



# THE OFFICIAL GAZETTE

## OF THE COLONY AND PROTECTORATE OF KENYA

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GOVERNMENT NOTICE No. 896

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

K. W. SIMMONDS,  
*Acting Clerk to the Legislative Council.*

### A Bill for Compensating the Families of Persons Killed by Accidents

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

1. This Ordinance may be cited as the Fatal Accidents Ordinance, 1945. Short title.

2. (1) In this Ordinance, unless the context otherwise requires— Interpretation.  
“child” means a son, daughter, grandson, granddaughter, stepson and stepdaughter;

“parent” means a father, mother, grandfather, grandmother, stepfather and stepmother.

(2) For the purposes of this section a person shall be deemed to be the child or parent of the deceased person notwithstanding that he was only related to him illegitimately or in consequence of adoption; and accordingly in deducing any relationship which under the provisions of this section is included within the meaning of this expressions “child” and “parent”, any illegitimate person and any adopted person shall be treated as being, or as having been, the legitimate offspring of his mother and reputed father or, as the case may be, of his adopters.

(3) In this section the expression “adopted person” means a person who has been adopted under the provisions of any law for the time being in force in the country in which such adoption took place.

Action maintainable against person causing death through wrongful act.

3. Whenever the death of a person is caused by a wrongful act, neglect or default, and the act, neglect or default is such as would (if death had not ensued) have entitled the person injured to maintain an action and recover damages in respect thereof, then and in every such case the person who would have been liable, if death had not ensued, shall be liable to an action for damages notwithstanding the death of the person injured and although the death shall have been caused under such circumstances as amount in law to felony. 5

Action to be for benefit of family of deceased.

4. (1) Every action brought by virtue of the provisions of this Ordinance shall be for the benefit of the wife, husband, parent and child of the person whose death shall have been so caused, and shall, subject to the provisions of section 6 of this Ordinance, be brought by and in the name of the executor or administrator of the person deceased; and in every such action, the court may award such damages as it may think proportioned to the injury resulting from such death to the persons respectively for whom and for whose benefit such action is brought; and the amount so recovered, after deducting the costs not recovered from the defendant, shall be divided amongst the beforementioned persons in such shares as the court, by its judgment, shall find and direct: 10 20

Provided that not more than one action shall lie for and in respect of the same subject matter of complaint and that every such action shall be commenced within twelve months after the death of such deceased person.

(2) In assessing damages, under the provisions of sub-section (1) of this section, the court shall not take into account— 25

(a) any sum paid or payable on the death of the deceased under any contract of assurance or insurance, whether made before or after the passing of this Ordinance;

(b) any widows' or orphans' pension or allowance payable under any contributory pension scheme declared by the Governor in Council, by notice published in the Gazette, to be a scheme for the purpose of this paragraph. 30

Funeral expenses may be awarded by way of damages in certain cases.

5. In an action brought by virtue of the provisions of this Ordinance the court may award, in addition to any damages awarded under the provisions of sub-section (1) of section 4 of this Ordinance, damages in respect of the funeral expenses of the deceased person if such expenses have been incurred by the parties for whom and for whose benefit the action is brought. 35

Action may be brought by the persons beneficially interested where no executor or administrator or where latter fail to bring action.

6. If at any time in any case intended and provided for by the provisions of this Ordinance, there shall be no executor or administrator of the person deceased, or if no action is brought by such executor or administrator within six months after the death of such deceased person, then and in every such case an action may be brought by and in the name or names of all or any of the persons for whose benefit such action would have been brought, if it had been brought by and in the name of such executor or administrator; and every action so brought shall be for the benefit of the same person or persons as if it were brought by and in the name of such executor or administrator. 40 50

Plaintiff to deliver full particulars of the persons for whom damages claimed.

7. In every action brought by virtue of the provisions of this Ordinance the plaintiff on the record shall be required, together with the statement of claim, to deliver to the defendant, or his advocate, full particulars of the person or persons for whom, and on whose behalf, such action is brought, and of the nature of the claim in respect of which damages are sought to be recovered. 55

In the event of death action maintainable against estate.

