



THE OFFICIAL GAZETTE
OF THE COLONY AND PROTECTORATE OF KENYA

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CONTENTS

Govt. Notices Nos. 416-421	PAGE	Bills—(Contd.)	PAGE
Bills for introduction into the Legislative Council:—		A Bill to Re-enact the Provisions of the Law Relating to Restriction on the Increase of Mortgage Interest	310
A Bill to Amend the Control of Grass Fires Ordinance, 1941	305	A Bill to make Provision for the Training and Registration of Suitable Persons as Nurses and Midwives	313
A Bill to Amend the Land and Water Preservation Ordinance, 1943	306	A Bill to Consolidate and Amend the Law Relating to Rent Restriction	318
A Bill to Amend the Kenya Regiment (Territorial Force) Ordinance, 1937	307		

GOVERNMENT NOTICE No. 416

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

ALEX. M. WILKIE,
Acting Clerk to the Legislative Council.

ARRANGEMENT OF SECTIONS

SECTION 1—Short title	SECTION 2—Amendment of section 15 of Ordinance 41 of 1941.
A BILL TO AMEND THE CONTROL OF GRASS FIRES ORDINANCE, 1941	
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 Control of Grass Fires (Amendment) Ordinance, 1949, and shall be read as one with the Control of Grass Fires Ordinance, 1941, hereinafter referred to as the principal Ordinance.	Short title. No 41 of 1941..
2. Section 15 of the principal Ordinance is amended by substituting the words “two hundred pounds” for the words “one hundred pounds”, and the words “twelve months” for the words “six months” appearing therein.	Amendment of section 15 of Ordinance 41 of 1941.

MEMORANDUM OF OBJECTS AND REASONS

The damage which can be caused by setting fire to vegetation, not the property of the person concerned, without lawful authority, or by wilfully or negligently kindling fires which, by spreading, may damage the property of another, may be serious.

It is considered that the penalties for such acts, imposed in 1941, are not sufficiently heavy. This Bill will increase them.

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

Nairobi,
26th April, 1949.

K. K. O'CONNOR,
Attorney General.

GOVERNMENT NOTICE No. 417

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

ALEX. M. WILKIE,
Acting Clerk to the Legislative Council.

ARRANGEMENT OF SECTIONS

SECTION

- 1—Short title.
2—Amendment of section 2 of Ordinance 11 of 1943.

SECTION

- 3—Addition of new section 2A to Ordinance 11 of 1943.
4—Amendment of section 3 of Ordinance 11 of 1943.

A BILL TO AMEND THE LAND AND WATER PRESERVATION ORDINANCE, 1943

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. 11 of 1943.

Amendment of section 2 of Ordinance 11 of 1943.

1. This Ordinance may be cited as the Land and Water Preservation (Amendment) Ordinance, 1949, and shall be read as one with the Land and Water Preservation Ordinance, 1943, hereinafter referred to as the principal Ordinance.

2. Section 2 of the principal Ordinance is amended as follows:—

(a) by substituting the words “under the provisions of section 2A of this Ordinance” for the words “by notice in the Gazette” which appear in the definition “closed area”; and

(b) by inserting next after the definition “owner” the following definition:—

“‘Registrar of Titles’ means the person appointed under any Ordinance for the purpose of the registration of title to land or of documents relating to land;”.

Addition of new section 2A to Ordinance 11 of 1943.

Closed area.

3. The principal Ordinance is amended by inserting immediately after section 2 thereof the following new section:—

“2A. The Director shall have power, and shall be deemed always to have had power, by notice in the Gazette, to declare any area, whether of land or water or of both land and water, specified in such notice, to be a closed area for the purposes of this Ordinance.”

Amendment of section 3 of Ordinance 11 of 1943.

4. Section 3 of the principal Ordinance is amended by adding immediately after paragraph (e) of sub-section (1) thereof the following new paragraph:—

“(f) requiring the Registrar of Titles to register, without fee, against the title of any land concerned, any order made by the Director under the provisions of this Ordinance or any rule made thereunder.”

MEMORANDUM OF OBJECTS AND REASONS

The Land and Water Preservation Ordinance, 1943, is defective in that while “closed area” is defined as meaning any area declared by the Director of Agriculture, by notice in the Gazette, to be a closed area, no power is given in the Ordinance enabling the Director to declare a closed area.

A new section 2A will be added by the Bill retrospectively and prospectively empowering the Director to declare any area of land or water, or of both land and water, to be closed area for the purposes of the Ordinance.

As the Ordinance now stands, the vendor of land is under no obligation to disclose to the purchaser the existence of any closing orders which may have been made by the Director under the Ordinance. Instances have been known of land sales being completed without such disclosure and these have resulted in considerable hardship to the purchasers concerned. The Bill will enable rules to be made to provide for registration of closing orders so that the existence of any such order may become known to an intending purchaser.

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

Nairobi,
11th April, 1949.

K. K. O'CONNOR,
Attorney General.

GOVERNMENT NOTICE No. 418

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

ALEX. M. WILKIE,
Acting Clerk to the Legislative Council.

ARRANGEMENT OF SECTIONS

SECTION

- 1—Short title.
- 2—Repeal of sections 8 and 11 of Ordinance 4 of 1937.
- 3—Repeal and replacement of section 19 of Ordinance 4 of 1937.
- 4—Amendment of section 21 of Ordinance 4 of 1937.

SECTION

- 5—Replacement of paragraph (b) of section 24 of Ordinance 4 of 1937.
- 6—Amendment of section 34 of Ordinance 4 of 1937.
- 7—Amendment of section 35 of Ordinance 4 of 1937.
- 8—Amendment of section 36 of Ordinance 4 of 1937.

**A BILL TO AMEND THE KENYA REGIMENT
(TERRITORIAL FORCE) ORDINANCE, 1937**

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 Kenya Regiment (Territorial Force) (Amendment) Ordinance, 1949, shall be read as one with the Kenya Regiment (Territorial Force) Ordinance, 1937, hereinafter referred to as the principal Ordinance, and shall come into operation upon such date as the Governor may, by notice in the Gazette, appoint.

Short title
and
commencement.

No. 4 of 1937.

2. Sections 8 and 11 of the principal Ordinance are repealed.

Repeal of
sections 8
and 11 of
Ordinance
4 of 1937.

3. Section 19 of the principal Ordinance is repealed and the following substituted therefor:—

Repeal and
replacement of
section 19 of
Ordinance 4
of 1937.

Retirement of
officers.

“19. (1) The Governor may place officers on the retired list.

(2) The ages of compulsory retirement of officers of the Regiment shall be as prescribed.

(3) Officers on the retired list who have served for ten years in the Regiment as commissioned officers on the active list may, with the approval of the Governor, retain their rank and wear the prescribed uniform:

Provided that, in exceptional circumstances, the Governor may, with the approval of the Secretary of State, grant such privileges to officers with less than ten years' service in the Regiment as commissioned officers on the active list.

4. Section 21 of the principal Ordinance is amended—

Amendment of
section 21 of
Ordinance 4
of 1937.

(i) by substituting for the last sentence of sub-section (1) thereof the following words:—

“The allowance payable to such members for the maintenance of their uniforms shall be such as may be prescribed.”;

(ii) by repealing sub-section (2) thereof, and substituting therefor the following:—

“(2) Arms, ammunition, and equipment, shall ordinarily be kept in armouries, under guard, but may, under prescribed conditions be issued to officers and members, and each officer or member to whom a rifle or other firearm has been issued shall be bound to keep it in his personal possession, shall be responsible for its safe keeping and maintenance in good order and condition, and shall produce it for inspection whenever called upon to do so.”;

(iii) by adding thereto the following new sub-sections:—

“(4) Any officer or member of the Regiment to whom any rifle or other firearm, ammunition, grenade, or explosive has been issued who sells or otherwise disposes of, or makes away with, the same without lawful authority shall be guilty of an offence against this Ordinance and, on conviction by a subordinate court of the first class, shall be liable to imprisonment for a term which may extend to five years.” 10

(5) Any officer or member of the Regiment to whom any rifle or other firearm or ammunition, grenade, or explosive has been issued who negligently loses the same or fails to produce it when called upon to do so, shall be guilty of an offence against this Ordinance, and on conviction by a subordinate court of the first or second class, shall be liable for a first offence to a fine not exceeding fifty pounds, and for a second or subsequent offence to imprisonment for a term which may extend to one month or to a fine not exceeding one hundred pounds, or to both such imprisonment and fine. 15 20

(6) A subordinate court of the first class shall, notwithstanding anything contained in Part II of the Criminal Procedure Code, have power to impose any sentence which may be imposed under sub-section (3) of this section.” 25

Replacement of paragraph (b) of section 24 of Ordinance 4 of 1937.

5. Paragraph (b) of section 24 of the principal Ordinance is repealed and the following substituted therefor:— 30

“(b) no sentence of a court martial upon the trial of an officer or a member of the Regiment or Reserve shall be carried into execution unless confirmed by the Governor or such officer as he may appoint on his behalf;” 35

Amendment of section 34 of Ordinance 4 of 1937.

6. Section 34 of the principal Ordinance is amended—

- (i) by inserting the brackets and figure “(1)” immediately after the figures “34” where they occur therein;
- (ii) by inserting the words “after consultation with the General Officer Commanding East Africa Command” immediately after the word “Governor” where it occurs therein; and 40

(iii) by adding the following new sub-section:—

“(2) The Governor may employ orderlies, cooks, sweepers, drivers, and such other civilian staff as he may deem necessary, upon such terms and conditions as may be prescribed.” 45

Amendment of section 35 of Ordinance 4 of 1937.

7. Section 35 of the principal Ordinance is amended—

- (i) by repealing sub-section (3) thereof; and
- (ii) by re-numbering sub-section (4) as sub-section (3). 50

Amendment of section 36 of Ordinance 4 of 1937.

8. Section 36 of the principal Ordinance is amended as follows:—

- (i) by inserting the words “after consultation with the General Officer Commanding East Africa Command” immediately after the word “Governor” where it occurs therein; 55
- (ii) by substituting for paragraph (4) the following:—
“(4) the terms and conditions of service of the civilian staff;”;

(iii) by deleting the word "and" where it occurs at the end of paragraph (14) thereof and inserting the following:—

5 “(15) the allowance to be paid to members of the Regiment for maintenance of uniforms; and”
and

(iv) by renumbering paragraph “(15)” thereof as sub-section “(16)”.

