



THE OFFICIAL GAZETTE
OF THE COLONY AND PROTECTORATE OF KENYA

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

VOL. LI—No. 46

NAIROBI, October 11, 1949

Price 50 Cents

CONTENTS

Govt Notices Nos 1003-1006	PAGE	Bills—(Contd)	PAGE
Bills for introduction into the Legislative Council —			
A Bill entitled An Ordinance to Amend the Coffee Industry (Financial Assistance) Ordinance, 1944	783	A Bill entitled An Ordinance to Authorize Further Increases under, and otherwise to Amend, the Pensions (Increase) Ordinance, 1945, and to continue that Ordinance in force as amended	806
A Bill entitled An Ordinance to Provide for Local Government in Native Areas and for the Establishment of African District Councils and Other Matters Incidental Thereto	785	A Bill entitled An Ordinance to Amend the Asiatic Widows and Orphans' Pension Ordinance, 1927	813

GOVERNMENT NOTICE No 1003

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

A BILL ENTITLED
AN ORDINANCE TO AMEND THE COFFEE INDUSTRY
(FINANCIAL ASSISTANCE) ORDINANCE, 1944

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 Coffee Industry (Financial Assistance) (Amendment) Ordinance, 1949, and shall be read and construed as one with the Coffee Industry (Financial Assistance) Ordinance, 1944 (hereinafter referred to as the principal Ordinance) Short title
No 4 of 1944
 2. Section 7 of the principal Ordinance is amended in the following respects— Amendment of
section 7 of
the principal
Ordinance
 - (a) by substituting for the words and figures “31st day of March, 1945” where they occur in sub-section (1) the words and figures “30th day of June, 1950”,
 - (b) by substituting for the words and figure “the sum of £7” where they occur in the proviso to sub-section (2) the words and figures “the sum of £15”
 3. There shall be substituted for the provisos to sub-section (2) of section 10 of the principal Ordinance the following provisos — Amendment of
section 10 of
the principal
Ordinance
- Provided that—
- (i) if in any case the Board is satisfied that the provisions of the Ordinance and any special conditions attached to any advance have been

observed, a person to whom any such advance has been made shall not be required in any of the years 1st July, 1949, to 30th June, 1950, 1st July, 1950, to 30th June, 1951, and 1st July, 1951, to 30th June, 1952, to repay to the Board more than thirty cents for each pound of coffee sold in any such year by or on behalf of such person unless in any such year the average yield of his crop exceeds four hundred-weight of coffee per acre when the repayment for every pound of coffee sold in that year in excess of such average yield shall be increased by an additional thirty cents,

- (ii) nothing in this section shall preclude any person from repaying the balance due from him to the Bank at any time or shall prejudice the right of the Board to recover the balance of any advance which may remain unpaid after the 30th day of June, 1952

MEMORANDUM OF OBJECTS AND REASONS

By reason of the fact that in two recent years the coffee crop has been poor it has again become necessary to provide for financial assistance to the industry Under the Coffee Industry (Financial Assistance) Ordinance, 1944, provision for such assistance was made, but, under a proviso to section 7 of the Ordinance, no application for an advance of money made after the 31st March, 1945, could be considered This Bill will amend that proviso so as to extend the period during which applications for assistance may be made to the 30th June, 1950

The proviso to sub-section (2) of section 7 of the principal Ordinance is also amended by increasing from £7 to £15 the maximum sum per acre which may be advanced to a coffee planter

The Bill also substitutes new provisos for the two provisos to sub-section (2) of section 10 of the principal Ordinance The new provision increases from fourteen to thirty cents per pound the maximum amount by which a person to whom an advance has been made can be required to repay the sum advanced in any of the years 1st July, 1949, to 30th June, 1950, 1st July, 1950, to 30th June, 1951, and 1st July, 1951, to 30th June, 1952 The increase of the repayment maximum is considered reasonable in view of the increases which have taken place in the price of coffee since the principal Ordinance was enacted

It is not possible to estimate whether, if this Bill becomes law, any additional expenditure of public moneys will result

Nairobi,
31d October, 1949

K K O'CONNOR,
Attorney General

GOVERNMENT NOTICE NO 1004

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

This Bill is in substitution for the Bill published under Government Notice No 1163 in the Official Gazette (Special Issue) of the 7th December, 1948

ALEX M WILKIE,
Acting Clerk to the Legislative Council

ARRANGEMENT OF SECTIONS

PART I—PRELIMINARY	SECTION	SECTION	SECTION
SECTION	21—Contd	23—Contd	
1—Short title and commencement	(26) Grants-in-aid	(6) Animal and plant disease	
2—Interpretation	(27) Welfare services	(7) Protecting land	
PART II—ESTABLISHMENT, CONSTITUTION AND PROCEEDINGS OF AFRICAN DISTRICT COUNCILS	(28) Social centres	(8) Dairy produce	
3—Power to establish African District Councils	(29) Canteens	(9) Hides and skins	
4—Councils to be bodies corporate	(30) Native court buildings	(10) Control of agricultural land	
5—Membership of Councils	(31) Native court expenses	(11) Prescribing methods of husbandry	
6—Filling of casual vacancies	(32) Benefits for employees	(12) Preservation of the soil	
7—President and Deputy President	(33) Holding of land	(13) Prohibiting grazing	
8—Right of certain persons to attend and speak, but not vote, at meetings	(34) Rents and charges	(14) Tax or cess	
9—Meetings of Councils	(35) Fees	24—By-laws may impose special conditions	
10—Meetings to be public	(36) Licences	25—Notice of intention to make by-laws	
11—Effect of absence of members from meetings	(37) Remission of fees, etc	26—When by-laws become operative	
12—Minutes to be kept	(38) Salaries of chiefs	27—Penalties for breach of by-laws Powers to take bond, etc	
13—When meetings deemed to be duly convened and held	(39) Travelling, etc., allowances	28—By-laws not to override or derogate from other laws	
14—Minutes open to inspection	(40) General		
15—Appointment of committees	(41) Expenditure for carrying out purposes of this Ordinance	PART IV—REVENUE OF COUNCILS AND POWERS OF TAXATION	
16—Appointment of officers and other employees	22—General power to make by-laws	29—Revenue of Councils	
17—Validity of acts of Councils and officers	(1) General	30—Powers to levy rates	
PART III—POWERS AND DUTIES OF COUNCILS	(2) Intoxicating liquors	PART V—ACCOUNTS AND AUDIT	
18—Power to enter into contracts	(3) Control of arms	31—Member may authorize advances	
19—Joint Committees of Councils	(4) Collection of money	32—Borrowing powers	
20—Delegation of powers	(5) Movement of live stock	33—Investment of funds	
21—Powers of Councils if authorized by Member	(6) Dances	34—Annual and supplementary estimates	
(1) Roads	(7) Immoral premises	35—Reallocation of approved estimates	
(2) Markets	(8) Registration of births, etc	36—Accounts	
(3) Recreation grounds	(9) Bride price	37—Audit of accounts	
(4) Burial grounds	(10) Testamentary dispositions	38—Auditor may take evidence	
(5) Council buildings	(11) Protection of roads	39—Payment for services of Auditor	
(6) Camping grounds and outspans	(12) Public health	PART VI—CENTRAL ORGANIZATION	
(7) Public lighting	(13) Burial of the dead	40—Standing Committee for Councils	
(8) Public lavatories	(14) Exposure of the dying	41—Inquiries	
(9) Slaughter-houses	(15) Protection of trees	42—Governor may dissolve a Council	
(10) Public weighing machines	(16) Destruction of locusts	43—Member may make or amend by-laws	
(11) Water supplies	(17) Control of swamps	44—Recovery of Government expenditure	
(12) Pounds	(18) Prohibition of cultivation near streams	PART VII—LEGAL PROCEDURE AND MISCELLANEOUS	
(13) Agricultural services	(19) Preservation of crops	45—Power of members, officers and servants to enter premises	
(14) Agricultural farms	(20) Grass fires	46—Powers of arrest	
(15) Hides and skins	(21) Bush and forest fires	47—Offences	
(16) Produce inspection	(22) Famine relief	48—Offence to obstruct	
(17) Public health	(23) Soil erosion	49—General penalties	
(18) Dispensaries	(24) Communal services	50—Conduct of prosecutions	
(19) Sanitary services	(25) Regulation of markets	51—Actions against Councils	
(20) Forestry	(26) Control of trading	52—Member may make rules	
(21) Tree planting	(27) Premises used for trade, etc	53—Substitution of "African District Council" for "Local Native Council" in other laws	
(22) Transport services	(28) Licensing certain occupations	54—Repeal and savings	
(23) Ferries	(29) Licensing dogs, carts, etc		
(24) Housing	(30) Transport services		
(25) Education and bursaries, etc	(31) Buildings		
	(32) Pension funds, etc		
	23—Special power to make by-laws, if authorized by Member		
	(1) Noxious plants		
	(2) Holding of public meetings		
	(3) Spread of diseases		
	(4) Pollution of water supplies		
	(5) Regulating water supplies		