8. (1) Upon the death of any person against whom, were it not for his death, an action would be maintainable by virtue of the provisions of this Ordinance, such action shall be maintainable against his estate. 60

(2) No proceedings shall be maintainable in respect of a cause of action which by virtue of the provisions of this section has survived against the estate of a deceased person, unless either—

(a) proceedings against him in respect of that cause of action were pending at the date of his death; or

(b) the cause of action arose not earlier than six months before his death and proceedings are taken in respect thereof not later than six months after his personal representative took out representation.

4 (3) Where, by virtue of the provisions of this Ordinance, a cause of action would have subsisted against any person if that person had not died before or at the same time as the damage was suffered, there shall be deemed, for the purposes of this Ordinance, to have been subsisting against him before his death such cause of action as 10 would have subsisted if he had died after the damage was suffered.

(4) Notwithstanding the provisions of any other law, in the event of the insolvency of an estate against which proceedings are maintainable by virtue of the provisions of this section, any liability in respect of the cause of action by reason of which the proceedings are 15 maintainable shall be deemed to be a debt provable in the administration of the estate.

#### MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to make it possible for an action at law to be brought against a person who, by his wrongful act, neglect or default, causes the death of another person. In cases where the person whose death has been caused leaves a wife, husband, child or parent who are dependent upon him it is obviously right and expedient that the wrongdoer should be answerable in damages for the injury so caused by him.

Attention is directed to sub-clauses (2) and (3) of clause 2 which seek to extend the protection afforded by the measure to persons related illegitimately or in consequence of adoption.

Clause 8 provides, *inter alia*, that in the event of the death of a person against whom, were it not for his death, an action would be maintainable by virtue of the provisions of the measure such action shall be maintainable against his estate.

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

Nairobi, 12th October, 1945. S. W. P. FOSTER SUTTON,  
*Attorney General.*

## GOVERNMENT NOTICE No. 897

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

K. W. SIMMONDS,  
*Acting Clerk to the Legislative Council.*

**A Bill to Amend the Criminal Procedure Code**

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

Short title.

1. This Ordinance may be cited as the Criminal Procedure Code (Amendment, No. 2) Ordinance, 1945, and shall be read as one with the Consolidated Edition of the Criminal Procedure Code prepared under the provisions of section 43 of the Criminal Procedure Code (Amendment) Ordinance, 1939, hereinafter referred to as the principal Ordinance. 5

No. 35 of 1939.

Amendment of section 10 of the principal Ordinance.

2. Section 10 of the principal Ordinance is hereby amended—

(a) by deleting sub-section (1) thereof and substituting therefor the following sub-sections:—

“10. (1) Liwalis' courts shall have the same powers in all matters with respect to Arabs, Somalis, Baluchis, Comoro Islanders, Malagasies and natives only as a subordinate court of the second class. 10

(2) Cadis' courts, established in the Coast districts, shall have the same powers in all matters with respect to Arabs, Somalis, Baluchis, Comoro Islanders, Malagasies and natives only as a subordinate court of the second class.”; 15

and

(b) by re-numbering sub-section (2) thereof as sub-section (3).

Amendment of First Schedule to the principal Ordinance.

3. The First Schedule to the principal Ordinance is hereby amended by adding, in its respective numerical position, the following:— 20

317A	Unlawful possession of service stores	May arrest without warrant	Imprisonment for two years	Subordinate court of the first or second class
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**MEMORANDUM OF OBJECTS AND REASONS**

The Bill for the Courts (Amendment) Ordinance, 1945, seeks to amend section 7 (1) of the principal Ordinance (No. 16 of 1931) by deleting the words “In the coast districts”, which appear in connexion with, *inter alia*, a Cadi's court. That amendment will enable a Cadi's court to exercise jurisdiction, anywhere in the Colony, where such a court is established but it is not intended that such courts shall have criminal jurisdiction over the persons mentioned in sub-clause (2), which this Bill seeks to insert in section 10 of the Criminal Procedure Code, outside the Coast districts.

The opportunity is being taken to amend the First Schedule to the principal Ordinance to enable a person committing an offence under section 317A of the Penal Code, i.e. being in unlawful possession of service stores, to be arrested without a warrant and for the offence to be tried by a subordinate court of the first or second class, in addition to the Supreme Court.

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

Nairobi, 15th October, 1945.