MEMORANDUM OF OBJECTS AND REASONS

This Bill makes a number of amendments to the Kenya Regiment (Territorial Force) Ordinance, 1937, which are necessary for the re-establishment of the Kenya Regiment on a peace-time basis.

Clause 2 repeals sections 8 and 11 of the principal Ordinance as these sections are no longer required.

Clause 3 rewords section 19 of the principal Ordinance and divides it into sub-sections in order to make it clear that officers may be placed on the retired list and that the ages for compulsory retirement may be prescribed.

Clause 4 removes the existing obligation laid upon members by section 21 of the principal Ordinance of maintaining their uniforms at their own expense, and provides for a uniform allowance to be prescribed. This clause also strengthens the provisions of the existing law regarding the safekeeping and maintenance of firearms and ammunition and makes it an offence for any officer or member of the Regiment negligently to lose, sell, or otherwise dispose of, without proper authority, any firearm or ammunition.

Clause 5 re-enacts the provision of paragraph (b) of section 24 of the principal Ordinance requiring confirmation by the Governor of a sentence of a court martial of an officer or member. This provision was suspended during the war.

Clause 6 provides for the appointment of permanent military staff by the Governor after consultation with the General Officer Commanding East Africa Command and for the employment of civilian staff including orderlies, cooks, drivers, etc.

Clause 7 repeals sub-section (3) of section 35 of the principal Ordinance which is no longer required.

Clause 8 enables the Governor, after consultation with the General Officer Commanding East Africa Command to make regulations; deletes the power to make regulations for the appointment and control of the permanent staff which will now come under normal military control; and provides for additional regulations to be made laying down the terms and conditions for the employment of civilian staff and for the prescribing of uniform allowance.

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

Nairobi,
19th April, 1949.

K. K. O'CONNOR,
Attorney General.

GOVERNMENT NOTICE No. 419

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

ALEX. M. WILKIE,
Acting Clerk to the Legislative Council.

ARRANGEMENT OF SECTIONS

SECTION

- 1—Short title.
- 2—Application.
- 3—Interpretation.
- 4—Restriction on increasing standard rate of interest.

SECTION

- 5—Restriction on calling in of mortgages.
- 6—Recovery of sums made irrecoverable.
- 7—Duration.

**A BILL TO RE-ENACT THE PROVISIONS OF THE LAW
RELATING TO RESTRICTION ON THE
INCREASE OF MORTGAGE INTEREST**

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 Increase of Mortgage Interest (Restriction) Ordinance, 1949.

Application.

2. (1) This Ordinance shall apply to every mortgage where the mortgaged property consists of or comprises one or more dwelling-houses or business premises or any interest therein, except that it shall not apply—

(a) to any mortgage comprising one or more dwelling-houses or business premises and other land if the value of such dwelling-houses or business premises is less than one-tenth of the value of the whole of the land comprised in the mortgage; or

(b) to an equitable charge by deposit of title deeds or otherwise.

(2) When a mortgage comprises one or more dwelling-houses or business premises and other land, and the value of such dwelling houses or business premises is more than one-tenth of the value of the whole of the land comprised in the mortgage, the mortgagee may apportion the principal money secured by the mortgage between such dwelling-houses or business premises and such other land by giving one month's notice in writing to the mortgagor, such notice to state the particulars of such apportionment, and, at the expiration of the said month's notice, this Ordinance shall not apply to the mortgage so far as it relates to such other land, and for all purposes, including the mortgagor's right of redemption, the said mortgage shall operate as if it were a separate mortgage for the respective portions of the said principal money secured by the said dwelling-houses or business premises and such other land, respectively, to which such portions were apportioned:

Provided that the mortgagor shall, before the expiration of the said month's notice, be entitled to dispute the amounts so apportioned as aforesaid, and in default of agreement the matter shall be determined by the court.

No. 12 of 1940.

(3) Where the Increase of Rent and of Mortgage Interest (Restrictions) Ordinance, 1940, was at the commencement of this Ordinance applicable to a mortgage on any premises, this Ordinance shall apply thereto, whether or not the premises would, but for the provisions of this sub-section, be premises to which this Ordinance, applies.

Interpretation.

3. For the purposes of this Ordinance, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them:—

“business premises” includes premises used for trade or professional purposes;

"dwelling-house" means any house or part of a house let as a separate dwelling where such letting does not include any land other than the site of the dwelling-house and garden or other premises within the curtilage of the dwelling-house;

5 "mortgage" includes a charge under the Registration of Titles Ordinance;

Cap. 142.

"mortgagee" and "mortgagor" include any person from time to time deriving title under the original mortgagee or mortgagor;

10 "standard rate of interest" means in the case of a mortgage in force on the 1st day of January, 1940, the rate of interest payable at that date, or in the case of a mortgage created since that date, the original rate of interest, or in the case of a mortgage created on or after the 1st day of January,
15 1943, a rate not exceeding seven per centum per annum.

4. Where the rate of interest on a mortgage to which this Ordinance applies, is after the commencement of this Ordinance increased, then if the increased rate of interest exceeds the standard rate of interest, the amount of such excess
20 shall, notwithstanding any agreement to the contrary, be irrecoverable from the mortgagor.

Restriction on increasing standard rate of interest.

5. It shall not be lawful for any mortgagee under a mortgage to which the provisions of this Ordinance apply, so long as—

Restriction on calling in of mortgages.

- 25 (a) the standard rate of interest is not more than twenty-eight days in arrear; and
- (b) the covenants by which the mortgagor (other than the covenants for the repayment of the principal money secured) are performed and observed; and
- 30 (c) the mortgagor keeps the property in a proper state of repair and pays all interest and instalments of principal recoverable under any prior encumbrance,

to call in his mortgage or to take any steps for exercising any right of foreclosure or sale, or for otherwise enforcing his
35 security or for recovering the principal money thereby secured:

Provided that—

- 40 (i) this provision shall not apply to a mortgage where the principal money secured thereby is repayable by means of periodical instalments extending over a term of not less than ten years from the creation of the mortgage, nor shall this provision affect any power of sale exercisable by a mortgagee who was,
45 at the commencement of this Ordinance, a mortgagee in possession, nor in cases where the mortgagor consents to the exercise by the mortgagee of the powers conferred by the mortgage; and
- (ii) if, in the case of a mortgage of a leasehold interest, the mortgagee satisfies the court that his security
50 is seriously diminished in value or is otherwise in jeopardy, and for that reason it is reasonable that the mortgage should be called in and enforced, the court may by order authorize him to call in and enforce the same, and thereupon this section shall not
55 apply to such mortgage; but any such order may be made subject to a condition that it shall not take effect if the mortgagor, within such time as the court directs, pays to the mortgagee such portion of the principal sum secured as appears to the court to correspond to the diminution of the security.

Recovery of
sums made
irrecoverable.

No. 12 of 1940.

No. 12 of 1940.

6. Where any sum has, after the 1st day of January, 1940, been paid on account of any mortgage interest, being a sum which is, under the provisions of this Ordinance or of the Increase of Rent and of Mortgage Interest (Restrictions) Ordinance, 1940, made irrecoverable by the mortgagee, the sum so paid shall be recoverable from the mortgagee who received the payment or his legal personal representative, by the mortgagor by whom it was paid, and any such sum which, under the provisions of this Ordinance, or the Increase of Rent and of Mortgage Interest (Restrictions) Ordinance, 1940, is recoverable from a mortgagee may be deducted in monthly instalments by the mortgagor from any interest payable by him to the mortgagee: 5

Provided that nothing in this section shall operate to revive any debt which was barred by limitation at the commencement of this Ordinance. 15

Duration.

7. (1) This Ordinance shall continue in force until the 31st day of December, 1950, and shall then expire:

Provided that the Governor may, with the approval of the Legislative Council of the Colony, by notice in the Gazette, declare that this Ordinance shall remain in force until a date to be fixed in such notice or until repealed. 20

(2) The expiration of this Ordinance shall not render recoverable by the mortgagee any interest or other sum which during the continuance thereof was irrecoverable or affect the right of a mortgagor to recover any interest or other sum which during the continuance thereof was under this Ordinance recoverable by him. 25

MEMORANDUM OF OBJECTS AND REASONS

This Bill re-enacts the provisions relating to restrictions on increase of mortgage interest which were previously contained in the Increase of Rent and of Mortgage Interest (Restrictions) Ordinance, 1940. Opportunity is taken of the repeal and re-enactment (with substantial amendments) of that Ordinance to separate the provisions relating to mortgage interest from those relating to rent and to deal with each in separate Bills.

No additional expenditure of public moneys is likely to be incurred if the provisions of this Bill become law.

Nairobi,
22nd April, 1949.

K. K. O'CONNOR,
Attorney General.

GOVERNMENT NOTICE No. 420

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

ALEX. M. WILKIE,
Acting Clerk to the Legislative Council.

ARRANGEMENT OF SECTIONS

SECTION

- 1—Short title.
- 2—Interpretation.
- 3—Establishment of Nursing and Midwives Council.
- 4—Constitution of Council.
- 5—Disqualification, vacation of office and filling of vacancies.
- 6—Chairman and vice-chairman.
- 7—Meetings of Council.
- 8—Quorum and procedure.
- 9—Registrar.

SECTION

- 10—Register.
- 11—Use of title by registered persons.
- 12—Penalty for use of title by person not registered.
- 13—Certificate of Council.
- 14—Admission to Register of persons trained outside the Colony.
- 15—Penalty for procuring registration by false statement.
- 16—Removal from the Register.
- 17—Regulations.

**A BILL TO MAKE PROVISION FOR THE TRAINING
AND REGISTRATION OF SUITABLE PERSONS AS
NURSES AND MIDWIVES**

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 Nurses and Midwives Registration Ordinance, 1949.

2. In this Ordinance unless the context otherwise requires—

“Council” means the Nursing and Midwives Council of Kenya established under section 3 of this Ordinance;

“Member” means the Member of Executive Council of the Colony for the time being responsible for health matters;

“nurse” includes medical and surgical nurse, fever nurse, children’s nurse, mental nurse and male nurse;

“Registrar” means the registrar of the Council appointed under section 9 of this Ordinance;

words importing the feminine gender include males.

