
Service Ordinances, 1915 to 1918

2 A court may order any employee or other person who has Order to return to
been convicted of an offence under section 3 of the Compulsory employment
Service Amendment Ordinance, 1917, or under this Ordinance to
10 return on the expiration of any term of imprisonment to which he
has been sentenced in respect of such offence, or, if he has not
been sentenced to a term of imprisonment, then forthwith to the
employment, work or supervision, as the case may be, which he
has left, abandoned or ceased to perform A breach of any order
15 to return as aforesaid shall be deemed to be an offence and any
person committing such an offence shall on conviction be liable
to a fine not exceeding Rs 3,000/- or to imprisonment of either
description not exceeding 6 months or to both

3 The Compulsory Service Amendment Ordinance, 1917, Application of Compulsory
20 shall apply to every person of the classes of persons referred to Service Amendment
therein whether such person is a British subject or a native of a Ordinance, 1917
British Protectorate or the subject of a Foreign Power or a native
of a Protectorate of a Foreign Power Provided that sections 6,
7 and 9 shall not apply to a subject of a Foreign Power or a
25 native of a Protectorate of a Foreign Power The onus of proof
that a person is a subject of a Foreign Power or a native of a
Protectorate of a Foreign Power shall lie upon the person claiming
to be such subject or such native as the case may be

FE

A Bill

Intituled

An Ordinance to amend the Compulsory Service Ordinance, 1915.

1 This Ordinance may be cited as "The Compulsory Service Amendment Ordinance (No 2) 1918," and shall be read as one with "The Compulsory Service Ordinance, 1915," hereafter referred to as the Principal Ordinance

5 2 The provisions of section 145 of the Army Act 44 and 45 Victoria, Chapter 58, and all amendments thereof, or sections substituted therefor, shall as far as applicable apply to all officers, non-commissioned officers and soldiers of European origin selected or deemed to have been selected for military
10 service under the provisions of the Principal Ordinance.

3 This Ordinance shall remain in operation during the continuance of the present war

A Bill

Intituled

An Ordinance to amend the Master and Servants Ordinance, 1910.

1 This Ordinance may be cited as "The Master and Servants Amendment Ordinance, 1918," and shall be read as one with the Master and Servants Ordinance, 1910, hereafter referred to as the Principal Ordinance, and all Ordinances amending such Ordinance

Short title

2 The Principal Ordinance shall be and is hereby amended as follows —

Amendment of section 47 of the Principal Ordinance

(1) By the deletion in section 47 of the Principal Ordinance of the words "fined a sum not exceeding the amount of one month's wages and in default of payment of the same may be imprisoned with or without hard labour for any period not exceeding one month," and by the substitution therefor of the following —

15 "punished with rigorous imprisonment for a term which may extend to one month, or with a fine not exceeding Rs 50/, or with both such imprisonment and fine, at the discretion of the Magistrate "

(2) After the word "language" in section 47, sub-section (6) shall be added the words "or be guilty of insulting behaviour "

20 3 In addition to any form of contract of service authorised by the Principal Ordinance it shall be lawful, subject to the provisions of the said Ordinance, for an employer and servant to enter into a contract of service for a period of time composed of 30 completed days work, whether completed in succession or otherwise, in this Ordinance referred to as a "30 days contract,"

25 Provided that in no event shall such a contract extend beyond a period of 42 consecutive days if through illness or any other cause the servant is unable to complete 30 days work within such period of 42 consecutive days, and on the expiration of such period the

30 servant shall be entitled, subject to any deduction authorised by section 4 of this Ordinance to the payment of all wages accrued due in respect of the number of days he has worked in the proportion which such number of days bear to 30

Employer and servant may enter into a contract of service for a period of time composed of 30 completed days work

4 If any servant employed under a 30 days contract shall be absent from work through illness, the employer shall at his own expense, if the servant is residing on the employer's premises, cause such servant to be properly fed during the period of his illness, and subject to any agreement to the contrary the reasonable cost of the food so supplied shall be paid by the

40 servant and may be deducted from the remuneration of the servant

Absence of servant from work through illness

5 No servant employed under a 30 days contract shall be compelled, emergencies excepted, to work on Sunday, and any employer who shall compel a servant so to work shall be liable on