S. W. P. FOSTER SUTTON,  
*Attorney General.*



GOVERNMENT NOTICE No. 898

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

K. W. SIMMONDS,  
*Acting Clerk to the Legislative Council.*

### A Bill to Amend the Courts Ordinance, 1931

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

1. This Ordinance may be cited as the Courts (Amendment) Ordinance, 1945, and shall be read as one with the Courts Ordinance, 1931, hereinafter referred to as the principal Ordinance. Short title.  
No. 16 of 1931
2. Sub-section (1) of section 7 of the principal Ordinance is hereby amended by deleting therefrom the words "In the coast districts within" which appear in the twelfth, the fifteenth and the eighteenth lines thereof, and by substituting therefor the following "Within". Amendment of  
section 7 (1) of  
the principal  
Ordinance.
3. Section 18 of the principal Ordinance is hereby amended by deleting therefrom the following:— Amendment of  
section 18 of  
the principal  
Ordinance.
  - 10 "Cadis' Courts .. Full jurisdiction over Mohammedan natives  
in all matters relating to personal status,  
marriage, inheritance and divorce, and  
over all natives in all matters in which  
the value of the subject in dispute does  
not exceed fifty pounds.";
  - 15
  - and by substituting therefor the following:—
  - 20 "Cadis' Courts .. Full jurisdiction over Mohammedan natives  
in all matters relating to personal status,  
marriage, inheritance and divorce, and  
within the Coast districts, over all natives  
in all matters in which the value of the  
subject matter in dispute does not exceed  
fifty pounds."

### MEMORANDUM OF OBJECTS AND REASONS

At the present time a Muslim in any part of Kenya, other than the Coast districts, cannot have settled, according to Mohammedan law and in a properly constituted court, any dispute relating to personal status, marriage, inheritance and divorce without instituting proceedings in the Supreme Court, the cost of which, in such cases, bears heavily on the person seeking relief.

Now that the number of detribalized Muslims who live in township areas is increasing, the method of unofficial arbitration by administrative officers and Sheikhs which has hitherto been used is no longer considered satisfactory, for the reason that in cases where agreement is not reached, decisions cannot be enforced. It is, therefore, desired to appoint official Cadis in certain places and to give them legal powers to deal with such cases.

Financial provision has already been made for a Cadi for the Northern Frontier District. Apart from the salaries and expenses of Cadis, no further expenditure of public moneys will be involved if the provisions of this Bill become law.

Nairobi, 13th October, 1945. S. W. P. FOSTER SUTTON,  
*Attorney General.*

## GOVERNMENT NOTICE No. 899

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

K. W. SIMMONDS,  
*Acting Clerk to the Legislative Council.*

**A Bill to Amend the Pensions (Increase)  
Ordinance, 1945**

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

Short title.

No. 7 of 1945.

Amendment of  
Second Schedule  
to the principal  
Ordinance.

1. This Ordinance may be cited as the Pensions (Increase) (Amendment) Ordinance, 1945, and shall be read as one with the Pensions (Increase) Ordinance, 1945, hereinafter referred to as the principal Ordinance.

2. The Second Schedule to the principal Ordinance is hereby amended—

(a) by deleting all the words which appear after the word "Ordinance" in line three of paragraph 1 thereof to the end of the paragraph;

(b) by deleting paragraph 7 thereof and by substituting therefor the following paragraph:—

"7. For the purpose of determining the percentage by reference to which the authorized increase of a pension specified in the First Schedule to this Ordinance is to be calculated, there shall be aggregated with that pension any other pension so specified and any similar pension received by the pensioner from any other Colonial Administration:

Provided that such similar pension is subject to temporary increase at the rates prescribed in this Ordinance and under conditions similar to those prescribed in this Ordinance."

(c) by deleting paragraph 8 thereof; and

(d) by re-numbering paragraphs 9 and 10 thereof as paragraphs 8 and 9 respectively.

**MEMORANDUM OF OBJECTS AND REASONS**

By paragraph 7 of the Second Schedule to the principal Ordinance, where a person who is receiving a pension specified in the First Schedule is also receiving a "service pension", the latter is required to be aggregated with the former for the purpose of determining the percentage by reference to which the authorized increase in pension is to be calculated. The Crown Agents, however, have been instructed to aggregate Colonial pensions for the purpose of such increase, but to treat all pensions payable from Imperial funds, including service pensions, as means. The object of this Bill is to conform with the instructions which the Crown Agents have received.