3. On a date to be fixed by the Member by notice in the Gazette there shall be established a Council to be known as the Nursing and Midwives Council of Kenya which shall be a body corporate with perpetual succession and a common seal capable of suing and being sued and of acquiring, holding and alienating property movable and immovable in its corporate name and of performing all such acts as are necessary for or incidental to the carrying out of its functions and powers under the provisions of this Ordinance.

4. (1) The Council shall consist of the following sixteen members—

- (a) the Director of Medical Services;
- (b) the Matron-in-Chief;
- (c) one person appointed by the European Hospital Authority established under the Hospital Services (European) Ordinance, 1946;
- (d) two persons appointed by the Kenya Branch of the British Medical Association;
- (e) the Matron in charge of the Asian Maternity Home, Nairobi;
- (f) the Sister Tutor;
- (g) one person appointed by the Missionary Societies operating in the Colony;
- (h) one person appointed by the Member to represent the Asian Community;

Short title.

Interpretation.

Establishment of
Nursing and
Midwives
Council.

Constitution
of Council.

No. 47 of 1946.

9 & 10 Geo. 5,
c.94

(i) one person appointed by the General Nursing Council for England and Wales established under the Nurses Registration Act, 1919;

(j) six nurses or midwives elected by the nurses and midwives registered under section 10 of this Ordinance at the date of election from among themselves: 5

Provided that in the case of the first Council the members referred to in paragraph (j) of sub-section (1) of this section shall be appointed by the Member. 10

(2) The Member shall give notice in the Gazette of the appointment or election of any member of the Council and the date from which his membership commences.

(3) The members of the Council shall be appointed or elected for three years but shall be eligible for re-appointment or re-election as the case may be: 15

Provided that in the case of the first Council the members referred to in paragraph (j) of sub-section (1) of this section shall hold office for two years.

Disqualification,
vacation of
office and
filling of
vacancies.

Cap. 119.

5. (1) No person shall be appointed as a member of the Council if he— 20

(a) is an undischarged bankrupt;

(b) has been disqualified under the provisions of the Medical Practitioners and Dentists Ordinance from practising or carrying on his profession or calling. 25

(2) A member of the Council shall vacate his office if he—

(a) becomes subject to either of the disqualifications referred to in sub-section (1) of this section; or

(b) has been absent for more than two consecutive ordinary meetings of the Council without its leave; or 30

(c) gives notice in writing to the Council of his desire to resign office and his resignation is accepted.

(3) Every vacancy caused by the death of a member or by his vacation of office under sub-section (2) of this section shall be filled by the appointment or election as the case may require, of another member, and such other member shall hold office for the unexpired portion of the period for which the member whose office has become vacant had been appointed or elected. 40

Chairman and
vice-chairman.

6. (1) At its first meeting in each year the Council shall elect from among its members a chairman and a vice-chairman to hold office until the next such election has taken place. 45

(2) The vice-chairman shall act as chairman whenever the chairman is unable to act and shall, when so acting, have all the powers and discharge all the duties of the chairman.

(3) If the chairman and vice-chairman are absent from any meeting, the members present shall elect one of their number to preside at that meeting and the person so elected shall during the absence from that meeting of the chairman and the vice-chairman exercise all the functions of the chairman. 50

(4) If any chairman or vice-chairman who has been elected by the Council vacates his office before the period thereof has expired, a new chairman or vice-chairman, as the case may be, shall be elected at the next meeting of the Council for the unexpired portion of the period for which the chairman or vice-chairman whose office has become vacant, had been elected. 55 60

7. (1) The first meeting of the Council shall be held on a day and at a place to be appointed by the Member. Meetings of the Council.

(2) Subsequent meetings shall be held at such times and places as the Council may from time to time determine:

5 Provided that at least two ordinary meetings of the Council shall be held in every year.

(3) Special meetings may be convened by the chairman of the Council and shall be convened by him upon the requisition in writing of at least five members:

10 Provided that the said requisition shall state clearly the purposes for which the meeting is to be convened.

8. (1) Nine members, of whom three shall be nurses, shall form a quorum at any meeting of the Council. Quorum and procedure.

(2) The decision of the majority of the members present at any meeting shall constitute the decision of the Council:

15 Provided that in the event of an equality of votes the chairman shall have a casting vote in addition to a deliberative vote.

9. The Council shall, with the previous approval of the Member, appoint a person to act as registrar of the Council. Registrar.

10. (1) The Council shall keep a Register of nurses, midwives and assistant nurses qualified to be registered or enrolled under the provisions of this Ordinance and the Registrar shall enter therein on payment of the prescribed fee the name of every person who has complied with the prescribed conditions. Register.

(2) The Register shall consist of such part or parts as may be prescribed, and each part shall contain the names of all nurses, midwives or assistant nurses, as the case may be, who satisfy the conditions for entry in such part of the Register.

(3) The conditions for entry in each part of the Register shall be such as are for the time being prescribed.

11. Any person registered or enrolled under the provisions of this Ordinance may use the title "State Registered Nurse", "State Registered Midwife", "Kenya Registered Nurse", "Asian Registered Midwife", "African Registered Midwife", "Assistant Registered Nurse Grade I" or "Assistant Registered Nurse Grade II" as the case may be. Use of title by registered persons.

12. (1) Any person not registered or enrolled under the provisions of this Ordinance who makes use of any of the titles referred to in section 11 of this Ordinance or holds herself out directly or indirectly, as being so registered or enrolled, or wears any prescribed uniform, badge or other distinguishing device or any colourable imitation thereof shall be guilty of an offence against this Ordinance and shall be liable to a fine not exceeding fifty pounds. Penalty for use of title by person not registered.

(2) Any person who is not registered or enrolled under the provisions of this Ordinance but who is qualified to be so registered or enrolled, and who practises for gain as a nurse, midwife or assistant nurse, as the case may be, shall be guilty of an offence and shall be liable to a fine not exceeding fifty pounds.

(3) Any person who is registered or enrolled in one part of the register referred to in sub-section (2) of section 10 of this Ordinance and who practises for gain as a nurse, midwife or assistant nurse in a category higher than that part of the register in which she is registered shall be guilty of an offence and shall be liable to a fine not exceeding fifty pounds.

Certificate of
Council.

13. A certificate under the seal of the Council duly authenticated in the prescribed manner stating that any person is, or was at any date, or is not, or was not at any date, duly registered under the provisions of this Ordinance shall be conclusive evidence in any court of the fact stated in the certificate. 5

Admission to
Register of
persons trained
outside the
Colony.

14. Any person who proves to the satisfaction of the Council that she has been registered as a nurse or midwife in any part of His Majesty's dominions or in any country under the protection of His Majesty or in which His Majesty has jurisdiction outside the Colony shall be entitled on making an application in the prescribed manner and on payment of the prescribed fee to be registered under the provisions of this Ordinance. 10

Penalty for
procuring
registration
by false
statement.

15. Any person who shall wilfully procure herself to be registered or enrolled under the provisions of this Ordinance by making or producing or causing to be made or produced any false or fraudulent representation or declaration either verbally or in writing, or any person aiding or assisting therein shall be guilty of an offence and shall be liable to a fine not exceeding one hundred and fifty pounds or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment. 15 20

Removal from
the Register.

16. (1) The name of any nurse, midwife or assistant nurse registered or enrolled under the provisions of this Ordinance may, at the discretion of the Council, be removed from the Register. 25

(2) Any person aggrieved by the removal of her name from the Register may, within three months after the date on which notice is given to her by the Council that her name has been so removed, appeal to the Member whose decision shall be final. 30

Regulations.

17. The Member may, on the advice of the Council and with the approval of the Governor in Council, make such regulations and give such directions as he may think fit for the purpose of giving effect to the provisions of this Ordinance, and without prejudice to the generality of the foregoing words, such regulations may provide for— 35

(a) the summoning of meetings of the Council and the proceedings of the Council; 40

(b) the procedure for election of those members of the Council who are not nominated;

(c) the formation, maintenance and publication of the Register;

(d) the manner in which application may be made, and the conditions for entry in the Register; 45

(e) the conduct of any examination which may be prescribed as a condition of entry in the Register, and any matter ancillary to, or connected with, any such examination; 50

(f) the curricula for examination, appointment of examiners and granting certificates;

(g) the keeping of a Register of assistant nurses, student nurses and student midwives;

(h) the conditions under which schools for nursing or midwifery or other places where nurses or midwives are trained will be approved by the Council; 55

(i) the fees payable to the Council in respect of entry or re-entry in the Register, examinations, and issue of certificates;

- (j) uniforms, badges and other distinguishing devices to be worn by nurses and midwives registered under the provisions of this Ordinance;
- 5 (k) the manner in which categories of assistant nurses may be established and regulating their training and employment;
- (l) the causes for which, the conditions under which, and the manner in which, nurses' names may be removed from the Register, and the procedure for restoration to the Register of the names of nurses removed therefrom; and
- 10 (m) the manner in which any certificate issued by the Council may be authenticated.

MEMORANDUM OF OBJECTS AND REASONS

This Bill establishes a Nursing and Midwives Council of Kenya the setting up of which was recommended by the Health, Hospital Services and Nutrition Sub-Committee of the Development Committee, and provides for the registration of nurses and midwives.

Clause 3 establishes the Council as a body corporate with perpetual succession and a common seal from a date to be fixed by the Member for Health and Local Government.

Clause 4 lays down the constitution of the Council and provides for membership to be by appointment in the case of certain of the members and for representative nurses and midwives to be elected to the Council.

Clause 5 sets out the circumstances in which any person may be disqualified from membership of the Council or is deemed to have vacated her membership and provides for the filling of vacancies on the Council.

Clauses 6, 7 and 8 provide for the appointment of a chairman and vice-chairman and lay down the procedure to be adopted at meetings of the Council.

Clauses 9 and 10 provide for the appointment of a registrar and the keeping of a register in which shall be entered the names of all persons qualified to be registered or enrolled as nurses, midwives or assistant nurses.

Clause 11 provides for the use of certain titles of qualified persons who have been registered or enrolled under the provisions of the Ordinance.