45 conviction to a fine not exceeding Rs 50/- for every such offence

No servant to be compelled to work on Sunday

A Bill

Intituled

An Ordinance for providing facilities for the removal of European Lunatics to the Union of South Africa

1 This Ordinance may be cited as "The Removal of Lunatics (European) Ordinance, 1918 "

Short title

2 In this Ordinance, unless the context otherwise requires,
the following expressions have the following meanings, that is
5 to say —

Interpretations

The expression "European" means any person of pure or
unmixed European origin or descent,

10 The expression "Lunatic" means any person lawfully
detained in any place or institution for the reception of persons
of unsound mind or any person lawfully found or certified or
otherwise lawfully proved to be of unsound mind and incapable
of managing his affairs,

15 The expression "Pauper Lunatic" means any lunatic who
is being wholly or partly maintained at the expense of the
Government of the East Africa Protectorate

3 Whenever it shall be made to appear to the Governor
either

Removal of Pauper
lunatics and lunatics
domiciled in the Union
of South Africa

20 (a) that there is residing within the East Africa
Protectorate an European pauper lunatic, whether his domicile
of origin or choice is or is not the Union of South Africa, or

(b) that there is residing within the East Africa
Protectorate an European lunatic whose domicile of origin or
choice is the Union of South Africa,

25 the Governor may, subject to the provisions of this Ordinance
and any Regulations for the time being issued thereunder, if he
thinks fit, make an Order of Removal under his hand and Official
Seal for the removal of such lunatic to the Union of South Africa

30 4 In the case of any other European lunatic residing within
the East Africa Protectorate, the Governor may, if he thinks fit,
upon the application of the actual custodian or any relative of
such lunatic, and subject to the provisions of this Ordinance and
any Regulations issued thereunder, make an Order of Removal
under his hand and Official Seal for the removal of such lunatic
to the Union of South Africa

Removal of other
lunatics

35 5 No appeal shall lie against the making or refusal to
make an Order of Removal under the provisions of this Ordinance

No appeal from
Governor's order

45 6 After the making of any such Order of Removal as is
hereinbefore mentioned, a Removal Warrant shall, as soon as
conveniently may be, be made out and signed and sealed by the
Governor and shall be transmitted with every lunatic who is
removed

Warrant of removal

Such Removal Warrant shall be handed over with the lunatic to every person from time to time authorized to receive him into custody for the purpose of giving effect to the Order of Removal

Power to detain lunatic pending and during removal

7 (1) When under this Ordinance an Order of Removal of a lunatic from the East Africa Protectorate to the Union of South Africa has been made as hereinbefore provided such lunatic shall, by an Order of the Governor under his hand and seal, be detained in such custody as shall be specified in the Order, until a fit opportunity for his removal occurs, and then shall be put on board one of His Majesty's vessels of war, or on board some other British or other fit vessel for removal to South Africa

(2) The Removal Warrant of the Governor shall be sufficient authority to the person to whom it is directed or from time to time delivered for execution and to the Commander or Master of the vessel, to receive and detain the person therein mentioned, in the manner therein prescribed, and to remove and carry him to the place therein named, according to the Warrant

Cost of removal and maintenance

8 The cost of the removal of any lunatic under this Ordinance and of his maintenance after removal and of his return, and of his being sent, in the event of discharge after recovery to any place shall be paid in such manner as may be arranged between the Government of the East Africa Protectorate and the Government of the Union of South Africa. Provided always, nothing in this Ordinance contained shall in anywise affect any power to recover any of the expenses hereinbefore mentioned from the property of the lunatic or from any person legally liable to maintain such lunatic or otherwise

Form of Order of Removal, Regulations

9 (1) Any Order of Removal or Removal Warrant issued under this Ordinance shall be in such form as the Governor shall by Regulations promulgated in the Official Gazette from time to time determine

(2) Any Order of Removal or Removal Warrant purporting to be signed by the Governor and sealed with his Official Seal shall be conclusive evidence of the facts therein recited or set forth

(3) The Governor may from time to time promulgate Regulations in the Official Gazette for the purpose of carrying the provisions of this Ordinance into effect, and on such promulgation such Regulations shall be deemed to be of the same effect as if contained in this Ordinance

A Bill

Intituled

An Ordinance to amend the Native Followers Recruitment Ordinance, 1915.