**A BILL ENTITLED
AN ORDINANCE TO PROVIDE FOR LOCAL GOVERNMENT IN NATIVE AREAS AND FOR THE ESTABLISHMENT OF AFRICAN DISTRICT COUNCILS AND OTHER MATTERS INCIDENTAL THERETO.**

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

PART I—PRELIMINARY

Short title and commencement

1. This Ordinance may be cited as the African District Councils Ordinance, 1949, and shall come into operation upon such date as the Governor in Council may, by notice in the Gazette, appoint 5

Interpretation

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

“African” includes a Somali,

No 2 of 1937

“Chief” means a headman appointed under the provisions of the Native Authority Ordinance, 1937, and includes an Assistant Chief or sub-headman appointed by the Provincial Commissioner, 10

“Commissioner” means the Commissioner for Local Government,

“Council” means an African District Council established under the provisions of Part II of this Ordinance, 15

No 2 of 1937

“Local Native Council” means a Local Native Council established under the provisions of the Native Authority Ordinance, 1937,

“Member” means the Member of the Executive Council of the Colony, for the time being, performing the duties of Member for Health and Local Government, 20

No 39 of 1930

“native court” means a native tribunal established under the provisions of the Native Tribunals Ordinance, 1930, or any Ordinance amending or replacing it, 25

“President” means the President of a Council appointed under the provisions of section 7 of this Ordinance,

“Standing Committee” means the Standing Committee for African District Councils established under the provisions of section 40 of this Ordinance 30

PART II—ESTABLISHMENT, CONSTITUTION AND PROCEEDINGS OF AFRICAN DISTRICT COUNCILS

Power to establish African District Councils

3. The Governor may, by notice in the Gazette, establish an African District Council for any area specified in such notice 35

Provided that, until such time as the Governor so establishes a Council for any area or for any tribe or for a group of tribes in any area, any Local Native Council exercising jurisdiction in such area shall, for all the purposes of this Ordinance, be deemed to have been established as an African District Council under the provisions of this section 40

Councils to be bodies corporate

4. Every Council shall, under the name of “The African District Council of (insert description of area)”, be a body corporate with perpetual succession and a common seal, with power to alter such seal from time to time, and shall by such name be capable in law of suing and of being sued, of purchasing, holding and disposing of property of any description including land, and generally of doing and performing all such acts and things as bodies corporate may by law do and perform, subject to the provisions of this Ordinance and of any other law for the time being in force in the Colony 45 50

Membership of Council

5. (1) Every Council shall consist of a District Commissioner appointed by the Provincial Commissioner and such African members as the Provincial Commissioner may determine 55

Provided that if the Governor so directs a Council shall consist of such African members only

(2) The members of a Council shall be appointed by the Provincial Commissioner, by notice in the Gazette

Provided that the Provincial Commissioner may, in lieu of such appointment, authorize the election of a specified number of African members to any Council. Such elections shall be held in such manner, and in respect of such geographical or other units, as the Provincial Commissioner may direct

(3) Every African member of a Council, whether appointed or elected, shall, subject to the provisions of sub-section (2) of section 6 of this Ordinance, hold office for a period of three years, but may be removed from office at the Governor's pleasure

Provided, however, that the Provincial Commissioner may, by notice published in the Gazette, provide for the retirement annually of one third of the African members of any Council specified in such notice

6. (1) Where any African member of a Council resigns his office as such, or dies, or is removed from office by the Governor, or ceases to be a member under the provisions of section 11 of this Ordinance, such vacancy shall be filled by an African appointed by the Provincial Commissioner, by notice in the Gazette

Filling of casual vacancies

(2) An African member appointed under the provisions of sub-section (1) of this section shall have all of the rights and privileges of and be under the same obligations and liabilities as the member in whose place he was appointed

7. (1) The Provincial Commissioner may, by notice in the Gazette, appoint a President from among the members of a Council or may provide for the election, by such Council, in such manner as he may specify, of a President from among its members

President and Deputy President

(2) The Provincial Commissioner may, by notice in the Gazette, appoint a member of a Council to be Deputy President thereof or may provide for the election, by such Council, in such manner as he may specify, of a member, to be a Deputy President thereof

(3) The President and Deputy President shall hold office as such for three years or until either ceases to be a member of the Council, whichever period is the lesser, and the Deputy President shall preside whenever the President is absent from a meeting of the Council

8. (1) The Chief Native Commissioner and the Member may attend any meeting of any Council, or of any committee thereof, and may speak before the Council on any matter but may not vote thereon

Right of certain persons to attend and speak, but not vote, at meetings

(2) A Provincial Commissioner may attend any meeting of any Council established for any area in the Province of which he is in charge, and may raise, or speak before such Council on, any matter but may not vote thereon

(3) An administrative officer of any district may attend any meeting of any Council established in any area within the district to which he is appointed, and may raise, or speak before such Council on, any matter but may not vote thereon

(4) The President may invite any person to attend, and to speak upon any matter, at any meeting of a Council but no such person shall vote upon any matter

Meetings of
Councils

9. (1) A Council shall hold ordinary meetings at intervals of not more than three months, at such place and at such time as the Council may from time to time determine

Provided that the Provincial Commissioner may sanction the holding of meetings at less frequent intervals 5

(2) The President may at any time and shall, at the request in writing of not less than one-third of the members of a Council, call a special meeting thereof. The notice of any special meeting shall specify the objects of such meeting

(3) The District Commissioner of the district in which any Council is situated may adjourn any meeting of such Council for any period not exceeding fourteen days and any business of such Council conducted after the District Commissioner has given notice of such an adjournment shall have no force or effect 15

Meetings to be
public

10. Every meeting of a Council shall be open to the public and to the Press

Provided that the provisions of this section shall not apply to any committee appointed by a Council or to a committee of the whole Council 20

Effect of
absence of
members from
meetings

11. Any member of a Council who, without having obtained leave from the President, absents himself from three consecutive ordinary meetings of the Council shall cease to be a member

Minutes to be
kept

12. (1) Minutes of the proceedings of every meeting of a Council and of every committee thereof shall be regularly entered in books kept for that purpose and shall be confirmed at the next ordinary meeting 25