Clause 12 creates offences and imposes penalties in cases where nursing titles are used and for the practising as a registered or enrolled nurse, midwife or assistant nurse, by persons not entitled to do so.

Clause 13 provides for a certificate issued under the seal of the Council to be conclusive evidence.

Clause 14 makes special provision for the admission to the Register of qualified persons trained outside the Colony.

Clause 15 makes it an offence to wilfully procure registration or enrolment by making a false statement.

Clause 16 deals with the removal of names from the Register.

Clause 17 enables the Member, on the advice of the Nursing and Midwives Council, and with the approval of the Governor in Council, to make regulations.

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

Nairobi,
25th April, 1949.

K. K. O'CONNOR,
Attorney General.

GOVERNMENT NOTICE NO. 421

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

ALEX. M. WILKIE,
Acting Clerk to the Legislative Council.

ARRANGEMENT OF SECTIONS

SECTION

- 1—Short title, duration and application of Ordinance.
- 2—Interpretation.
- 3—Establishment of Central Board, Coast Board, and other Boards.
- 4—Constitution of the Central Board and the Coast Board.
- 5—Powers of Central Board and Coast Board.
- 6—Constitution and powers of Rent Control Boards other than the Central Board or Coast Board.
- 7—Appeals.
- 8—Standard rent to be determined before first letting.
- 9—Investigation of complaints by Board.
- 10—Penalty for failure to comply with lawful order of the Board.
- 11—Restriction on increasing rent.
- 12—Penalty for accepting excess rent.
- 13—Permitted increases in rent.
- 14—Notice of increase of rent.
- 15—Limitation as to permitted increase in rent.

SECTION

- 16—Restriction on right to possession.
- 17—Restriction on levy of distress for rent.
- 18—Restriction on premiums.
- 19—Penalty for excessive charges for furnished lettings.
- 20—Statement to be supplied as to standard rent.
- 21—Recovery of sums made irrecoverable.
- 22—Failure to supply rent book and penalty for false entry.
- 23—Conditions of statutory tenancy.
- 24—Tenement houses to be registered.
- 25—Penalty for depriving tenant of service.
- 26—Notification of valuation.
- 27—Repairs.
- 28—Restriction on right to assign or sub-let premises.
- 29—Sub-letting by tenant.
- 30—Penalty for subjecting tenant to annoyance.
- 31—Jurisdiction of court.
- 32—Regulations.
- 33—Repeal.

A BILL TO CONSOLIDATE AND AMEND THE LAW RELATING TO RENT RESTRICTION

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,
duration and
application of
Ordinance.

1. (1) This Ordinance may be cited as the Increase of Rent (Restriction) Ordinance, 1949, and shall expire on the 31st day of December, 1950, unless extended by resolution of the Legislative Council.

(2) This Ordinance shall apply to all premises, whether dwelling-houses or business premises, situate in any area in the Colony in which a Rent Control Board has been established, other than—

- (a) premises of which the standard rent is in excess of ten thousand shillings per annum and of which the landlord shall, after the commencement of this Ordinance, have recovered vacant possession under the provisions of this Ordinance;
- (b) business premises whereof the erection was commenced after the first day of January, 1949, and where premises the erection whereof was commenced after the first day of January, 1949, consist partly of a dwelling-house and partly of business premises the provisions of this Ordinance shall not apply to the portion which consists of business premises;
- (c) to any premises which are the property of a local authority or of a Municipal Council or Municipal Board; and
- (d) premises, or classes of premises, or premises in any area exempted from all or any of the provisions of this Ordinance by the Governor in Council.

Interpretation.

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

“the Board” means any Rent Control Board established under section 3 of this Ordinance in respect of the area specified in the notice establishing such Board;

"business premises" includes premises used for trade or professional purposes;

"the Central Board" means the Rent Control Board established under section 3 of this Ordinance in respect of the Central Province of the Colony;

"the Coast Board" means the Rent Control Board established under section 3 of this Ordinance in respect of the Coast Province of the Colony;

"court" means a subordinate court of the first class;

10 "dwelling-house" includes any house or part of a house or room let as a separate dwelling (whether or not such house, part of a house or room is occupied by one or more tenants) where such letting does not include any land other than the site of the dwelling-house and garden or other
15 premises within the curtilage of the dwelling-house, but does not include any such house, part of a house or room which is shared by the landlord with one or more tenants;

"landlord" includes, in relation to any premises, any person, other than the tenant, who is or would be, but for
20 the provisions of this Ordinance, entitled to possession of the premises, and any person from time to time deriving title under the original landlord;

"let" includes "sublet";

"premises" means premises to which this Ordinance is
25 applied by sub-section (2) of section 1 thereof;

"prescribed date" means the date set out in the second column of Part I or Part II, whichever is applicable, of the Schedule to this Ordinance in respect of the area, district or place in which the premises are situate;

30 "standard rent" means—

(A) in respect of unfurnished premises—

(i) the rent at which the premises were let on the prescribed date: provided that where, in any agreement or lease entered into before the
35 prescribed date, there is a provision for an increase in rent during the term of the agreement or lease, "standard rent" means such agreed increased rent from the date at which the increase is agreed to take effect; or

40 (ii) where the premises were in existence but were not let on the prescribed date and were subsequently let, or where the premises were, or are, erected after the prescribed date, a rent to be assessed by the Board equal to a sum not
45 exceeding ten per centum per annum of the market cost of construction of the premises at the date of completing such construction plus the market value of the land at the prescribed date.

50 For the purpose of calculating rent under this sub-paragraph it shall be assumed that the landlord will pay—

- (a) the ground rent, if any;
- (b) the premium for insuring against fire risk;
- 55 (c) the original and additional rates and the improvement rate as defined in the Local Government (Rating) Ordinance, 1928, if
No. 20 of 1928.
any;
- (d) repairs arising from fair wear and tear or
60 irresistible force; and
- (e) such other reasonable outgoings, if any, as the Board may determine;

(B) in respect of furnished premises—

the standard rent which would be applicable to the premises if such premises were let unfurnished, plus a sum not exceeding fifteen per centum of the value, as determined by the Board, of the furniture (exclusive of the soft furnishings, linen, cutlery, kitchen utensils, glassware and crockery), and a sum not exceeding twenty-five per centum of the value, as determined by the Board, of such soft furnishings, linen, cutlery, kitchen utensils, glassware and crockery, if any;

the expressions “statutory undertaking” and “statutory duties or powers” include respectively any undertaking established, and any duties or powers imposed or exercised, under any order having the force of law;

“tenant” includes a sub-tenant and any person from time to time deriving title under the original tenant, and the widow of a tenant who was residing with him at the time of his death, or where a tenant leaves no widow or is a woman, such member of the tenant’s family so residing as may be decided by the Board notwithstanding that the rights under the tenancy may have passed on the tenant’s death, to some other person;

“tenancy” includes sub-tenancy;

“tenement house” means a dwelling-house occupied by a number of tenants in excess of the number fixed for such house by the Board.

(2) Notwithstanding anything contained in the definition of “standard rent”, in any case in which the Board is satisfied having regard to the temporary nature of the construction of the premises concerned or to the temporary nature of the lease or licence under which the land on which the premises are situate is held, or to the fact that the premises can be expected to be let only during a certain period of the year, that the standard rent as defined in sub-section (1) of this section would yield an uneconomic return to the landlord, the Board may fix the standard rent at such figure, as the Board shall, in all the circumstances of the case, consider reasonable.

Establishment
of Central
Board, Coast
Board and
other Boards.

3. The Governor shall, for the purposes of this Ordinance, by notice in the Gazette, establish a Rent Control Board for the Central Province of the Colony and a Rent Control Board for the Coast Province of the Colony, and such other Rent Control Boards as he shall think fit and each such Rent Control Board shall have power to act under this Ordinance in respect of the area specified in the notice establishing it.

Constitution of
the Central Board
and the Coast
Board.

4. (1) The Central Board and the Coast Board shall each consist of a Chairman and such members, not exceeding twelve, as the Governor may, by notice in the Gazette, from time to time appoint.

(2) The Chairman of the Central Board and the Chairman of the Coast Board shall be appointed by the Governor, by notice in the Gazette. Each such Chairman shall be a judge, barrister, solicitor or advocate of not less than five years’ standing.

(3) The Governor may, if he thinks fit, appoint the same person to be Chairman of the Central Board and of the Coast Board.

(4) The Chairman and any two members of the Central Board or of the Coast Board, as the case may be, shall con-

stitute a quorum. All matters considered by either of the said Boards shall be decided by the votes of the majority of the Chairman and members present and voting, and, in the event of an equality of votes, the Chairman shall have a casting
5 vote.

(5) The Member of the Executive Council for the time being responsible for Health and Local Government may appoint, either generally or for any particular period, a deputy (who need not be a member of the Central Board or
10 the Coast Board) to act as Chairman of either of those Boards or of both, as the case may be, in the absence or inability to act of the Chairman.