2. It is not possible to state what, if any, expenditure of public moneys will be involved if the provisions of this Bill become law.

Nairobi, 12th October, 1945.

S. W. P. FOSTER SUTTON,  
*Attorney General.*

## GOVERNMENT NOTICE No. 900

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

K. W. SIMMONDS,  
*Acting Clerk to the Legislative Council.*

**A Bill to Amend the Local Government (Municipalities) Ordinance, 1928**

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

- |     |   |  |
|-----|---|--|
| 1.  | This Ordinance may be cited as the Local Government (Municipalities) (Amendment, No. 2) Ordinance, 1945, and shall be read as one with the Local Government (Municipalities) Ordinance, 1928, hereinafter referred to as the principal Ordinance.   | Short title.<br>No. 19 of 1928                               |
| 5.  | 2. Paragraph (c) of sub-section (19) of section 52 of the principal Ordinance is hereby amended by deleting therefrom all the words commencing with the word "where", which appear in the seventh line thereof, to the end of the paragraph.  | Amendment of section 52 (19) (c) of the principal Ordinance. |
| 10. | 3. Section 54 of the principal Ordinance is hereby amended—<br>(a) by deleting the colon which appears at the end of the first proviso thereto and substituting therefor a full stop; and<br>(b) by deleting the second proviso thereto.  | Amendment of section 54 of the principal Ordinance.          |
| 15. | 4. Section 69 of the principal Ordinance is hereby amended—<br>(a) by inserting therein after the word and the comma "sale," which appear in the fourth line of paragraph (a) of sub-section (6) thereof, the words "for preventing the contamination of any food or drink";<br>(b) by deleting sub-section (17) thereof, and substituting therefor the following:— | Amendment of section 69 of the principal Ordinance.          |
| 20. | "(17) For licensing pedlars and hawkers and for regulating or prohibiting peddling and hawking.";   | Pedlars and hawkers.   |
| 25. | (c) by inserting therein, immediately after sub-section (24) thereof, the following new sub-section:—<br>"(24A) For regulating the use of public lavatories, closets and urinals;"  | Use of public lavatories.                                    |
| 30. | (d) by deleting paragraph (a) of sub-section (36) thereof, and substituting therefor the following:—<br>"(a) For regulating the level, width, curbing, paving, guttering, gravelling, drainage and cleansing of streets and the construction of new streets;"   |  |
|     | and   |  |
|     | (e) by inserting therein the words "and prohibiting" between the word "regulating" and the word "street", which appear in the first line of sub-section (37) thereof.   |  |

**MEMORANDUM OF OBJECTS AND REASONS**

This Bill seeks to amend the principal Ordinance, i.e. the Local Government (Municipalities) Ordinance, 1928 (No. 19 of 1928) in the following respects:—

(a) Under the provisions of paragraph (c) of sub-section (19) of section 52 of the principal Ordinance where a pension, provident or benevolent fund has been established a Council may, subject to the consent of the Governor, grant from its revenues additional or increased pensions or gratuities to officers or servants upon their retirement from the service of the Council and to dependents of deceased officers or servants of the Council in cases where the officer or servant has been employed for a period of at least five years immediately prior to the establishment of a pension, provident or benevolent fund.

The Nairobi Municipal Council desire to remove the requirement that an officer or servant must have been employed by a Council for a period of at least five years immediately prior to the establishment of a pension, provident or benevolent fund before they or their dependents can benefit under the provisions of the paragraph. The proposal was submitted for the consideration of the Standing Committee for Local Government and was approved of by that body;

(b) by deleting the second proviso to section 54 of the principal Ordinance. The amendment is desired in order to confer upon Councils a greater measure of control over private water supplies;

(c) by amending paragraph (a) of sub-section (6) of section 69 of the principal Ordinance in order to remove any doubt as to the right of a Council to make by-laws for preventing the contamination of any food or drink;

(d) by substituting a new sub-section (17), for the existing sub-section (17) of section 69 of the principal Ordinance. The new sub-section will confer upon Councils the power to prohibit peddling and hawking, in addition to the power to license and regulate pedlars and hawkers;

(e) by inserting a new sub-section, to be numbered sub-section (24A) in section 69 of the principal Ordinance, which will enable Councils to make by-laws for regulating the use of public lavatories, closets and urinals;

(f) by substituting a new paragraph (a) in sub-section (36) of the principal Ordinance, for the existing one, which will enable Councils to make by-laws regulating the level and construction of streets and the drainage thereof; and

(g) by amending sub-section (37) of section 69 of the principal Ordinance with the object of enabling Councils to prohibit street trading, in addition to regulating it.