(2) Such minutes when signed by a person purporting to preside over the meeting at which the minutes are confirmed shall, until the contrary be proved, be deemed to be a correct record of the proceedings of the meeting of which they purport to be the minutes 30

When meetings
deemed to be
duly convened
and held

13. (1) Where the minutes of the proceedings of any meeting of a Council, or of a committee thereof, have been confirmed, such meeting shall, until the contrary be proved, be deemed to have been duly convened and held, and all the members present at such meeting shall be deemed to have been duly qualified, and, where the proceedings so recorded are those of a committee, the committee shall, until the contrary be proved, be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minutes 35 40

Minutes open
to inspection

14. (1) The minutes of the proceedings of a Council shall, at all reasonable times, be open to inspection by any inhabitant of the area for which the Council is established, and any such inhabitant may obtain a copy thereof, or an extract therefrom, on payment of such fee (if any) as may be specified by resolution of the Council 45

(2) Every Council shall furnish to the Commissioner a certified copy of any record or minutes of its proceedings and of the proceedings of any committee appointed by the Council and of a record of any accounts of the Council and such reports, statistics and documents as the Commissioner may from time to time require 50 55

(3) Minutes of the proceedings of each meeting of a Council or of a committee thereof shall be forwarded within ten days after the date upon which such minutes were confirmed, as prescribed by this Ordinance or any by-law made thereunder

15. (1) A Council may from time to time appoint such committees, either of a general or special nature, consisting of such number of persons as the Council may think fit, for the purpose of examining and reporting upon any matter or
 5 performing any act which in the judgment of the Council would be more conveniently performed by means of a committee, and may delegate to any such committee such powers (other than the power to make by-laws and the power to raise money by rate or loan) as it may think fit. The President and
 10 the Deputy President of the Council shall be *ex officio* members of every such committee

Appointment of
committees

(2) (a) A Council may appoint any person who is not a member of the Council to be a member of any committee of such Council

15 (b) A committee of a Council may, subject to the directions of the Council, co-opt any person who is not a member of such Council as a member of such committee

Provided that no person who is not a member of the Council shall be entitled to vote at a meeting of any such
 20 committee except on questions which are the subject of report or recommendation only and which do not involve the exercise of any executive functions or of any powers delegated by the Council to such committee

16. (1) A Council may, subject to the general or specific
 25 approval of the Provincial Commissioner, appoint—

Appointment of
officers and
other employees

(a) a secretary, a treasurer, a works superintendent and a medical superintendent, and

(b) such other employees as it may deem necessary,
 and may pay such emoluments and allowances as the Council
 30 may, with the approval of the Provincial Commissioner, determine

(2) No person holding the office of secretary, treasurer, works superintendent or medical superintendent shall be removed from office unless and until such removal has been
 35 authorized by a resolution passed by a majority of the whole Council and has been approved by the Provincial Commissioner

Provided that the District Commissioner may suspend any such officer from the duties and emoluments of his office for
 40 incapacity, neglect or misconduct pending the decision of the Council as to his removal and, in the event of his removal being duly authorized and approved, such officer shall be deemed to have been removed from office as from the date of his suspension

45 Provided further that, in the event of a motion for the removal of any such officer being rejected by the Council, the matter may be referred by the District Commissioner to the Provincial Commissioner who may, notwithstanding the decision of the Council, direct the removal of such officer

50 17. All acts of a Council or of any person acting as President, Deputy President, member, secretary or any other officer, as the case may be, of a Council, shall, notwithstanding that there was some defect in the appointment or election of any such person, or that he was disqualified, be
 55 as valid and effectual as if such person had been duly appointed, elected or qualified, as the case may be

Validity of acts
of Councils and
officers

PART III—POWERS AND DUTIES OF COUNCILS

18. (1) A Council may enter into contracts for the purpose of any work or service which it is, under the provisions of this Ordinance, empowered to undertake or carry out

Power to enter
into contracts

(2) A Council may enter into contracts with any other Council established under the provisions of this Ordinance, or with any District Council constituted under the Local Government (District Councils) Ordinance, 1928, or with any Municipal Council or Board constituted under the Municipalities Ordinance, 1928, for, or with respect to, the doing and the control or management by either or both of the contracting parties of any of the things provided for in this Ordinance, or of any matter or thing which the Council and such other local authority is by law empowered to do control or manage

(3) All contracts lawfully made under the provisions of this section shall be valid and binding on the Council, its successors and all other parties thereto

Joint committees of Councils

19. A Council may concur with any one or more other Councils in appointing from among their respective members a joint committee of such Councils for any purpose in which they are jointly interested, and may delegate to such joint committee, with or without restrictions or conditions, any powers or functions of the Council relating to the purpose for which the joint committee is formed, except the power of making by-laws and the power of raising money by rate or by loan

Delegation of powers

20 A Council may, subject to the approval of the Member, delegate in writing any of its powers, except the powers of making by-laws and raising money either by loan or by rates or taxes, to any person or body of persons specified in the instrument delegating such powers

Powers of Councils, if authorized by Member

21 The Member may, by notice in the Gazette, subject to such conditions as he may impose, declare that a Council may do all or any of the following things in respect of the area for which it is established —

Roads

(1) make, alter and maintain roads and bridges,

Markets

(2) establish, regulate and control markets, construct market buildings, and let stands or plots in such markets,

Recreation Grounds

(3) establish, maintain and control recreation grounds,

Burial grounds

(4) establish, maintain and control cemeteries and burial grounds,

Council buildings

(5) acquire, hire, build and maintain such offices and buildings as may be required for the purposes of the Council,

Camping grounds and outspans

(6) establish, maintain and control camping grounds and outspans,

Public lighting

(7) provide or arrange for lighting in public places,

Public lavatories

(8) establish, build, maintain and control public lavatories and wash places,

Slaughter-houses

(9) establish, build, maintain and control slaughter-houses,

Public weighing machines

(10) establish, erect, maintain and control the use of public weighing machines and other instruments of measurement,

Water supplies

(11) establish, provide, and maintain public water supplies,

Pounds

(12) establish, maintain and control pounds,

Agricultural services

(13) provide services for improving the agricultural and live stock industries carried on by Africans,

Agricultural farms

(14) establish, maintain and manage agricultural farms and dispose of the produce thereof,

Hides and skins

(15) establish, maintain and regulate premises for the drying, cleaning and storing of hides and skins,

- | | | |
|----|---|------------------------------|
| | (16) establish, maintain, and regulate centres for the inspection, grading and storing of produce, | Produce inspection |
| 5 | (17) safeguard and promote public health and take all necessary and reasonably practicable measures for preventing the occurrence of, or for dealing with any outbreak or prevalence of, any disease, | Public health |
| | (18) establish, build, equip and maintain hospitals, clinics, dispensaries and establish and operate ambulance services, | Dispensaries |
| 10 | (19) establish, maintain and carry out sanitary services for the removal and destruction of, or for otherwise dealing with, nightsoil and all kinds of refuse, | Sanitary services |
| | (20) establish and maintain tree nurseries and forest plantations and sell the produce thereof, | Forestry |
| 15 | (21) plant and tend trees in, and remove trees from, any public place, | Tree planting |
| | (22) establish, acquire, and maintain, or enter into a contract with any person for the provision of, transport services, | Transport services |
| 20 | (23) establish, acquire, or enter into a contract with any person for the provision of public ferry services, | Ferries |
| | (24) build and maintain houses for its servants and others, | Housing |
| | (25) build, equip and maintain schools and educational institutions, and grant scholarships and bursaries to any school or educational institution, | Education and bursaries, etc |
| 25 | (26) make grants of money towards the establishment and maintenance of schools, hospitals, dispensaries, libraries, asylums for the aged, destitute or infirm, and homes for destitute children or orphans, | Grants-in-aid |
| 30 | (27) make grants of money to associations existing for the promotion of recreation and sport, arts and crafts or for the welfare of children and young persons, | Welfare services |
| 35 | (28) establish, build, equip and maintain social centres, public libraries and cinemas, | Social centres |
| | (29) establish, build and maintain communal feeding centres and canteens for the supply of food and drink, including intoxicating liquor, | Canteens |
| 40 | (30) provide court houses and other buildings for the use of native courts, | Native court buildings |
| | (31) provide funds for meeting the expenses of native courts, including personal emoluments for the staff of such courts, | Native court expenses |
| 45 | (32) establish, control, maintain or contribute to any pension, provident or benevolent fund intended for the benefit of the employees of the Council and, where no such fund exists, grant gratuities to such employees on their retirement from the service of the Council and to dependants of deceased employees, | Benefits for employees |
| 50 | (33) acquire, by outright purchase or under lease, any land which may be required for the doing of any of the things or the carrying out of any of the purposes which the Council is empowered under the provisions of this Ordinance to do or carry out, | Holding of land |
| 55 | (34) charge rents, stand premia or fees in respect of occupation and use of any plot of land or premises within the Council's disposition, | Rents and charges |
| | (35) charge fees for any service or facility provided by the Council under the provisions of this Ordinance, | Fees |