5. (1) The Central Board in its area and the Coast Board in its area, shall have power to do all things which it
15 is required or empowered to do by or under the provisions of this Ordinance, and in particular shall have power—

Powers of
Central Board
and Coast Board. *

- (a) to assess the standard rent of any premises either on the application of any person interested or of its own motion;
- 20 (b) to fix the date from which the standard rent is payable;
- (c) to apportion payment of the rent of premises among tenants sharing the occupation thereof;
- 25 (d) where the rent chargeable in respect of any furnished premises includes a payment for water, light, conservancy, sweeper, watchman, or other service charge in addition to the standard rent, to fix the amount of such payment or service charge;
- 30 (e) where a tenement house is occupied by tenants who enjoy common services, such as water, light, conservancy, sweeper or other common service, to fix a rent inclusive of the standard rent and a payment for water, light, conservancy, sweeper, watchman or other service charge;
- 35 (f) to make orders for the recovery of possession of premises and to put landlords in possession thereof;
- (g) for the purpose of enabling additional buildings to be erected, to make orders permitting landlords to excise vacant land out of the premises comprised in
40 a statutory tenancy, where such a course is, in the opinion of the Central Board or the Coast Board, as the case may be, desirable in the public interest;
- 45 (h) (i) to allocate to any suitable tenant, at such rent as the Board may fix, any dwelling-house which, without good cause has been left unoccupied for a period exceeding one month and, if such dwelling-house is in an unfinished condition, to cause such dwelling-house to be finished in all respects and rendered fit for habitation;
- 50 (ii) to recover the cost of finishing any such dwelling-house and rendering it fit for habitation either from the owner thereof or by directing the tenant to whom the house has been allotted to pay rent therefor to the Board, and the tenant shall be bound to pay such rent accordingly, and the receipt of the
55 Board shall be a good discharge for any rent so paid;
- 60 (i) where the landlord fails to carry out any repairs for which he is liable, to have the required repairs carried out at the cost of the landlord and, if the landlord fails to pay the cost of such repairs, to recover the cost thereof by requiring the tenant to

pay rent to the Central Board or the Coast Board, as the case may be, for such period as may be required to defray the cost of such repairs;

- (j) to permit the levy of distress for rent;
- (k) to impose conditions in any order made by the Central Board or the Coast Board under the provisions of this section; 5
- (l) to administer oaths, to order persons to attend and give evidence or to produce and give discovery and inspection of documents, in like manner as in the proceedings in the Supreme Court; 10
- (m) to award costs of proceedings before it, and to direct that costs shall be taxed upon the Supreme Court scale, or upon the scale applicable to a subordinate court; 15
- (n) to exercise jurisdiction in all civil matters and questions arising under this Ordinance.

(2) The Central Board or the Coast Board, as the case may be, may appoint and employ officers, valuers, inspectors, clerks and other staff for the better carrying out of the provisions of this Ordinance: 20

Provided that where the Central Board or the Coast Board has deputed a valuer, inspector, officer or employee to inspect or view any premises, any report made in that behalf shall be made to the Central Board or the Coast Board in the presence of the landlord or tenant or their representatives. 25

(3) In respect of dwelling-houses whereof the standard rent does not exceed twenty-five shillings a month the Central Board or the Coast Board may delegate all or any of its powers under this Ordinance to an administrative officer or any other person authorized by such Board in that behalf. For the purpose of this sub-section a person occupying such dwelling-house shall be deemed to be a tenant for the purposes of this Ordinance and shall be protected by the provisions of this Ordinance, notwithstanding that he shares the accommodation in such dwelling-house with any other person or persons. 35

(4) Neither the Central Board nor the Coast Board shall have or exercise any criminal powers or entertain any criminal proceeding for any offence whether against this Ordinance or otherwise. 40

Constitution
and powers
of Rent Control
Boards other
than Central
Board or
Coast Board.

6. (1) A Rent Control Board, other than the Central Board or the Coast Board, shall consist of such members as the Governor may, by notice in the Gazette, from time to time, appoint. 45

(2) The Chairman of the Board shall be selected by the Governor from amongst the members so appointed. In the absence of the Chairman from any meeting, the members may appoint one of their number to act as Chairman at that meeting. 50

(3) All matters considered by the Board shall, in the event of a difference of opinion, be decided by the votes of a majority of members present at any meeting, and, in the event of an equality of votes, the Chairman shall have a casting vote. 55

(4) A Rent Control Board, other than the Central Board or the Coast Board, shall have power to do all the things which it is required or empowered to do by or under the provisions of this Ordinance, and in particular shall have all or any of the powers conferred upon the Central Board or the Coast Board by paragraphs (a), (b), (c), (d), (e), (g), (h), (k) and (l) of sub- 60

section (1), and by sub-sections (2) and (3), of section 5 of this Ordinance, and shall also have power to make eviction orders or orders for the recovery of premises where necessary to enable essential repairs to be effected or to enable the premises to be rebuilt or altered if such rebuilding or alterations will, in the opinion of the Board, be for the public benefit.

(5) The provisions of sub-section (4) of section 5 of this Ordinance shall apply to Rent Control Boards other than the Central Board and the Coast Board as well as to the Central Board and the Coast Board.

7. Except as hereinafter provided, where any question is, under the provisions of this Ordinance, to be determined by a Rent Control Board, the determination by such Board shall be final and conclusive: Appeals.

Provided that an appeal from any such determination shall lie on any point of law, or of mixed fact and law—

(a) from the Central Board or the Coast Board, direct to the Court of Appeal for Eastern Africa; and

(b) from any other Rent Control Board, to the Supreme Court.

8. (1) It shall be the duty of the landlord of any premises to which this Ordinance applies which are let for the first time after the commencement of this Ordinance to apply to have the rent of such premises determined by the Board. Standard rent to be determined before first letting.

(2) Any landlord to whom sub-section (1) of this section applies who fails, before the premises are let, to apply to the Board to have the standard rent determined shall be guilty of an offence against this Ordinance and liable to a fine not exceeding two thousand shillings or imprisonment for a term which may extend to one month or to both such fine and imprisonment.

9. (1) It shall be the duty of the Board, in addition to any other powers specifically conferred on it by this Ordinance, to investigate any complaint relating to the tenancy of premises made to it either by a tenant or landlord of such premises. Investigation of complaints by the Board.

(2) Any tenant or any landlord making any such complaint to the Board, shall pay such fee as may be prescribed.

(3) Where the Board is satisfied upon investigation that the tenant of any premises has been, or is being, wilfully subjected to any annoyance by the landlord or by an agent or servant of the landlord, with the intention either of compelling the tenant to vacate the premises or to pay, directly or indirectly, a higher rent for the premises, the Board may, by writing under the hand of the Chairman of the Board, order the landlord of such premises to cease to subject such tenant to such annoyance, and any landlord who fails to comply with the terms of any such order shall be guilty of an offence and shall be liable on conviction by the court to a fine not exceeding two thousand shillings or to a term of imprisonment not exceeding six months, or to both such fine and such imprisonment.

(4) Nothing in this section shall be deemed to preclude the Board from taking cognizance of any infringement of this Ordinance or of any dispute or matter likely to lead to a dispute between a tenant and landlord, although such tenant or such landlord has not made a complaint to a Board under the provisions of this Ordinance.

(5) Where a complaint has been made against a tenant, or against a landlord, or against the agent or servant of either

of them, or where the Board has taken cognizance of any dispute or of any facts which are likely to lead to a dispute between a landlord and a tenant, the Board may order the parties or the landlord or tenant, as the case may be, to appear before the Board at a time and place specified in such order for the purpose of investigating such complaint or dispute. 5

(6) The Board or any person authorized by it in writing for that purpose, may, for the purpose of carrying out its duties and functions under the provisions of this Ordinance, at all reasonable times enter upon and inspect any dwelling-house or any business premises. 10

Penalty for failure to comply with lawful order of the Board.

10. Any person who fails to comply with any order or decision of the Board under the provisions of this Ordinance shall be liable on conviction by the court to a fine not exceeding two thousand shillings or to a term of imprisonment not exceeding six months or to both such fine and imprisonment. 15

Restriction on increasing rent.

11. Subject to the provisions of this Ordinance, where the rent of any premises has been, since the prescribed date, or is hereafter during the continuance of this Ordinance, increased, then, if the increased rent exceeds the standard rent by more than the amount permitted under this Ordinance, the amount of such excess shall, notwithstanding any agreement to the contrary, be irrecoverable from the tenant. 20

Penalty for accepting excess rent.

12. Where, after the commencement of this Ordinance, the landlord of any premises accepts any rent in respect of such premises which exceeds the standard rent thereof by more than any amount permitted under this Ordinance, or, accepts an advance of rent exceeding two months' standard rent, then, without prejudice to any other remedy under this Ordinance, such landlord shall be liable to a fine not exceeding four thousand shillings or to a term of imprisonment not exceeding six months or to both such fine and imprisonment; and the court by which he is convicted may order that the rent or advance so far as it exceeds the amount permitted under this Ordinance shall be irrecoverable, and that the amount of any such excess shall be repaid to the tenant. 30

Permitted increases in rent.

13. (1) A landlord may, by one month's notice in writing to the tenant, increase the rent of any premises as follows:—

- (a) by an amount not exceeding ten per centum of the standard rent of a dwelling-house, or twenty per centum of the standard rent of business premises: 40

Provided that where such rent has previously been increased under the provisions of any Rent and Mortgage Interest (Restrictions) Ordinance in force before the commencement of this Ordinance, the increase now permitted shall be limited to such sum as is required to make the total increase up to ten per centum or twenty per centum, as the case may be, of the standard rent; and 45

- (b) (i) in the case of premises upon which rates payable by the landlord have increased since the premises were let to the tenant, by the amount of such increase; or 50
- (ii) in the case of premises in which rates payable by the landlord have become payable since the premises were let to the tenant, by the amount of such rates. 55

(2) A notice served before the commencement of this Ordinance of an intention to make any increase of rent which is permissible only under this Ordinance shall not be a valid notice for the purpose of this section.

(3) Any transfer to the tenant of any burden or liability previously borne by the landlord shall, for the purposes of this Ordinance, be treated as an alteration of rent, and where, as the result of any such transfer, the terms on which any premises are held are on the whole less favourable to the tenant than the previous terms, the rent shall be deemed to be increased, whether or not the sum periodically payable by way of rent is increased, but any increase of rent in respect of any transfer to a landlord of any burden or liability previously borne by the tenant where as the result of any such transfer, the terms on which any premises are held are on the whole not less favourable to the tenant than the previous terms, shall be deemed not to be an increase of rent for the purposes of this Ordinance:

15 Provided that the rent shall not be deemed to be increased where the liability for rates is transferred from the landlord to the tenant, if a corresponding reduction is made in the rent.

14. The landlord shall forward to the Board a copy of the notice prescribed by sub-section (1) of section 13 of this Ordinance within one week of the date thereof and if such notice contains any statement or representation which is false or misleading in any material respect, the landlord shall be liable to a fine not exceeding four hundred shillings, unless he proves that the statement was made innocently and without intent to deceive. Where a notice of an increase of rent which at the time was valid has been served on any tenant, the increase may be continued without service of any fresh notice on any subsequent tenant.

Notice of increase of rent.

15. (1) Nothing in this Ordinance shall be taken to authorize any increase of rent except in respect of a period during which, but for the provisions of this Ordinance, the landlord would be entitled to obtain possession.

Limitation as to permitted increase in rent.