1 This Ordinance may be cited as "The Native Followers Recruitment Amendment Ordinance, 1918," and shall be read as one with "The Native Followers Recruitment Ordinance, 1915," hereafter referred to as the Principal Ordinance Short title

5 2 The Principal Ordinance shall be and is hereby amended Amendments
as follows —

(1) For the words ' East Africa Transport Corps' where they occur in the Principal Ordinance substitute the words "Military Labour Bureau"

10 (2) After the words "carriers and other followers" in section 2 of the Principal Ordinance add the words "recruited in the East Africa Protectorate"

3 The provisions of the King's African Rifles Ordinance, 1912, and the King's African Rifles Amendment Ordinance, 1918, respecting the discipline of followers under the said Ordinances shall apply with the necessary modifications to all natives recruited under the provisions of the Principal Ordinance Discipline of natives recruited under the provisions of the Principal Ordinance

4 This Ordinance shall remain in operation during the Operation of Ordinance
20 continuance of the present war

A Bill

Intituled

An Ordinance to make provision for the Distribution of Pay and Personal Property belonging to Natives attached to the Military Labour Corps.

1 This Ordinance may be cited as "The Military Labour Corps Distribution of Pay and Personal Property Ordinance, 1918"

Short title

2 In this Ordinance —

Definitions

5 'District Commissioner' shall include an Assistant District Commissioner

"Native" shall mean any native recruited under the provisions of the Native Followers Recruitment Ordinance, 1915

10 'Paymaster' shall mean any officer performing the duty of Paymaster to the Military Labour Corps

3 It shall be lawful for the Governor by notice published in the Official Gazette, to appoint any person or persons, to act as an Arbitration Board, in this Ordinance referred to as the Board, to adjudicate on all claims made pursuant to the provisions of this Ordinance

Power of Governor to appoint Arbitration Board

4 It shall be lawful for any native to declare the name of any person or persons to whom, in the event of his decease without having made a valid will, any money or personal property due or belonging to him at the date of his decease should be paid or delivered, and the name of such person or persons shall be recorded at the office of the Military Labour Corps. The record shall be verified periodically and it shall be the duty of the Military Labour Corps to note any alteration in the record which the native wishes made

Native may name person to whom estate is to be paid in the event of his dying intestate

5 The Paymaster or any officer attached to the Military Labour Corps having under his charge or control any pay, accumulations of pay, or other allowance, or personal property or money belonging to any native at the date of his decease and dying intestate who has complied with the conditions of the last preceding section, may pay or deliver the same to the person or persons whose name or names has or have been recorded by the native in the manner prescribed

Power of Paymaster or officer attached to the Military Labour Corps to pay moneys and property to designated persons

6 (1) Any will made by a native shall be valid for disposing of money or other personal property which shall be due or belonging to him at his decease —

Form of will

10 If it is in writing and signed or attested by his mark and acknowledged by him in the presence of, and in his presence attested by, one witness, being an officer attached to the Military Labour Corps or public officer of the Protectorate, or if it is executed with the formalities required by any law now or hereafter in force in the Protectorate

Such will shall be deemed well made for the purpose of being admitted to probate, and the person taking out representation to the testator under such will shall exclusively be deemed the testator's representative with respect to the money or personal property thereby bequeathed 5

Accumulation of pay, etc., if less than Rs 750/- may be paid without probate

(2) The Paymaster or any officer attached to the Military Labour Corps having under his charge or control any pay, accumulations of pay, or other allowance, or any personal property or money which shall be due or belonging to such testator not exceeding in the aggregate the value of Rs 750/-, may pay or deliver the same to any person entitled thereto under the will, or to the person entitled to procure probate of, or administration under, such will, although probate or administration may not have been taken out 10