Licences	(36) charge fees for any licence or permit issued under the provisions of this Ordinance or of any by-law made thereunder,
Remission of fees, etc	(37) authorize the remission of any fees or other charges imposed under the provisions of this Ordinance or of any by-law made thereunder, 5
Salaries of chiefs	(38) contribute in whole or in part to the salaries and emoluments of chiefs,
Travelling, etc, allowances	(39) pay travelling and subsistence allowances at such rates as may be approved by the Provincial Commissioner, to members of the Council, or to any person appointed or co-opted as a member of any committee thereof, when engaged upon the business of the Council, 10
General	(40) do all things necessary for carrying out all the purposes in respect of which the Council is empowered from time to time to make by-laws, and for carrying all such by-laws into effect, 15
Expenditure for carrying out purposes of this Ordinance	(41) incur all expenditure necessary for the carrying out of any of the purposes of this Ordinance which the Council is authorized to carry out, or for any purpose not specially provided for in this Ordinance which the Member may determine to be a purpose incidental to the exercise by the Council of its powers and duties under the provisions of this Ordinance 20 25
General power to make by-laws	22. (1) A Council may from time to time make by-laws in respect of all such matters as are necessary or desirable for the maintenance of the health, safety and well-being of the inhabitants, or for the good rule and government, of the area for which it is established and, without prejudice to the generality of the foregoing, more especially for all or any of the following purposes — 30
General	(1) regulating and providing for any of the things which the Council is empowered under this Ordinance to do, establish, promote, maintain, control, regulate or carry on, and for fixing charges to be made in respect thereof and providing for the remission of such charges, 35
Intoxicating liquors	(2) prohibiting, regulating and controlling the manufacture, consumption or possession of intoxicating liquors, and the supply of such liquors to any particular class of Africans, 40
Control of arms	(3) prohibiting, regulating or controlling the carrying of arms by Africans,
Collection of money	(4) regulating the collection or receipt of money or other property, from Africans, 45
Movement of live stock	(5) prohibiting, regulating or controlling the sale or movement of live stock with the object of preventing the theft of live stock or the possession of stolen live stock, 50
Dances	(6) prohibiting, regulating or controlling excessive dancing by Africans or the performance of any dance of an indecent or immoral character or of such a nature that it is likely to lead to immorality or a breach of the peace, and for determining the hours within which, the place or places at which, and the conditions under which, any dance may be publicly performed, 55
Immoral premises	(7) suppressing brothels, disorderly houses and controlling the movement of females in order to prevent prostitution, 60
Registration of births, etc	(8) the registration of births, deaths and marriages amongst Africans,

	(9) regulating the payment of bride price,	Bride price
	(10) regulating the making of testamentary dispositions by Africans,	Testamentary depositions
5	(11) prohibiting any act or thing which may cause damage to any public road or thoroughfare,	Protection of roads
	(12) preserving the public health,	Public health
	(13) requiring the proper burial or cremation of deceased Africans in cemeteries or otherwise,	Burial of the dead
10	(14) forbidding the deliberate exposure of Africans supposed to be dying,	Exposure of the dying
	(15) regulating the cutting of timber and prohibiting the wasteful destruction of trees, and requiring the planting of trees,	Protection of trees
15	(16) securing the destruction of locusts in any stage of development,	Destruction of locusts
	(17) regulating or controlling the use to which any swamp or marsh land may be put,	Control of swamps
	(18) prohibiting the cultivation of land within a specified distance of the bank of any stream,	Prohibition of cultivation near streams
20	(19) requiring the taking of such measures as may be necessary for the preservation of crops harvested or being harvested,	Preservation of crops
	(20) prohibiting or controlling grass fires,	Grass fires
25	(21) requiring or empowering chiefs to require able-bodied male Africans to extinguish bush and forest fires and to cut fire-breaks,	Bush and forest fires
	(22) requiring Africans to plant any specified crops for the support of themselves and their families in areas which, in the opinion of the Council, are suffering from or likely to suffer from a shortage of foodstuffs,	Famine relief
30	(23) requiring Africans to take such measures as may, in the opinion of the Council, be necessary for preventing or dealing with soil erosion,	Soil erosion
35	(24) declaring what shall be minor communal services within the meaning of paragraph (d) of section 2 of the Compulsory Labour (Regulation) Ordinance, 1932, and for requiring able-bodied adult male Africans to work for not more than six days in any quarter for any purposes so declared,	Communal services No 42 of 1932
40	(25) the establishment and regulation of markets,	Regulation of markets
	(26) prohibiting, regulating or controlling trade elsewhere than at established markets,	Control of trading
	(27) controlling, regulating, inspecting, supervising and licensing—	Premises used for trade, etc
45	(a) social halls, dance halls and places of entertainment,	
	(b) lodging and eating houses,	
	(c) any premises in which any profession, trade or business is carried on,	
50	(28) controlling, regulating, supervising and licensing—	Licensing certain occupations
	(a) the occupation of miller, barber, hide and skin trader, butcher, carpenter, blacksmith, shoemaker, basket maker, tailor, travelling musician, bicycle and vehicle repairer, stationer, nursery gardener, weaver and spinner, painter, baker, charcoal burner firewood dealer, confectioner and launderer,	
55	(b) quarries and brickmaking yards,	
	(c) the hiring of canoes and ploughs,	
60	(d) the keeping of hotels and restaurants,	
	(e) the keeping of slaughterhouses, and	