(2) Notwithstanding any agreement to the contrary, where the rent of any premises is increased, no such increase shall be due or recoverable until, or in respect of any period prior to the expiry of, four weeks, or, where such increase is on account of an increase in rates, one week, after the landlord has served upon the tenant a valid notice in writing of his intention to increase the rent:

40 Provided that this sub-section shall not apply to a statutory tenancy, but, in the case of a statutory tenancy, the increase shall be payable from the commencement of statutory tenancy.

(3) If a notice served as aforesaid contains any statement or representation which is false or misleading in any material respect, the landlord shall be liable, on conviction by the court, to a fine not exceeding four hundred shillings unless he proves that the statement was made innocently and without intent to deceive.

16. (1) No order for the recovery of possession of any premises to which this Ordinance applies, or for the ejectment of a tenant therefrom, shall be made unless—

Restriction on right to possession.

(a) any rent lawfully due from the tenant has not been paid, or any other obligation of the tenancy (whether under the contract of tenancy or under this Ordinance) so far as the same is consistent with the provisions of this Ordinance has been broken or not performed; or

(b) the tenant, or any person residing with him, has been guilty of conduct which is a nuisance or annoyance to adjoining occupiers, or has been convicted of using the premises or allowing the premises to be used for an immoral or illegal purpose, or the condition of the premises has, in the opinion of the Central Board or

the Coast Board or the court, as the case may be, deteriorated owing to acts of waste by, or the neglect or default of, the tenant or any such person; or

- (c) the tenant has given notice to quit, and in consequence of that notice the landlord has contracted to sell or let the premises or has taken any other steps as a result of which he would, in the opinion of the Central Board or the Coast Board, or the court, as the case may be, be seriously prejudiced if he could not obtain possession; or
- (d) (i) the dwelling-house is reasonably required by the landlord for occupation as a residence for himself or for his wife or minor children, or for any person bona fide residing, or to reside with him, or for some person in his whole time employment or in the whole time employment of some tenant from him, and (except as otherwise provided by this sub-section) the Central Board, the Coast Board or the court, as the case may be, is satisfied that alternative accommodation, reasonably equivalent in all respects, is available; or
- (ii) the business premises are reasonably required by the landlord and (except as otherwise provided by this sub-section) the Central Board, the Coast Board or the court, as the case may be, is satisfied that alternative accommodation, reasonably equivalent as regards rent and suitability in all respects is available; or
- (e) the premises are reasonably required for the purpose of the execution of the statutory duties or powers of a local authority or statutory undertaking, or for any purpose which, in the opinion of the Central Board, the Coast Board or the court, as the case may be, is in the public interest; or
- (f) the landlord became the landlord after service in any of His Majesty's forces during the war and requires the dwelling-house for his personal occupation and offers the tenant accommodation on reasonable terms in the same dwelling-house, such accommodation being considered by the Central Board, the Coast Board or the court, as the case may be, as reasonably sufficient in the circumstances; or
- (g) the dwelling-house is required for occupation as a residence by a former tenant thereof who gave up occupation in consequence of his service in any of His Majesty's forces during the war; or
- (h) the tenant, without the consent of the landlord, has at any time assigned, sub-let or parted with possession of the whole or part of the premises.

A landlord who wishes to obtain an ejectment order on this ground may have the option of obtaining a similar order against the occupier or having the occupier as his direct tenant.

For the purposes of this paragraph, if the tenant is a company or firm, the transfer, without the consent of the landlord, of more than fifty per centum of the share capital of the company or the partners' interest in the firm shall be deemed to be an assignment without the consent of the landlord; or

- (i) the landlord is the owner of a dwelling-house which he has previously occupied as a residence for himself

and reasonably requires such house for occupation as a residence for himself or for his wife or minor children, and has complied with the terms relating to the giving of notice contained in any lease in which he has entered with the tenant in respect of such house, or, in the absence of any such lease, has given the tenant one month's notice to quit:

Provided that if, within twelve months next after the date upon which the landlord was, under the provisions of this paragraph, entitled to vacant possession of such dwelling-house, he wishes again to let such house (whether for a consideration or without consideration) he shall give to the tenant who, under the provisions of this paragraph, was required to give up possession of such house, the first option to let and take possession of the said house. If any landlord fails to give such option, or to give up possession to the tenant accepting such option, he shall be liable to a fine not exceeding two thousand shillings or to a term of imprisonment not exceeding six months or to both such fine and imprisonment; or

(j) the dwelling-house is the property of the East African Railways and Harbours Administration (hereinafter called the Administration) and is reasonably required for the occupation of an employee of the Administration; or

(k) the landlord requires possession of the premises to enable the reconstruction or rebuilding thereof to be carried out, in which case the Central Board, the Coast Board or the court, as the case may be, may include in any ejectment order for such purpose an order granting to the tenant a new tenancy of the reconstructed or rebuilt premises, and fixing a date for the completion of the new building and for its occupation by the tenant; or

(l) the landlord is the owner of the dwelling-house (not having purchased or acquired such dwelling-house without vacant possession for the purpose of acquiring the right to occupy such dwelling-house) and requires such dwelling-house for occupation as a residence for some person in his whole time employment; or

(m) the landlord is the owner of business premises which he had occupied prior to the prescribed date and who through circumstances directly attributable to the war in which His Majesty was engaged at the prescribed date was compelled to close his business, trade or profession and to let the premises on which the said business, trade or profession was formerly carried on; or

(n) the landlord has, with the consent of the Board, let the premises for a definite period, or the tenancy is for a term certain, and the landlord requires the premises at the expiry of the said tenancy for his own occupation or for the occupation of his wife or minor children or for some person in his whole time employment; or

(o) the premises are occupied by a larger number of persons than can reasonably be accommodated so that in the opinion of the Central Board, the Coast Board or the court, as the case may be, the premises are overcrowded or constitute, for any reason, a danger to the said premises or to the neighbours.

(2) In any case arising under sub-section (1) of this section no order for the recovery of possession of premises shall be made unless the Central Board, the Coast Board, or the court, as the case may be, considers it reasonable to make such an order.

(3) The existence of alternative accommodation shall not be a condition of the making of an order on any of the grounds specified in paragraph (d) of sub-section (1) of this section—

- (i) where the tenant was in the employment of the landlord or a former landlord, and the dwelling-house was let to him in consequence of that employment and he has ceased to be in that employment; or
- (ii) where the landlord gave up the occupation of the dwelling-house in consequence of his service in any of His Majesty's forces during the war in which His Majesty was engaged at the prescribed date; or
- (iii) where the landlord gave up the occupation of the dwelling-house for the purpose of taking leave outside the Colony and specifically entered into a contract with the tenant to lease such dwelling-house to him for a fixed period not exceeding one year and the landlord wishes himself to re-occupy such dwelling-house immediately upon the termination of the contract.

(4) Nothing in paragraph (h) or (i) of sub-section (1) of this section shall be deemed to permit a landlord to recover possession of a dwelling-house if by such recovery he or his wife and minor children would be in occupation of, or would acquire the right to occupy, more than one dwelling-house at the same time.

(5) At the time of the application for the making of any order for the recovery of possession of any such premises, or for the ejectment of a tenant therefrom, or in the case of any such order which has been made, whether before or after the passing of this Ordinance, and not executed at any subsequent time, the Central Board, the Coast Board or the court, as the case may be, may adjourn the application, or stay or suspend execution on any such order, or postpone the date of possession for such period or periods as it thinks fit, and, subject to such conditions (if any) in regard to payment by the tenant of arrears of rent, or mesne profits and otherwise as the Central Board, the Coast Board or the court thinks fit, and, if such conditions are complied with, the Central Board, the Coast Board or the court, as the case may be, may if it thinks fit, discharge or rescind any such order.

(6) An order against a tenant for the recovery of possession of any premises or ejectment therefrom under the provisions of this section shall not affect the right of any sub-tenant, to whom the premises or any part thereof have been lawfully sub-let before proceedings for recovery of possession or ejectment were commenced, to retain possession under the provisions of this section, or be in any way operative against any such sub-tenant.

(7) Where a landlord has obtained an order for possession or ejectment under this section on the ground that he requires any premises for his own occupation, and it is subsequently made to appear to the Central Board, the Coast Board or the court, as the case may be, that the order was obtained by misrepresentation or the concealment of material facts, the Central Board, the Coast Board or the court may order the landlord to pay to the former tenant such sum as

appears sufficient as compensation for damage or loss sustained by such tenant as the result of the order. A landlord who has obtained such an order by misrepresentation or on concealment of material facts shall be liable to a fine not exceeding four thousand shillings or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(8) Any person who contravenes or fails to comply with any order made under sub-section (1) of this section shall be liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

17. No distress for the rent of any premises to which this Ordinance applies shall be levied except with the leave of the Central Board or the Coast Board within their respective areas or, in any other area with leave of the court and the Central Board, the Coast Board and the court shall, with respect to any application for such leave, have the same or similar powers with respect to adjournment, stay, suspension, postponement or otherwise as are conferred by sub-section (5) of section 16 of this Ordinance in respect of an application for recovery of possession.

Restriction on
levy of distress
for rent.

18. (1) No person shall, as a condition of the grant, assignment, renewal or continuance of a tenancy, lease, sub-lease, sub-letting or occupation of any premises require the payment of, or take or give any fine, premium or other like sum, or any pecuniary consideration, in addition to the rent; and, where any such payment or consideration has been made or given in respect of any premises under an agreement made after the prescribed date the amount or value thereof shall be recoverable by the person by whom it was made or given.

Restriction
on premiums.

(2) Any person requiring, taking or giving any payment or consideration in contravention of this section shall be liable to imprisonment for a term not exceeding twelve months without the option of a fine.

(3) This section shall not apply to the grant, assignment, renewal or continuance for a term of fourteen years or upwards of any tenancy; or to assignment of leases created not less than six months before the date of the commencement of this Ordinance and having at such date an unexpired term of not less than two years to run.

19. Where any person lets, or has let, any premises at a rent which includes payment in respect of the use of furniture, the maximum rent per annum which may be charged shall be the standard rent applicable to furnished premises and, if service is included, such service charge as may be permitted by the Board and any rent or charge levied in excess of such standard rent and permitted charge shall, notwithstanding any agreement to the contrary, be irrecoverable from the tenant.