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

Nairobi, 16th October, 1945.

S. W. P. FOSTER SUTTON,  
*Attorney General.*



## GOVERNMENT NOTICE No. 901

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

K. W. SIMMONDS,  
*Acting Clerk to the Legislative Council.*

**A Bill to Amend the Excise Duties Ordinance, 1935**

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

- |    |  |  |
|----|--|--|
| 1  | This Ordinance may be cited as the Excise Duties (Amendment) Ordinance, 1945, and shall be read as one with the Excise Duties Ordinance, 1935, hereinafter referred to as the principal Ordinance.   | Short title.<br>No. 40 of 1935.  |
| 5  | 2. The principal Ordinance is hereby amended by inserting immediately after section 3A thereof the following new section:—   | Insertion of new section 3B in the principal Ordinance.                            |
| 10 | “3B. (1) No holder of a licence to manufacture tobacco shall sell or otherwise dispose of any tobacco, which it is not liable to excise duty, without the consent of the Commissioner, who may grant or refuse his consent at his discretion and may impose such conditions as he thinks fit.                                      | Restrictions on sale, possession or disposal of tobacco not liable to excise duty. |
| 15 | (2) No holder of a hawker's licence or a trading licence granted under the Traders Licensing Ordinance, 1936, may purchase, except in accordance with the provisions of any licence granted under the Marketing of Native Produce Ordinance, 1935, have in his possession or sell any tobacco which is not liable to excise duty.” | No. 51 of 1936.<br>No. 28 of 1935.   |
|    | 3. Paragraph (d) of sub-section (1) of section 12 of the principal Ordinance is hereby amended by inserting the figure, letter and comma “3B,” immediately after the word “sections” which appears in line one thereof.  | Amendment of section 12 (1) of the principal Ordinance.                            |

**MEMORANDUM OF OBJECTS AND REASONS**

The principal Ordinance (No. 40 of 1935) provides that excise duty shall be payable on “manufactured tobacco”, i.e. tobacco ready for smoking in tobacco pipes. The main object of this Bill is to remedy a defect in the Ordinance which enables retail traders to manufacture tobacco without the use of machinery and sell it without payment of excise duty to the detriment of Government revenue. Furthermore, such traders make an unduly large profit, and compete unfairly with manufacturers of tobacco who pay excise duty.

2. To remedy the position Clause 2 of the Bill seeks to insert a new section in the principal Ordinance to be numbered 3B, which, if enacted, will have the effect of—

- (a) preventing a licensed manufacturer of tobacco from selling or otherwise disposing of tobacco which is unsuitable for manufacture except with the consent of the Commissioner of Customs; and
- (b) preventing any trader from purchasing, except in accordance with the provisions of any licence granted to him under the Marketing of Native Produce Ordinance, 1935, or selling or having in his possession any tobacco which is not liable to excise duty.

3. Under the principal Ordinance excise duty is not payable on tobacco made up by the grower, without the use of machinery, for smoking in tobacco pipes. This Bill in no way affects that traditional right.