	(f) such other occupations as the Member may, from time to time, by notice published in the Gazette, prescribe	
Licensing dogs, carts, etc	(29) controlling, regulating and licensing— (a) dogs; (b) bicycles, (c) carts and any animal-drawn vehicles,	5
Transport services	(30) regulating and controlling public transport services which serve the inhabitants of the district concerned,	
Buildings	(31) prohibiting, restricting and regulating the erection, construction, alignment and elevation of all buildings, compelling the pulling down, removal or rendering safe of all buildings, which in the opinion of the District Commissioner are detrimental to health or to the proper and orderly planning of the district and for doing any such work at the cost of the owner and recovering such costs	10 15
	<p>Provided that any such by-law shall provide that compensation in respect of any building ordered to be pulled down pursuant to such by-law, shall be determined by the District Commissioner and shall be payable by the District Council to the District Commissioner on behalf of the owner or occupier of such building, who is entitled to such compensation</p> <p>For the purposes of this paragraph "building" includes any erection of whatsoever material and in whatsoever manner constructed, and any part of a building</p>	
Pension funds, etc	(32) permitting or requiring all or any of its employees to become members of any pension, provident or benevolent fund established, controlled, managed, maintained or approved by the Council, and for fixing the contributions to be made to any such fund by such employees and by the Council	30
	(2) Where by this Ordinance a Council is empowered to prohibit the doing of any act except under licence or permit in respect of the issue of which a fee is or may be charged such power may be exercised notwithstanding the fact that the doing of such act is also, by any other Ordinance, prohibited except under licence or permit issued to such person whether upon payment of any fee or otherwise	35 40
Special power to make by-laws, if authorized by Member	23. The Member may, by notice in the Gazette, authorize a Council to make by-laws for all or any of the following purposes —	
Noxious plants	(1) prohibiting, regulating or controlling the cultivation of poisonous or noxious plants, and the manufacture, transfer, sale and possession of noxious drugs or poisons,	45
Holding of public meetings	(2) regulating the holding by Africans of public meetings and assemblies,	50
Spread of diseases	(3) preventing the outbreak and spread of disease, whether of human beings or of animals,	
Pollution of water supplies	(4) preventing the pollution of the water in any stream, watercourse, or waterhole, and preventing the obstruction of any stream or watercourse,	55
Regulating water supplies	(5) protecting and regulating the use of water supplies, whether natural or artificial,	
Animal and plant disease	(6) suppressing or controlling animal or insect pests or plant pests, noxious weeds or diseases,	
Protecting land	(7) declaring any area to be reserved for the purpose of reconditioning, whether by artificial measures or natural regeneration or both, or for the purpose of	60

- experimental planting with fodder-producing plants, and for prohibiting, controlling or regulating the use or occupation of such area,
- 5 (8) regulating and controlling the production and sale of ghee and of milk products, Dairy produce
- (9) regulating and controlling the drying, cleaning and storage of hides and skins, Hides and skins
- 10 (10) prohibiting, regulating or controlling the occupation and use of agricultural land by any person or class of persons whether for agriculture, grazing, forestry or any other purpose whether of a like nature to the foregoing or not, Control of agricultural land
- 15 (11) prescribing the methods of animal or agricultural husbandry which shall be followed by any person or class of persons in respect of any agricultural land, Prescribing methods of husbandry
- 20 (12) prescribing what steps shall be taken by the owner or occupier of any agricultural land to maintain and improve its productivity and to preserve the fertility of the soil, Preservation of the soil
- 25 (13) prohibiting the keeping or the grazing of any live stock on any agricultural land, regulating or controlling the numbers and kinds of live stock which may be kept on any agricultural land, requiring male live stock to be castrated, and providing for the compulsory reduction of the numbers of live stock in any area, Prohibiting grazing
- 30 (14) any other purpose which the Governor may consider to be necessary or desirable in the interests or well-being of the inhabitants Such purpose may include power to impose a tax or cess in respect of the production, sale or possession, and the export from a district, of any animal or of the product of animal or agricultural husbandry Tax or cess
- 35 **24.** (1) Any by-laws made under the provisions of section 22 or of section 23 of this Ordinance may require acts or things to be performed or done to the satisfaction of a prescribed person, and may empower a prescribed person to issue orders to any other person requiring acts or things to be performed or done, imposing conditions and prescribing periods and dates upon, within or before which, such acts or things shall be performed or done or such conditions shall be fulfilled By-laws may impose special conditions
- 40 (2) Any by-law made under the provisions of this Ordinance may confer upon a Council, its officers and servants, such powers of inspection, inquiry and execution of works as may be reasonably necessary for the proper carrying out or enforcement thereof
- 45 **25.** (1) No by-law shall be made by a Council unless reasonable notice, in such manner as the Provincial Commissioner shall determine, of the intention of the Council to make such by-law has been given to the inhabitants of the area to be affected thereby Notice of intention to make by-laws
- 50 (2) Every by-law made by a Council shall be submitted forthwith to the Provincial Commissioner
- 55 (3) The Provincial Commissioner shall consider such by-law and forward it to the Member with his recommendations thereon and the Member may approve, with or without amendment, or reject, any such by-law
- 60 **26.** (1) No by-law shall have the force of law until it has been approved by the Member and if the Member so directs published in the Gazette When by-laws become operative

(2) The substance and effect of all by-laws which have been duly approved shall be communicated by the President to the inhabitants of the area affected thereby in such manner as the Provincial Commissioner may determine

(3) A copy of all by-laws shall be kept in such manner as the Provincial Commissioner may determine 5

(4) Any person shall be entitled to a copy of any by-law of any Council upon payment of such fee as the Council shall determine

Penalties for
breach of by
laws

27. (1) A Council may annex to any by-law for any breach thereof the penalty of a fine not exceeding one thousand shillings or of imprisonment for a term not exceeding six months or of both such fine and such imprisonment and may, subject to the foregoing limitations, annex different fines and different terms of imprisonment for successive or continuous breaches of any by-law 10 15

(2) Where any person is convicted of failing to comply with, or of contravening, any condition subject to which he has been issued with, or granted, a licence or permit under the provisions of any by-law made under the provisions of this Ordinance, the court or native court which convicts him may, in addition to, or in substitution for, any penalty prescribed by such by-law, cancel the licence or permit in respect of which the offence has been committed 20

Powers to take
bond, etc

(3) Where a Council makes any by-law prohibiting, regulating or controlling the doing of any act and such by-law requires a person to obtain a permit before the doing of such act, such by-law may provide for a deposit of such sum, or the execution of a bond, with or without sureties, in such sum as may be prescribed in such by-law, and that such sum be refunded or such bond be void, as the case may be, if the person to whom such permit is granted complies with the conditions of such permit 25 30

By-laws not to
override or
derogate from
other laws

28. Nothing in this Ordinance contained shall be deemed to empower a Council to make any by-law over-riding or derogating from the provisions of any other law for the time being in force in the Colony 35

PART IV—REVENUES OF COUNCILS AND POWERS OF TAXATION

Revenue of
Councils

29. The revenues of a Council shall consist of— 40

- (a) all rates, taxes or cesses imposed by the Council under or pursuant to the provisions of this Ordinance,
- (b) all moneys derived from licences or permits issued by the Council, and all dues and fees imposed by the Council, under the provisions of this Ordinance, 45
- (c) all fees and fines received by native courts exercising jurisdiction within the area for which the Council is established,
- (d) one-half of all fines imposed by subordinate courts of the first, second or third class, exercising jurisdiction within the area for which the Council is established, in respect of any contravention of or failure to comply with the provisions of this Ordinance or of any by-laws made thereunder, 50
- (e) all charges and profits arising from any service or undertaking carried on by the Council, 55
- (f) all other fees, charges, dues and rents recoverable by the Council or to which the Council is entitled under the provisions of this Ordinance, or of any by-law made thereunder or of any other law for the time being in force, 60