Probate to be taken if value exceeds Rs 750/

If the value of the said money and personal property exceeds the said sum of Rs 750/-, the Paymaster or other officer as aforesaid, having the same under his charge or control, shall require probate or administration to be taken out, and thereupon, subject as aforesaid, pay and deliver the said money and effects to the legal representative of the deceased 15 20

Distribution in case of intestacy

7 In case any native dies without having complied with the requirements stated in section 4 of this Ordinance, and without having made any valid will under this or any law or Ordinance regulating wills for the time being in force, the Paymaster or other officer as aforesaid having in his charge or control any money or personal property due or belonging to such native at the date of his decease, may with the concurrence and subject to any directions of the Board, pay or deliver such money or personal property to any person showing himself or himself to the satisfaction of the Board, or other person duly authorised in that behalf by the Board, to be a person or persons entitled in succession according to the rules of succession among the tribe to which the deceased belonged, and where there are more such claimants than one, then in such shares and proportion as the claimants would be entitled to receive under the rules of succession among such tribe or as nearly as may be 25 30 35

Provided that if the deceased left him surviving a Christian widow and any child or children she may have had by the deceased or any previous husband, and one or more non-Christian widows, then and in such case the Christian widow child or children, as the case may be, shall be entitled to one half or one third of such money or personal property and so in proportion according as to the number of widows the deceased left him surviving, and the share devolving upon such Christian widow child or children as aforesaid shall be distributed in such manner as may be prescribed by any order or regulations of the Governor 40 45

Property distributed subject to rights of creditors

8 In all cases where the money or personal property of the deceased or any part thereof is paid or delivered to any person as being interested therein under the provisions of this Ordinance, any creditor of the deceased shall have the same rights and remedies against such person as if he or she had received the same as a legal personal representative of the deceased 50 55

Board to prepare lists of natives reported dead, as having deserted, and as being missing

9 (1) The Board shall from time to time prepare lists of all natives reported dead, as having deserted, and as being missing, and shall forward such lists to all District Commissioners or other officers in charge of districts from whose districts natives have been recruited 60

District Commissioner to use best endeavours to trace natives reported dead, etc

(2) Every District Commissioner or such other officer shall, on receipt by him of such lists, use his best endeavours to ascertain whether the native or natives so reported dead, or as having deserted, or as being missing, is or are resident in the district under his control or in any other part of the Protectorate, or whether any widow or widows, child or children, or other person or persons entitled to benefit under the provisions of this Ordinance, is or are resident in such district 65

- (3) After full inquiry such District Commissioner or other officer shall furnish to the Board a detailed report or reports setting forth the result of the inquiry made in each particular case Reports to be furnished to the Board
- 5 (4) If any native reported dead, or as having deserted, or as being missing, is found, then and in every such case, the Board shall, on being satisfied that the native so found is the person reported dead, or as having deserted, or as being missing, pay and deliver to such native all money and personal property which shall be due or belonging to him Board to satisfy claims of natives reported dead, etc, if found
- 10 (5) If after due search a native reported dead, or as having deserted, or as being missing cannot be found and has failed for one year to make any claim for any money and personal property due and belonging to him, the Board shall proceed to adjudicate on all claims, if any, made by or on behalf of any widow or widows, child or children, or other person or persons entitled to benefit under the provisions of this Ordinance and the Board on being satisfied that such claims are genuine shall pay and distribute the money and personal property due and belonging to such native, as though he were dead, in manner provided by sections 5, 6 and 7 of this Ordinance, according as to whether such native complied with the requirements of section 4 of this Ordinance, made a valid will or failed to make a will, and no claim in respect thereof, made subsequent to such payment or distribution, shall be entertained Board to satisfy claims of widows children, etc, if native cannot be found
- 15 20 25
- 10 If any money or personal property belonging to a native, or any part thereof, remains for three years undisposed of, and without any valid claim thereto having been made, then the Board may apply and make over the same for the benefit of the tribe to which the native belongs in such manner as may be prescribed by any order or regulations of the Governor, and no claim in respect thereof, made subsequent to such application, shall be entertained Money, etc, undisposed of, and not claimed to be applied for the benefit of the tribe to which the native belongs
- 30
- 11 No action shall be brought or claim made against the Government in respect of anything done or omitted to be done under this Ordinance, nor against any person in respect of any decision or adjudication given or made by him in good faith, nor in respect of anything done or omitted to be done by him in good faith, in the execution or supposed execution of his powers or duty under this Ordinance. Protection of persons administering this Ordinance
- 35 40

A Bill

Intituled

An Ordinance to make provision for Securing and Maintaining Health.