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

S. W. P. FOSTER SUTTON,  
*Attorney General.*  
Nairobi, 13th October, 1945.

## GOVERNMENT NOTICE No. 902

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

K. W. SIMMONDS,  
*Acting Clerk to the Legislative Council.*

**A Bill to Amend the Public Health Ordinance**

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

- |  |   |
|--|---|
| Short title.   | 1. This Ordinance may be cited as the Public Health (Amendment) Ordinance, 1945, and shall be read as one with the Public Health Ordinance (Chapter 124 of the Revised Edition), hereinafter referred to as the principal Ordinance.  |
| Cap. 124.  |   |
| Amendment of section 3 of the principal Ordinance.   | 2. Section 3 of the principal Ordinance is hereby amended by deleting therefrom the definition of "dairy" and substituting therefor the following definition:—<br><p style="margin-left: 20px;">"dairy" means and includes any farmhouse, cow-shed, milk-shop, milkstore or other place from which milk is supplied on, or for, sale, or in which milk is kept or used for purposes of sale or in which only surplus milk is manufactured into butter or cheese, or in which vessels used for the sale of milk are kept, but does not include premises from which milk is not supplied otherwise than in receptacles which are properly closed and sealed on delivery to the premises and which remain properly closed and sealed during the whole time from their delivery to the premises until their removal by the purchaser;"</p>  |
| Amendment of section 19 (1) (b) of the principal Ordinance.  | 3. Paragraph (b) of sub-section (1) of section 19 of the principal Ordinance is hereby amended by deleting the full stop, which occurs at the end thereof, and by substituting therefor a semi-colon, and by adding immediately after such semi-colon the following words:—<br><p style="margin-left: 20px;">"and shall also inform the head of the household or the occupier of the premises or any person in attendance on such patient of the infectious nature of the disease and the precautions to be taken to prevent its conveyance to others."</p>   |
| Insertion of new section 27A in the principal Ordinance.<br>Isolation of persons who have been exposed to infection. | 4. The principal Ordinance is hereby amended by adding immediately after section 27 thereof, the following new section:—<br><p style="margin-left: 20px;">"27A. Where in the opinion of the medical officer of health any person has recently been exposed to the infection of, and may be in the incubation stage of any notifiable infectious disease and is not accommodated in such manner as adequately to guard against the spread of the disease, such person may, on a certificate signed by the medical officer of health, be removed by order of a magistrate and at the cost of the local authority of the district where such person is found, to a place of isolation and there detained until, in the opinion of the medical officer of health, he is free from infection or able to be discharged without danger to the public health, or until the magistrate cancels the order."</p> |
| Amendment of section 48 (1) of the principal Ordinance.  | 5. Sub-section (1) of section 48 of the principal Ordinance is hereby amended by deleting therefrom the words "such notice as is prescribed by rules", which occur in the seventh and the eighth lines thereof, and by substituting therefor the word "notice".   |
| Amendment of section 118 (1) (i) of the principal Ordinance.   | 6. Paragraph (i) of sub-section (1) of section 118 of the principal Ordinance is hereby amended by deleting therefrom the word "building", which occurs in the second line thereof.   |
| Amendment of section 119 of the principal Ordinance.   | 7. Section 119 of the principal Ordinance is hereby amended by deleting from paragraph (a) of the proviso thereto the words "of a structure or character", which occur in the second line thereof, and by substituting therefor the words "of a structural character".  |
| Amendment of section 134 of the principal Ordinance.   | 8. Section 134 of the principal Ordinance is hereby amended—<br><p style="margin-left: 20px;">(a) by substituting a semi-colon for the full stop, which occurs at the end of paragraph (k) thereof; and</p> <p style="margin-left: 20px;">(b) by adding, immediately after paragraph (k) thereof, the following new paragraph:—<br/> <p style="margin-left: 40px;">"(1) In relation to food intended for sale in or for export from the Colony, prescribing standards of composition, strength and quality, for the prevention of adulteration, misbranding, misdescription or reduction below a prescribed standard and for securing the sale in a pure state and in a condition which conforms with such standards."</p></p>  |

9. Section 142 of the principal Ordinance is hereby amended by inserting therein between the word "health" and the word "to", which occur in the sixth line thereof, the following comma and words:—

Amendment of section 142 of the principal Ordinance.

5 "health inspector or any person specially authorized in writing, in that behalf, by the Director of Medical Services or the medical officer of health".

10. Section 143 of the principal Ordinance is hereby amended by inserting therein between the word "health" and the word "to", which occur in the fifth line thereof, the following comma and words:—

Amendment of section 143 of the principal Ordinance.

"health inspector or any other person appointed, in writing, by the Director of Medical Services or the medical officer of health as an inspector for the purpose,".

15 11. Section 153 of the principal Ordinance is hereby repealed and the following section substituted therefor:—

Repeal and replacement of section 153 of the principal Ordinance.