- (g) interest on moneys invested by the Council,
- (h) contributions received by the Council from the Government of the Colony,
- 5 (i) all moneys derived by the Government of the Colony under Part II of the Schedule to the Traffic Ordinance, 1928, and under the provisions of the Townships Ordinance, 1930, respectively, from the taxation of carts and bicycles belonging to persons having a residence or place of business within the area for which the Council is established, and normally kept therein, No 26 of 1928
No 63 of 1930
- 10 (j) all licence fees collected under the Native Liquor Ordinance, 1930, in respect of licences granted within the area for which the Council is established, No 36 of 1930
- 15 (k) all licence fees collected from Africans under the Traders Licensing Ordinance, 1936, in respect of stores or premises situate within the area for which the Council is established, No 51 of 1936
- 20 (l) any other moneys which the Governor may determine may lawfully be paid to the Council
30. (1) A Council may, before the 31st day of December in each year, by resolution impose any of the following rates or taxes — Powers to levy rates
- 25 (a) a rate on immovable property,
- (b) a tax on each adult male African,
- (c) a tax on each African woman having independent means,
- (d) a graduated tax based on the income of each African
- 30 (2) A rate on immovable property may be imposed either generally in respect of all immovable property or in respect of immovable property in any specified locality or of any specified description
- 35 (3) Any African who is liable to pay any rate or tax and who fails to pay such rate or tax shall be guilty of an offence and shall, on conviction therefor, by a court or by a native court, be ordered to pay such rate or tax together with such costs, not exceeding four shillings, as the court or native court may, in its discretion, determine, and in default of payment
- 40 such African may be sentenced to a term of imprisonment not exceeding two months
- (4) Any rate, tax or cost recovered under this section shall be paid into and form part of the revenues of the Council
- 45 (5) The provisions of section 216 of the Criminal Procedure Code shall not apply to any proceedings instituted for the recovery of any rate or tax due and payable under this Ordinance

PART V—ACCOUNTS AND AUDIT

- 50 31. The Member may at any time authorize advances to a Council in respect of any grants payable or to become payable from public funds Any such advances shall be free of interest and shall be deducted from such grants Member may authorize advances

Provided that no such advance shall be made in any financial year in respect of grants for a succeeding financial year

- 60 32. (1) A Council may from time to time, by a majority of the members of the Council present and voting at a meeting of the Council, raise loans of such amounts and upon such conditions as the Member for Finance may approve Borrowing powers
- (2) Such loans shall be secured upon the property and the revenues of the Council

(3) Where any interest or any repayment of capital due on any loan remains unpaid for three months after a demand therefor, in writing, has been served upon the President by the person entitled thereto, or by his duly authorized representative, the Member may order such payment to be made 5 from the Council's funds and may—

(a) order that any rate necessary to produce the sum due shall be imposed upon and collected from the inhabitants of the area for which such Council is established, or 10

(b) subject to the provisions of any law relating to the alienation of any land vested in the Council under the provisions thereof, order the sale of any such property upon which the loan is secured

(4) The provisions of sub-section (4) of section 30 of 15 this Ordinance shall apply to a rate imposed under the provisions of this section in the same manner as if it had been imposed by a resolution of the Council

Investment of funds

33. A Council may invest all or any portion of the moneys of the Council in such manner as may be approved 20 by the Member

Annual and supplementary estimates

34. (1) A Council shall, on or before the thirtieth day of August in each year, prepare and approve by resolution, detailed estimates of its revenue and expenditure for the year commencing on the first day of January next ensuing, and 25 shall submit such estimates, together with a covering copy of such resolution, to the Provincial Commissioner, who shall forward them, together with his recommendations, to the Standing Committee

(2) The Standing Committee shall consider such estimates 30 as submitted and shall thereafter refer such estimates, together with its recommendations thereon, to the Member, who may either approve of the estimates as submitted by the Standing Committee or disallow such estimates in whole or in part or refer such estimates back to the Standing Committee for further 35 consideration, and such estimates as finally approved by the Member are hereinafter referred to as "the approved estimates"

(3) (a) A Council may in any year prepare and approve by resolution supplementary estimates of revenue and expenditure during such year and such estimates, together with a 40 copy of the resolution, shall be submitted for approval, through the Provincial Commissioner, to the Member, who may approve or disallow the estimates either wholly or in part,

(b) The Member may, to such extent as he thinks fit, delegate to the Provincial Commissioner his powers under para- 45 graph (a) of this sub-section

Reallocation of approved estimates

35. A Council shall not, except with the approval of the Member first had and obtained, incur any expenditure which has not been included in the approved estimates of the Council, but may, with the approval of the Provincial Commis- 50 sioner, make reallocations of the approved estimates provided such reallocations do not increase or decrease any one item of approved expenditure by more than two hundred pounds or by five per centum of the amount derived from the rate for that year imposed under the provisions of section 30 of this 55 Ordinance, whichever is the less

Accounts

36. (1) Every Council shall cause to be kept true accounts in accordance with such instructions as may, from time to time, be issued by the Member

(2) Within such period, as may be prescribed by the 60 Member, from the end of each financial year, every Council

shall cause its accounts for the preceding financial year to be balanced and a statement or abstract of such accounts to be prepared

(3) Such accounts, together with all books, vouchers and papers relating thereto, together with a copy of such annual statement or abstract, shall be laid before an auditor to be appointed by the Member

(4) The auditor shall make and sign a report on such accounts and statement, or abstract, and a duplicate copy of such report, together with such statement or abstract shall be sent to the Member, who shall cause a copy thereof to be laid before the Legislative Council

(5) Every Council shall permit the auditor to check any cash in its possession and to have access to all its accounts and all books, vouchers and papers relating thereto

(6) A copy of the annual statement or abstract and of the auditor's report, shall be furnished to any inhabitant of the area for which the Council concerned is established, upon the payment of such fee, if any, as may be specified by resolution of the Council

37. (1) The auditor acting under the provisions of this Part of this Ordinance shall draw attention in his report to every item of account which is not authorized by law or which has not been sanctioned by the Member (which the Member is hereby empowered to sanction whether such item of account is authorized by law or not) and shall certify the amount of any deficiency or loss incurred by the negligence or misconduct of any person or of any sum which ought to have been, but has not been, brought into account by any person

Audit of
accounts

(2) The Provincial Commissioner shall surcharge the amount on the person who made or authorized the making of the unlawful payment or whose negligence or misconduct has caused the deficiency or loss or failure to bring to account, as the case may be. On application by any party aggrieved, the auditor shall state, in writing, the grounds upon which his certificate is based

Provided that, notwithstanding the provisions of this subsection, the Provincial Commissioner may, with the consent of the Member, in his discretion, on the application of the person surcharged made within fourteen days after such person has been notified of the surcharge or within such further period as the Member may allow, if he considers that the circumstances of the case justify such a course, cancel or reduce such surcharge

(3) For the purposes of this section the pecuniary responsibility for a surcharge in respect of any payment not authorized shall lie upon the person making the payment except where the payment has been made upon instructions, recorded in the minutes or in writing, from the Council, or from any committee or member of the Council, given after the irregularity has been notified, and the pecuniary responsibility for a surcharge in respect of any such payment, when such payment has been made upon such instructions, shall rest upon the person or persons giving or joining in giving such instructions. A member of the Council shall be deemed to have joined in giving such instructions if he does not cause his vote against the resolution, in that behalf, to be recorded in the minutes

(4) An appeal, from any decision of the Provincial Commissioner given under the provisions of sub-section (2) of this section, shall lie to the Governor whose decision shall be final

(5) Every sum certified by the auditor, or decided by the Governor on appeal, to be due from any person under the

provisions of this section shall be paid into the fund from which it was taken, within thirty days after the date of the auditor's certificate, or decision on appeal, as the case may be, and if such sum is not so paid the Provincial Commissioner may recover the same from the person surcharged in any competent court, and shall be entitled to be paid his reasonable costs and expenses in such proceedings 5

(6) In any proceedings for the recovery of any such sum, the auditor's certificate or a certificate by the Member recording the Governor's decision, shall be conclusive evidence that the sum is due and payable by the person surcharged 10

(7) On the production of such a certificate the court shall give judgment for the sum claimed, and such judgment shall have the effect of a decree for the purposes of the Civil Procedure Ordinance, 1924, and of any rules made thereunder 15