1 This Ordinance may be cited as "The Public Health Short title
(Segregation of Races) Ordinance, 1918 "

2 (1) The Governor-in-Council may from time to time, Operation of
by order, declare that all or any of the provisions of this Ordinance
5 shall be in force in any Municipality, Township, or District or part thereof Upon the publication of any such order, the provisions shall extend to and be in force in the Municipality, Township, or District or part thereof mentioned therein

10 (2) The Governor-in-Council may, nevertheless, by order, suspend for any period the operation of any of the provisions of this Ordinance in any Municipality, Township, or District, or part thereof to which such provisions have been applied

3 In this Ordinance —

Interpretation of terms

15 ' Asiatic' shall mean any person of Asiatic origin

"Asiatic Residential Reservation" shall mean any area in any Municipality, Township, or District which the Governor-in-Council may from time to time define by Proclamation

20 "Board of Health" shall mean the Board of Health constituted under the provisions of the Public Health Ordinance, 1913

"Building" shall mean any structure of whatsoever material constructed

25 "Commercial area" shall mean any area in any Municipality, Township, or District which the Governor-in-Council may from time to time define by Proclamation

"District" shall mean any area which the Governor-in-Council may from time to time define by Proclamation

30 ' European' shall mean any person of European origin

35 "European Residential Reservation" shall mean any area in any Municipality, Township, or District which the Governor-in-Council may from time to time define by Proclamation

40 "Local Authority" shall mean the Council of any Municipality, constituted under the Municipal Corporations Ordinance, 1909, and any Committee or other authority appointed under the East Africa Townships Ordinance, 1903, for the purposes of the said Ordinance and any person or persons appointed in that behalf by the Governor-in-Council in any Township or District for which there is no Local Authority as aforesaid

“Native” shall mean any native of Africa, not being of European or Asiatic origin and includes any Swahili or Somali

“Municipality” shall mean the area under the control of every Municipality, constituted under the Municipal Corporations Ordinance, 1909

“Township” shall mean any township proclaimed under the East Africa Townships Ordinance, 1903

Power to reserve European and Asiatic reservations, Native locations, commercial areas and open spaces

4 The Governor-in-Council may from time to time by Proclamation reserve any area or areas within any Municipality, Township or District —

(a) as an European residential reservation or reservations,

(b) as an Asiatic residential reservation or reservations,

(c) as a location or locations for Asiatics of the working classes,

(d) as a Native location or locations,

(e) for commercial areas either for Europeans or Asiatics, or for Europeans and Asiatics,

(f) as an open space or spaces,

and may from time to time alter the boundaries of any such reservation or location

Land and buildings situate in any residential reservation not to be used for purposes of trade

5 It shall not be lawful for any European or Asiatic to use or permit to be used any land or any building erected thereon situate in any residential reservation for the purposes of trade

Restriction as to occupation and residence

6 (1) It shall not be lawful for any European to occupy any land, or to occupy or reside in any building within an Asiatic residential reservation or Asiatic commercial area, nor shall it be lawful for any Asiatic to occupy any land, or to occupy or reside in any building within an European residential reservation or European commercial area

Restriction as to occupation of building completed after the commencement of this Ordinance

(2) It shall not be lawful for any European to occupy or reside in any building within an Asiatic residential reservation or Asiatic commercial area, the construction whereof was commenced before but not completed until after the commencement of this Ordinance, nor shall it be lawful except as provided by section 11 of this Ordinance for any Asiatic to occupy or reside in any domestic building within an European residential reservation or European commercial area, the construction whereof was commenced before but not completed until after the commencement of this Ordinance