Penalty for
excessive
charges for
furnished
lettings.

20. (1) A landlord of any premises shall, on being so requested in writing by any Rent Control Board or the tenant of the premises supply to the Board and to the tenant a statement in writing as to the amount of the standard rent of the premises and if, without reasonable excuse, he fails within fourteen days to do so, or supplies a statement which is false in any material particular, he shall be liable to a fine not exceeding one thousand shillings:

Statement to
be supplied
as to standard
rent.

Provided that this sub-section shall only apply in cases where the premises were let at the prescribed date or where the standard rent has been determined by the Board.

(2) The expression "landlord" in sub-section (1) of this section shall include any agent, clerk or other person employed by the landlord, and if any such agent, clerk or other person fails to supply the Board or the tenant with a statement in writing as to the amount of the standard rent of the premises in accordance with the provisions of this section, the landlord shall be answerable for such omission, and the landlord and the agent, clerk or other person shall be jointly and severally liable to the penalty provided by sub-section (1) of this section.

Recovery of
sums made
irrecoverable.

21. (1) Where any sum has, since the prescribed date, been paid on account of any rent, being a sum which is, under the provisions of this Ordinance, irrecoverable by the landlord, the sum so paid shall be recoverable from the landlord who received payment or from his legal personal representative, by the tenant by whom it was paid, and any such sum, and any other sum which, under the provisions of this Ordinance is recoverable by a tenant from a landlord or payable or repayable by a landlord to a tenant, may, without prejudice to any other method of recovery, be deducted in monthly instalments by the tenant from any rent payable by him to the landlord.

(2) If—

(a) any person in any rent book or similar document makes an entry showing or purporting to show any tenant as being in arrear in respect of any sum which under the provisions of this Ordinance is irrecoverable; or

(b) where any such entry has, before the commencement of this Ordinance, been made by or on behalf of any landlord, and the landlord, on being requested by or on behalf of the tenant so to do, refuses or neglects to cause the entry to be deleted within seven days,

that person or landlord shall, on conviction by the court, be liable to a fine not exceeding four hundred shillings, unless he proves that he acted innocently and without intent to deceive.

(3) No sum made irrecoverable by sub-section (1) of this section may be recovered by the tenant in any court, unless the tenant has, within three months after the date of commencement of the tenancy, given notice to the landlord that he objects to the payment of such sum, and unless the tenant has instituted legal proceedings for the recovery of the sum in question within two years from the date of the payment thereof, and, in no case, shall the tenant be allowed to recover more than six months' excess rent.

(4) Nothing in this section shall revive any claim which was barred by time at the commencement of this Ordinance.

Failure to
supply rent book
and penalty for
false entry.

22. If a landlord fails to supply his tenant with a rent book on demand or fails to cause to be entered therein the standard rent, or any payment on account of rent or fails to sign or cause to be signed any such entry, the landlord or such person shall be liable to a fine not exceeding four hundred shillings, unless he proves that he acted innocently and without intent to deceive.

Conditions of
statutory
tenancy.

23. (1) A tenant who, under this Ordinance, retains possession of any premises shall, so long as he retains possession, observe and be entitled to the benefit of all the terms and conditions of the original contract of tenancy, so far as the same are consistent with the provisions of this Ordinance, and shall be entitled to give up possession of the premises only on

giving such notice as would have been required under the original contract of tenancy, or, if no notice would have been so required, then, notwithstanding any provision to the contrary in any law in force in the Colony, on giving not less
 5 than three months' notice:

Provided that, notwithstanding anything in the contract of tenancy, a landlord who obtains an order for the recovery of possession of any premises or for the ejectment of a tenant retaining possession as aforesaid shall not be required to give
 10 any notice to quit to the tenant.

(2) Any tenant retaining possession as aforesaid shall not, as a condition of giving up possession, ask for or receive payment of any sum, or any other consideration, from the landlord or any other person; and any tenant who asks or receives, any
 15 such sum or consideration shall be liable on conviction to a fine not exceeding two thousand shillings, and the court by which he was convicted may order any such payment or the value of such consideration to be returned to the person by whom the same was given, and any such order shall be in
 20 lieu of any other method of recovery.

(3) Where the interest of a tenant of any premises is determined, either as the result of an order for possession or ejectment or for any other reason, any sub-tenant to whom the premises or any part thereof have been lawfully sub-let shall,
 25 subject to the provisions of this Ordinance, be deemed to become the tenant of the landlord on the same terms as he would have held from the tenant if the tenancy had continued.

24. (1) The landlord of any tenement house in respect of which the tenants enjoy common service such as water and
 30 light on a common meter, conservancy, sweeper, watchman or other common service, shall register the premises with the Board as a tenement house within one month after the commencement of this Ordinance, or, in the case of a tenement house first occupied as such after the commencement of this
 35 Ordinance within one month after the occupation of the premises as a tenement house, and the landlord shall, from time to time, supply the Board with such particulars concerning the tenement house as may be required.

Tenement houses
to be
registered.

(2) Any person who contravenes or fails to comply with
 40 the provisions of sub-section (1) of this section shall be liable to a fine not exceeding four hundred shillings or to imprisonment for a term not exceeding one month or to both such fine and imprisonment.

25. (1) No landlord shall deprive or attempt to deprive
 45 a tenant of water, light, conservancy, sweeper or other service without the consent of the Board.

Penalty for
depriving
tenant of
service.

(2) Any landlord who contravenes the provisions of sub-section (1) of this section shall be liable to a fine not exceeding three hundred shillings or to imprisonment for a term not
 50 exceeding one month or to both such fine and imprisonment.

26. Where, for the purpose of determining the standard rent a valuation of the premises has been made by the Board, the Board shall forthwith send written notification to the landlord and the tenant or their representatives that the details of
 55 the valuation are available for their information and that before the standard rent is determined, they may, if they wish to appear before the Board on a date to be specified in the notification and to object to the valuation.

Notification
of valuation.

27. For the purposes of this Ordinance it shall be deemed
 60 to be the obligation of the landlord of any premises to maintain and keep the premises in a state of good structural repair and in a condition suitable for human habitation and it shall be

Repairs.

deemed to be the obligation of the tenant of any premises, other than a tenement house, to maintain the premises in the same state, fair wear and tear and damage arising from irresistible force excepted, in which the premises were at the commencement of the tenancy.

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Restriction on
right to
assign or
sub-let
premises.

28. Notwithstanding the absence of any covenant against assigning or sub-letting premises, no tenant shall have the right to assign, sub-let or part with possession of the premises or any part thereof without the written consent of the landlord, which consent shall not be unreasonably withheld.

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Sub-letting
by tenant.

29. (1) Notwithstanding anything contained in this Ordinance, the tenant of any dwelling-house may—

(a) with the consent in writing of the landlord (which consent shall not be unreasonably withheld) and with the consent of the Board; or

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(b) in any case where, in the opinion of the Board the consent of the landlord has been unreasonably withheld, with the consent of the Board alone,

sub-let for a period of not more than six months (which period may with the consent of the Board be extended for a further period of three months) any dwelling-house of which the tenant is in personal occupation; and upon the expiration of the period for which such dwelling-house has been sub-let, the tenant shall be entitled to resume personal occupation of the dwelling-house.

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(2) Any sub-tenant to whom sub-section (1) of this section applies who fails, without the consent of the tenant, to give the tenant vacant possession of the dwelling-house upon the due date shall be liable to pay to the tenant on demand in writing by the tenant a sum of one hundred shillings in respect of each day on which he continues to occupy the premises adversely to the tenant; and any such sum may be recovered by the tenant as a civil debt.

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(3) Notwithstanding anything contained in this Ordinance, the landlord of any dwelling-house in personal occupation of such dwelling-house may, with the consent of the Board let the dwelling-house for a period of not more than six months, and upon the expiration of the period for which such dwelling-house has been let, the landlord shall be entitled to resume personal occupation of the premises.

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(4) Any tenant to whom sub-section (3) of this section applies, who fails, unless excused by the landlord, to give to the landlord vacant possession of the dwelling-house upon the due date, shall be liable to pay to the landlord on demand in writing a sum of one hundred shillings in respect of each day on which he continues to occupy the premises adversely to the landlord; and any such sum may be recovered by the landlord as a civil debt.

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(5) If, at the date of expiry of the period specified in sub-section (1) of this section, the tenant has not re-entered into personal occupation of the dwelling-house the person in occupation of the dwelling-house shall be deemed to be the tenant of the landlord from the date of expiry of the specified period and, from such date, the landlord shall have against such occupant all the rights and remedies which he would have against his own tenant and, in addition, the rights and remedies which the tenant would have against a sub-tenant under sub-section (2) of this section.

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Penalty for
subjecting
tenant to
annoyance.

30. Any landlord or his agent or servant who wilfully subjects a tenant to any annoyance with the intention of compelling the tenant to vacate the premises, or to pay, directly or indirectly, a higher rent for the premises shall be liable on

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conviction by the court to a fine not exceeding two thousand shillings or to a term of imprisonment not exceeding six months, or to both such fine and imprisonment.

31. (1) The court shall have jurisdiction to deal with
5 any offence under this Ordinance or with any claim or other proceeding arising under this Ordinance (including suits for recovery of possession) as to which jurisdiction or power is not specifically conferred by this Ordinance on the Board, notwithstanding that by reason of the amount of penalty,
10 claim or otherwise the case would not, but for this provision, be within the jurisdiction of the court.

Jurisdiction of court.

(2) If a person takes proceedings under this Ordinance in the Supreme Court which he could have taken in the court he shall, if successful, only be entitled to recover costs on the
15 subordinate court scale.

32. (1) The Governor in Council may make such Regu-
lations, and give such directions, as he may think fit for the purpose of giving effect to the provisions of this Ordinance.

Regulations.

(2) Without prejudice to the generality of the foregoing
20 power, such Regulations may prescribe—

- (a) the manner in which Rent Control Boards shall conduct their business;
- (b) the matters which shall be taken into account by
25 Rent Control Boards in exercising their powers under this Ordinance;
- (c) the circumstances or cases in which Rent Control Boards may grant or withhold consent under the provisions of this Ordinance; and
- (d) the fees which shall be payable in respect of any
30 matter or thing to be done under this Ordinance.