Auditor may
take evidence

38. (1) For the purpose of any examination under the provisions of this Part of this Ordinance, the auditor may take evidence, and examine witnesses, upon oath or affirmation (which oath or affirmation the auditor is hereby empowered to administer), and may, by summons under his hand, require all such persons, as he may think fit, to appear personally before him at a time and place to be stated in such summons and to produce all such books and papers, including the minutes of the proceedings of the Council or of any committee thereof, as he may consider necessary for such examination 20 25

(2) Any person who, when so required, without reasonable excuse—

(a) neglects or refuses to comply with the terms of such summons, 30

(b) having appeared, refuses to be examined on oath or affirmation or to take such oath or affirmation, or

(c) having taken such oath or affirmation, refuses to answer such questions as are put to him,

shall be guilty of an offence and shall be liable, on conviction therefor, for every such neglect or refusal, to a fine not exceeding six hundred shillings or to imprisonment for a term not exceeding six months 35

Payment for
services of
auditor

39. A Council shall, within three months after the date of the signing and certifying by the auditor of the accounts of the Council for any financial year, pay to the Accountant General, in respect of the auditor's services, such sum as the Member may from time to time determine. Such sum shall not exceed one per centum of the total expenditure, of the Council, which has been brought to account and certified by the auditor for that financial year 40 45

Provided that where the examination of accounts has made unusual demands upon the time of the auditor as a result of unsatisfactory accounting or the occurrence of irregularities, the Member may determine a higher fee to be paid by the Council to the Accountant General 50

PART VI—CENTRAL ORGANIZATION

Standing
Committee for
Councils

40. (1) There is hereby established a Standing Committee to be known as the Standing Committee for African District Councils which shall carry out such duties and functions as may be conferred upon it under the provisions of this Ordinance or of any other law relating to local government for the time being in force in the Colony 55

(2) The Standing Committee shall consist of—

(a) the Commissioner, who shall be Chairman,

- (b) an officer to represent the Member for Finance,
- (c) an officer to represent the Chief Native Commissioner,
- (d) two of the members of the Legislative Council, representing African interests in such Council, to be
5 nominated by the Chief Native Commissioner; and
- (e) four African members to be appointed by the Chief Native Commissioner

The members nominated by the Chief Native Commissioner under the provisions of paragraphs (d) and (e) of this
10 sub-section shall hold office during his pleasure

(3) In the absence of the Chairman from any meeting of the Standing Committee the representative of the Chief Native Commissioner shall preside

(4) At any meeting of the Standing Committee five
15 members shall constitute a quorum

(5) The Chairman of the meeting shall have a deliberative vote, and, in the case of an equality of votes, shall also have a casting vote

(6) A decision of a majority of the members present and
20 voting at a meeting of the Standing Committee shall be deemed to be the decision of the Standing Committee

(7) The Standing Committee shall, in addition to any other duties which may be conferred upon it by this Ordinance, or by any other Ordinance—

25 (a) at the request of the Member, advise the Member upon any matter in regard to which his approval is required by this Ordinance or in regard to which he is empowered to make rules,

30 (b) at the request of the Chairman of the Standing Committee, advise the Member upon any matter submitted for advice by such Chairman

41. The Member may at any time authorize any officer of the Government of the Colony to conduct or cause to be conducted such investigations, researches and inquiries as the
35 Member may deem necessary for the carrying out of any of the provisions of this Ordinance or for assisting any Council in the carrying out of any such duties and generally for promoting the efficiency of local government in African areas, and all necessary facilities shall be given by every Council to
40 any officer conducting any such investigations, researches and inquiries

42. Notwithstanding anything in this Ordinance contained, the Governor may, by Proclamation, dissolve any Council and thereupon all members thereof shall cease to
46 hold office The Governor may thereupon appoint other persons to form a Commission and every such Commission may exercise all the powers and authorities vested in the Council which has been so dissolved

Provided that, before the Governor exercises such
50 powers, he may direct such inquiry to be held as he may think necessary At any such inquiry the Council in question or any member thereof shall be entitled to be heard

43. (1) The Member may at any time, after having given to a Council reasonable notice and having considered the representations of the Council thereon, make or amend any by-law
55 which such Council is empowered by this Ordinance to make, or revoke any by-law made by such Council

(2) Every by-law made under the provisions of this section shall be notified to the Council by the Provincial
60 Commissioner, shall be published in the Gazette and shall be subject to the provisions of sub-sections (2), (3) and (4) of section 26 of this Ordinance

Inquiries

Governor may dissolve a Council

Member may make or amend by-laws

Recovery of
Government
expenditure

44. (1) Where the Government of the Colony has expended public funds or incurred any liability as a result of a resolution of a Council under which the Council has undertaken to pay the Government of the Colony a capital or recurrent contribution from its funds, the Member may, if the Council refuses or fails to make due payment in accordance with the provisions of such resolution, order that such payment be made from the funds of the Council and that any rate necessary to produce the sum required shall be imposed upon and collected from the adult male African inhabitants of the area in respect of which the Council is established

(2) Where the Member is satisfied that a decree for the payment of money has been made by a competent court against a Council or that for other good and sufficient reason, money is due from and payable by a Council and the Council refuses or fails to make due payment, he may order that such payment be made from such funds, and that any rate necessary to produce the sum required shall be imposed upon and collected from the adult male African inhabitants of the area in respect of which the Council is established

(3) The provisions of sub-section (4) of section 30 of this Ordinance shall apply to a rate imposed under the provisions of this section in the same manner as if it had been imposed by a resolution of a Council

PART VII—LEGAL PROCEDURE AND MISCELLANEOUS

Power of mem-
bers, officers
and servants to
enter premises

45. Any member, officer or servant of a Council, duly authorized in writing for the purpose by the Council, may, at all reasonable times, enter into or upon any premises within the area for which such Council is established for the purpose of carrying out any duty imposed by this Ordinance

Powers of
arrest

46. (1) Subject to the provisions of sub-section (3) of this section, any police officer, tribal police officer or chief may arrest without warrant any person who commits any offence against the provisions of this Ordinance or of any by-law made thereunder

(2) Subject to the provisions of sub-section (3) of this section, any servant of a Council, in uniform, or wearing any visible badge of office and authorized in writing for the purpose by the District Commissioner of the area of jurisdiction of the Council, may arrest without warrant any person who in his presence commits any such offence, and may detain such person until he can be delivered into the custody of a police officer, tribal police officer or chief or taken before a court or native court to be dealt with according to law

(3) The powers conferred by sub-sections (1) and (2) of this section shall only be exercised if the person proposing to arrest or detain any such person has reasonable grounds for believing that such person will not attend a court or native court in response to any process issued against him

Offences

47. Where any matter or thing is by this Ordinance or by any by-law, order or notice made and published under the authority thereof, directed or prohibited to be done, or where any authority is given by this Ordinance, or by any by-law made thereunder, to any person to direct or prohibit any matter or thing to be done, and such act so directed to be done remains undone or such act so prohibited to be done is done, then in every such case every person offending against such direction or prohibition shall be guilty of an offence against this Ordinance