20 "153. (1) The Governor in Council, on the advice of the board, may make rules for the conduct and inspection of nursing homes, convalescent homes, private hospitals, private mental hospitals, maternity homes, infirmaries or any institutions where invalids, convalescents or children are treated or received upon payment of fees or charges and no person shall open, or keep open, any such premises unless the premises and the keeper thereof are licensed by the board.

Nursing homes and other institutions to be licensed.

25 (2) The Director of Medical Services, on the advice of the board, may authorize a medical practitioner to visit and inspect any such premises, as are mentioned in sub-section (1) of this section, and to report to the board upon any matter or thing connected with such premises or the use thereof.

30 (3) Any person who knowingly obstructs an authorized medical practitioner in any inspection authorized by the Director of Medical Services, under the provisions of sub-section (2) of this section, shall be guilty of an offence.

35 (4) The board may refuse to grant a licence and may cancel any licence which has been granted under this section on any of the following grounds:—

40 (a) that the premises in respect of which a licence is sought or has been granted are unsuitable or otherwise do not conform with the requirements of any rules made under this section;

(b) that the granting or continuance of a licence would be contrary to the public interest;

45 (c) that the person in respect of whom a keeper's licence is sought or has been granted has failed to satisfy the board that he or she is a fit and proper person to be trusted to conduct or to continue to conduct the premises for which the keeper's licence is sought or has been granted."

#### MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to amend the principal Ordinance (Chapter 124 of the Revised Edition) in the following respects:—

*Clause 2.*—The Public Health (Milk and Dairies) Rules control dairies whose principal trade is milk. On the other hand "dairies" in which the main activity is the manufacture of butter, cheese, dried or condensed milk should, it is considered, be controlled by the Public Health (Manufacture, Preparation, Packing and Re-packing of Food) Rules, 1944. This clause is designed to achieve that object.

*Clause 3.*—In the case of a person who has died of a notifiable infectious disease, the medical practitioner has, under section 19 (1) (d) of the principal Ordinance to inform the head of the household or the occupier of the premises or the person who has been in attendance on the deceased person of the infectious nature of the disease and the precautions to be taken to prevent its conveyance to others. It is considered to be equally important that a medical practitioner, on becoming aware that his patient is suffering from a notifiable infectious disease, should give similar advice to the head of the household, the occupier of the premises or the person in attendance. The amendment which the clause makes to paragraph (b) of sub-section (1) of section 19 of the principal Ordinance requires the necessary action to be taken.

*Clause 4.*—Section 27 of the principal Ordinance provides for the removal to hospital of infected persons. There have, however, been instances where direct contacts of certain infectious diseases should have been removed to an isolation hospital or to a place of isolation, but the principal Ordinance contains no power to require such removal. An additional section giving such power is, therefore, necessary.

In South Africa, contacts of such diseases as smallpox, plague and typhus may, by Regulations made under the Public Health Act, be removed or segregated under observation or may be kept under surveillance.

*Clause 5.*—This is a minor amendment to obviate the necessity of prescribing the form of notice which is required, under section 48 (1) of the principal Ordinance, to be served.

*Clause 6.*—It is considered that the word "building" restricts the application of section 118 (1) (i) of the principal Ordinance.

*Clause 7.*—The clause amends a printer's error.

*Clause 8.*—The object of the additional sub-section is to confer the power to make rules to prescribe standards of food.

*Clause 9 and 10.*—It has been held by the Courts that, in the case of section 142 of the principal Ordinance, it is only the Medical Officer of Health in person who can take immediate steps to destroy the immature stages of the mosquito and, in section 143 of the principal Ordinance, the immature stages of the mosquito have to be found by the Medical Officer of Health in person before a conviction can be obtained. As it is the Health Inspector or European Overseer working on Aedes Control Measures who deal mainly with that work, it is considered necessary to amend the two sections to enable them to be properly authorized to carry out such work.

*Clause 11.*—It is thought desirable that the Board should have discretion to refuse licences and to cancel licences already issued for nursing homes, children's homes, etc., and that the Governor in Council should have power to make Rules to control such premises.

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

Nairobi, 16th October, 1945.

S. W. P. FOSTER SUTTON,  
*Attorney General.*