(3) The Supreme Court may make rules prescribing the procedure to be followed, and the fees to be paid in respect of any appeal to the Supreme Court from any decision or determination of a Rent Control Board.

35 33. The Increase of Rent and of Mortgage Interest (Restrictions) Ordinance, 1940, (which is hereby declared to have continued in full force and effect until the commencement of this Ordinance) is hereby repealed.

Repeal.
Ordinance
No. 12 of
1948.

SCHEDULE

(Section 2).

PART I—DWELLING-HOUSES

Name of area, district or place	Prescribed date
The Municipalities of Nairobi, Mombasa, Nakuru, Kisumu and Kitale	3rd September, 1939.
The Township of Machakos and the Ngong-Kikuyu (No. 1) Ward of the Nairobi District Council Area	1st January, 1940.
The Township of Nanyuki	1st June, 1940.
The Municipality of Eldoret	31st December, 1940.
The Township of Thika	30th June, 1941.
The Nyeri Township and the Karatina Trading Centre	31st December, 1941.
All other areas in the Colony	31st March, 1942.

PART II—BUSINESS PREMISES

Name of area, district or place	Prescribed date
The Township of Machakos	1st January, 1940.
The Municipalities of Nairobi, Kisumu, Nakuru, Eldoret and the Township of Nanyuki	31st December, 1940.
The Municipality of Kitale, the Township of Nyeri and the Karatina Trading Centre ..	31st December, 1941.
All other areas in the Colony	31st March, 1942.

MEMORANDUM OF OBJECTS AND REASONS

The object of this Bill is to give legal effect to the recommendations of the Committee appointed to consider the Increase of Rent and of Mortgage Interest (Restrictions) Ordinance, 1940, which were embodied in its Report dated 1st November, 1949. That Report has already received the approval of the Legislative Council.

For convenience, the provisions of the Increase of Rent and of Mortgage Interest (Restrictions) Ordinance, 1940, which deal with mortgage interest, have been removed from the present Bill and form the subject of a separate Bill.

The new Bill will expire on 31st December, 1950, unless extended by resolution of the Legislative Council. It will apply to all premises, whether dwelling-houses or business premises, situate in any area in the Colony in which a Rent Control Board has been established, other than—

- (a) premises the standard rent of which exceeds Sh. 10,000 per annum and vacant possession of which has been recovered by the landlord after the commencement of the Ordinance;
- (b) business premises erected after 1st January, 1949;
- (c) premises owned by a local authority;
- (d) premises which are exempted from the provisions of the Ordinance.

Under *clause 3* the Governor is to establish a Rent Control Board for the Central Province of the Colony and a Rent Control Board for the Coast Province of the Colony and such other Rent Control Boards as he shall think fit and each Rent Control Board is to have power to act in respect of the area specified in the Notice establishing it.

The Central Board and the Coast Board have different constitutions and powers from the Boards to be established for the other areas. The intention of the Report of the Committee was that they should be presided over by Chairmen who must be barristers of considerable experience gained either at the Bar or on the Bench. In view of the fact that they would have a Chairman of legal experience, they were to be granted more extensive powers than those to be conferred upon other Rent Control Boards who would not have a legal Chairman. The Bill gives effect to these recommendations.

Under *clause 4 (1)* the Central Board and the Coast Board are each to consist of a Chairman and such members, not exceeding twelve, as the Governor may, by notice in the Gazette, from time to time, appoint. The Chairman of each of these Boards is to be a barrister, solicitor or advocate of not less than five years' standing and the Governor may, if he thinks fit, appoint the same person to be Chairman of the Central and Coast Boards.

The powers of the Central Board and the Coast Board are set out in *clause 5* and include power to assess standard rents either on the application of any person interested or of its own motion; to fix the date from which the standard rent is payable; to apportion payments of rents on premises among tenants sharing the occupation thereof; to make orders for recovery of possession of premises and put landlords in possession thereof for the purpose of enabling additional buildings to be erected; to make orders permitting landlords to excise vacant land out of the premises comprised in statutory tenancies where such a course is, in the opinion of the Central Board or the Coast Board, in the public interest; to allocate to suitable tenants at such rents as the Board may fix, dwelling-houses which, without good cause have been left unoccupied for a period exceeding one month, and, if such dwelling-houses are in an unfinished condition, to cause them to be finished and to cover the cost of so doing by directing the tenant to pay rent to the Board; to carry out repairs for which the landlord is liable and which he fails to do, at the cost of the landlord; to permit the levy of distress for rent, and to exercise certain other powers detailed in the clause. The Central Board and the Coast Board are given powers to appoint officers to delegate certain of their functions. No Rent Control Board is to exercise any jurisdiction in criminal matters.

Clause 6 deals with the constitution and powers of Rent Control Boards other than the Central Board or the Coast Board. These powers are less extensive than those conferred upon the Central Board and the Coast Board.

Clause 7 provides that an appeal shall lie from a determination of the Board on a point of law or of mixed fact and law—

(a) from the Central Board or the Coast Board direct to the Court of Appeal for Eastern Africa; and

(b) from any other Rent Control Board to the Supreme Court.

On questions of fact the determination of a Rent Control Board will be final.

Clause 8 provides that the standard rent must be determined before the first letting of any premises.

Clause 9 reproduces section 5 of the existing Ordinance relating to investigation of complaints by Rent Control Boards.

Clause 10 provides a penalty for failure to comply with any lawful order of a Board.

Clause 11 restricts the power to increase rent to an amount not exceeding the standard rent plus any increase which may be allowed under the Ordinance and makes irrecoverable any excess of rent which may be charged above this.

Clause 12 reproduces section 8 of the existing Ordinance and provides a penalty for accepting rent in excess of that allowed under the Ordinance. The Penalty is increased to Sh. 4,000 or a maximum of six months' imprisonment or both.

Clause 13 lays down what the permitted increases are and provides that a landlord may, on one month's notice in writing to the tenant, increase the rent of any premises—

(a) by an amount not exceeding 10 per cent of the standard rent on a dwelling-house or 20 per cent of the standard rent on business premises; and

(b) in the case of premises upon which rates payable by landlords have increased since the premises were let to the tenant, by the amount of such increase, or where rates have become payable by the landlord since the premises were let to the tenant, by the amount of such rates.

There is a proviso dealing with cases where the rent has previously been increased under the provisions of the previous Ordinance. In such a case the increase permitted is limited to such sum as is required to bring the whole increase up to the 10 per cent or 20 per cent now allowed, as the case may be.

Clauses 14 and 15 contain ancillary provisions.

Clause 16 deals with restriction on the right to possession of premises, and provides that no order for the recovery of possession of any premises to which the Ordinance applies or for the ejectment of a tenant shall be made except in the cases enumerated in the clause. Most of these cases are already contained in the existing Ordinance but the following are new:—

sub-clause (d) the existing right of a landlord to recover possession of a dwelling-house is extended to business premises;

sub-clause (h) option is now given to the landlord to obtain an ejectment order against the actual occupier in cases of sub-letting without consent, and definition is included to cover changes in share capital or interest in companies and partnerships;

sub-clause (k) enables possession to be obtained by the landlord for the purpose of reconstruction or rebuilding of the premises;

sub-clause (l) the purchaser of a dwelling-house which is purchased with vacant possession and for the purpose of accommodation for employees can obtain possession;

sub-clause (m) the owner of business premises which were previously occupied by him and who was compelled to close down his business owing to the war, is enabled to recover possession;

sub-clause (n) covers cases in which premises have been let for a fixed term;

sub-clause (o) will prevent overcrowding.

Clause 17 provides that no distress for rent of premises shall be levied except with the consent of the Central Board or the Coast Board within those areas or otherwise without the leave of the court. This provision is rendered necessary in view of the repeal of the Courts (Emergency Powers) Ordinance, 1944.

Clause 18 prohibits the giving or taking of premiums or other pecuniary consideration in addition to the rent and makes the amount of any premium or consideration given, recoverable by the person by whom it was given.

Sub-clause (2) of this clause provides a penalty of imprisonment, which may extend to twelve months, without the option of a fine, for any person who requires, takes or gives any payment or consideration in contravention of the section. The section is not to apply to the grant, assignment, renewal or continuance for a term of fourteen years or upwards of any tenancy; or to assignment of leases created not less than six months before the date of the commencement of this Ordinance and having at such date an unexpired term of not less than two years to run.

Clause 19 provides a penalty for excessive charges for furnished lettings.

Clause 20 requires a statement of the standard rent to be supplied to the tenant or to any Rent Control Board on request.

Clause 21 deals with the recovery from the landlord of any sums which he has received and was not entitled to receive under the provisions of the Ordinance.

Clause 22 provides a penalty for failing to supply a rent book on demand.

Clause 23 lays down the conditions of statutory tenancies.

Clause 24 requires tenement houses to be registered.

Clause 25 provides a penalty for depriving a tenant of services such as water, light, conservancy, without the consent of the Board.

Clause 26 provides for the parties to be notified when valuation of premises is made by the Board for the purpose of assigning a standard rent, and to be given an opportunity of objecting.

Clause 27 following a recommendation made in the Report, provides that it shall be deemed to be the obligation of the landlord of any premises to maintain and keep the premises in a state of good structural repair and in a condition suitable for human habitation and that it shall be deemed to be the obligation of the tenant, other than the tenant of a tenement house, to maintain the premises in the same state, fair wear and tear and damage arising from irresistible force excepted, in which the premises were at the commencement of the tenancy.

Clause 28 restricts the right to assign or sub-let premises to which the Ordinance applies, without the consent of the landlord, such consent not to be unreasonably withheld.

Clause 29 reproduces section 6 of the Increase of Rent and of Mortgage Interest (Restrictions) (Amendment No. 2) Ordinance, 1943, which deals with sub-letting for short periods.

Clause 30 provides a penalty for subjecting a tenant to annoyance.

Clause 31 extends the jurisdiction of subordinate courts of the first class to deal with cases under the Ordinance.

Clause 32 is a rule making clause and *clause 33* repeals the Increase of Rent and of Mortgage Interest (Restrictions) Ordinance, 1940.

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

Nairobi,
22nd April, 1949.

K. K. O'CONNOR,
Attorney General.