Saving provisions

(3) Nothing in sub-section (1) shall be held to preclude —

(a) any European from occupying any land, or from occupying or residing in any existing building, within an Asiatic reservation or Asiatic commercial area, who so occupied at the commencement of this Ordinance, or

(b) any Asiatic, from occupying any land, or from occupying or residing in any existing building, within an European reservation or European commercial area, who so occupied at the commencement of this Ordinance,

but sub-section (1) shall apply to any land or building whenever such land or building ceases to be so occupied as aforesaid

Power to lay out locations for Asiatics of the working classes

7 (1) Any Local Authority may with the approval of the Governor-in-Council lay out on any lands under its control such locations for Asiatics of the working classes as may be deemed desirable and erect suitable dwelling buildings thereon for the occupation of such Asiatics and make charges therefor to be fixed by bye-laws, or let to Asiatics, as aforesaid, plots in such locations on such terms and conditions as may from time to time be provided by bye-laws

Power of Local Authority to make bye laws

(2) The Local Authority may from time to time make, alter and repeal bye-laws for the proper carrying out the provisions of this section and the effectual supervision of such locations

- 8 (1) Any Local Authority may with the approval of the Governor-in-Council lay out on any lands under its control such locations for natives as may be deemed desirable and erect suitable buildings thereon for the occupation of such natives and make charges therefor to be fixed by bye-laws, or let to natives plots in such locations on such terms and conditions as may from time to time be provided by bye-laws and may compel all natives residing in the Municipality, Township or District, to reside within such locations
- 10 (2) The Local Authority may from time to time make, alter and repeal bye-laws —
- (a) for the proper carrying out of the provisions of this section and the effectual supervision of such locations,
- 15 (b) for the issue of passes to and the carrying of passes by all natives in the Municipality, Township or District and for the fixing of charges for each such pass not exceeding 25 cents a month payable by such native
- All bye-laws made by a Local Authority under this and the last preceding section shall be approved by the Board of Health, and submitted to the Governor-in-Council and when approved by the Governor-in-Council they shall be published in the Gazette, and thereafter such bye-laws shall have the force of law
- 20 The Local Authority may in any such bye-laws impose fines for any breach thereof not exceeding Rs 200/- in each case
- 9 Where it shall appear to the Board of Health that a Local Authority has made default in enforcing any provisions of this Ordinance, or any bye-laws made thereunder, which it is the duty of the Local Authority to enforce, the Governor-in-Council on the recommendation of such Board, if satisfied after due inquiry that the Local Authority has been guilty of the alleged default may make an order directing the Local Authority to perform its duty in the matter of such complaint, and limiting a time for such performance. If such duty is not performed within the time limited in the order, the Board may, in the name of the Chairman take all necessary legal proceedings to enforce the due performance of the provisions of this Ordinance, or may appoint some person to perform the duty, and all costs of such proceedings, and the expenses of performing the duty, shall be a charge against the revenue of the Local Authority in default
- 30 40 50
- 10 All actions, suits and proceedings for all contraventions and breaches of the provisions of this Ordinance, or of any bye-laws made thereunder, may save where otherwise provided be prosecuted in any Court having jurisdiction, and the provisions of any laws relating to prosecutions by private persons shall apply to all such proceedings, and all such actions, suits and proceedings may be prosecuted and carried on by and in the name of —
- (a) the Town Clerk on behalf of a Municipality or Local Authority to which a Town Clerk is appointed,
- (b) the Chairman of Local Authorities to which no Town Clerk has been appointed or in the name of the Attorney General
- 55
- Provided that all actions, suits and proceedings under this Ordinance, may be conducted by any advocate, or by any officer of the authorities aforesaid, or by any Administrative Officer
- 60 11 The provisions of this Ordinance shall not apply to any Native or Asiatic who shall be serving as a domestic or menial servant to the occupier of any land or domestic building and are lodged on the premises of their employers
- Power to lay out Native locations
- Power of Local Authority to make bye-laws relating to the issue of passes to natives
- Bye laws subject to the approval of the Governor in Council
- Power of the Board of Health to enforce the provisions of Ordinance where a Local Authority is in default
- Legal proceedings
- Ordinance not to apply to Native or Asiatic domestic or menial servants