48. (a) Any person who wilfully obstructs any member of a Council or any officer or servant of a Council, in the execution of his duty as such, Offences to obstruct
- 5 (b) any occupier of premises who prevents the owner of such premises from complying with any of the requirements of a Council,
- (c) any occupier of premises who, on demand, refuses or wilfully omits to disclose or wilfully misstates the name of the owner of such premises,
- 10 shall be guilty of an offence and shall be liable, on conviction therefor, to a fine not exceeding four hundred shillings or to imprisonment for a term not exceeding three months
49. Any person who is guilty of any offence against the provisions of this Ordinance or of any by-law made there- General penalties
- 15 under shall, for every such offence, be liable on conviction therefor to the penalty expressly prescribed by this Ordinance or by such by-law and, if no such penalty is prescribed, to a fine not exceeding one hundred and fifty shillings or to imprisonment for a term not exceeding two months or to both
- 20 such fine and such imprisonment
50. Prosecutions for offences against the provisions of this Ordinance or of any by-law made thereunder, may be conducted by any person or class of persons authorized, in that behalf, by the Attorney General, by notice in the Gazette Conduct of prosecutions
- 25 51. No proceedings shall be commenced against a Council, except within twelve months from the date upon which the cause of action, in respect of which such proceedings are brought, arose, and any costs or other charges incurred by a Council in such proceedings, shall be paid out of the revenues Actions against Councils
- 30 of such Council
- 52 (1) The Member may make Rules for all or any of the following purposes— Member may make rules
- (a) subject to the provisions of section 16 of this Ordinance, providing for the appointment, discharge and the 35
- terms of service and the conditions of employment of the officers and servants of a Council,
- (b) regulating the business and procedure of a Council,
- (c) providing for notice to be given of the holding of any meeting of a Council,
- 40 (d) prescribing the number of members who shall form a quorum of a Council,
- (e) preserving order at a meeting of a Council,
- (f) requiring the taking of oaths of allegiance and faithful service by members and officers of Councils and for 45
- prescribing the forms of such oaths,
- (g) prescribing what persons shall be eligible, and what persons shall not be eligible, to be members of a Council,
- (h) providing for the suspension of any member of a 50
- Council,
- (i) providing in what circumstances a member of a Council who has a pecuniary interest in any matter before a Council may or may not vote thereon, and
- (j) generally for the proper and orderly conduct of the 55
- business of a Council
- (2) For the purposes of this section, the term "Council" includes any committee of a Council,

Substitution of
"African
District
Council" for
"Local Native
Council" in
other laws

Repeal and
savings
No 2 of 1937
No 29 of 1942

53 Where in any other law for the time being in force in the Colony the expression "Local Native Council" appears, such expression shall be construed as if there were substituted therefor the expression "African District Council"

54 Sections 19 to 36 of the Native Authority Ordinance, 1937, and the Revenue Transfer to Local Native Councils Ordinance, 1942, are hereby repealed

Provided that—

(a) all resolutions of Local Native Councils in force at the date of the coming into operation of this Ordinance shall continue to be of full force and effect within the areas to which they apply until revoked and replaced by by-laws made under the provisions of this Ordinance,

(b) all appointments made, powers conferred and notifications served and published under the Native Authority Ordinance, 1937, shall be deemed to have been made, conferred, served and published under the provisions of this Ordinance,

(c) all works and undertakings authorized to be executed, all rights, liabilities and engagements existing, and all actions, suits and legal proceedings pending by or against a Local Native Council, shall be vested in, attached to, and may be enforced, carried on and prosecuted by or against the Council established in its place under the provisions of this Ordinance,

(d) all rates, fees, charges and debts of whatsoever description due or payable to or recoverable by a Local Native Council shall be payable to or recoverable by the Council established in its place under the provisions of this Ordinance,

(e) all property, movable and immovable, vested in or belonging to a Local Native Council or to which such Council was entitled at the date of the coming into operation of this Ordinance and all assets and claims to which such Council was entitled on such date shall be vested in and belong to the Council established in its place under the provisions of this Ordinance,

(f) all licences, registrations and permits issued, made or granted under or in pursuance of the provisions of the Native Authority Ordinance, 1937, shall continue in force for the period, if any, specified in such licences, registrations or permits unless the same are sooner suspended or cancelled under or in pursuance of any by-law made under the provisions of this Ordinance

No 2 of 1937

No 2 of 1937

MEMORANDUM OF OBJECTS AND REASONS

1 Sessional Papers Numbers 3 and 6 of 1945, which were laid on the table of the Legislative Council, outlined a proposed reorganization of local government in African areas whereby Local Native Councils would be abolished and African District Councils established in their stead with constitutions and powers analogous to those of local authorities in Municipal and District Council Areas. This Bill will give effect to that policy.

2 Part II constitutes African District Councils and provides the necessary machinery for the appointment of members, committees and officers and servants of a Council and also provides for the regulation of the procedure of such Councils.

Part III makes provision for the powers and duties of Councils, and clause 20 enables a Council, with the approval of the Member to delegate any of its powers, except those of making by-laws or

raising money. Clauses 22 and 23 enable Councils to make by-laws. The powers set out in clause 23 may be exercised only with the authority of the Member. Clause 25 requires by-laws to be submitted through the Provincial Commissioner for the approval of the Member and clause 27 provides a penalty for the breach of any by-law.

Part IV prescribes how a council may raise revenue and attention is directed to clause 23 (14) of Part III, which, with the consent of the Governor, permits the imposition of taxes and cesses on the products of animal or agricultural husbandry.

Part V creates machinery for regulating the keeping and auditing of accounts. On the model of other local government in Kenya, provision is included for disallowing unauthorized expenditure and for surcharging persons responsible for such expenditure. This Part also allows African District Councils, subject to the approval of the Member for Finance, to raise loans for public purposes. Clause 34 provides for annual estimates of Councils to be submitted through the Provincial Commissioner to the Standing Committee of African District Councils which is required to forward such estimates with its recommendations to the Member. In the case of supplementary estimates the clause further provides for them to be submitted to the Provincial Commissioner who shall forward them to the Member with his recommendations. The Member is given power to delegate his powers in relation to supplementary estimates to the Provincial Commissioner. Clause 35 confers on the Provincial Commissioner, within the limits therein provided, power to approve reallocations of funds provided by the approved estimates.

Part VI establishes a central organization for the supervision of African District Councils, to be known as the Standing Committee for African District Councils. The Standing Committee will be analagous to the existing standing committees for local government in municipal and other settled areas and will take the place of the present Standing Advisory Committee on Local Native Council Estimates, which was established in 1942. The new Standing Committee will have a majority of African members, and its constitution is set out in sub-clause (1) of clause 40. This part of the Bill also prescribes a procedure, on the lines laid down for municipal bodies in other Local Government Ordinances, for dealing with councils which default in their duties.

Part VII contains certain miscellaneous provisions and empowers the Member for Health and Local Government to make rules for a variety of purposes connected with the conduct, procedure and qualifications for membership, of African District Councils.

Clause 54 continues the validity of all resolutions, appointments, etc., of Local Native Councils, and vests all property dues and debts of Local Native Councils, in the African District Councils which replace them.

3 This Bill contains no reference to a Local Government Board as it has been decided not to proceed with the proposals contained in the Bill for the Local Government Board Ordinance, which was published in March, 1947.

4 It is not possible to say what expenditure of public moneys will be incurred if this Bill becomes law.

Nairobi,
5th October, 1949

K K O'CONNOR,
Attorney General

GOVERNMENT NOTICE No 1005

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—Raising of limits for, and rates of pensions increases
- 3—Amendment of section 3 of the principal Ordinance
- 4—Amendment of the Second Schedule to the principal Ordinance
- 5—Amendment of section 3 of the principal Ordinance
- 6—Cases where no increase of pension is payable

SECTION

- 7—Amendment of section 3 (5) of the principal Ordinance
- 8—Amendment of section 4 of the principal Ordinance
- 9—Repeal and replacement of section 9 of the principal Ordinance
- 10—Amendment of Second Schedule of the principal Ordinance
- 11—Repeal

**A BILL ENTITLED
AN ORDINANCE TO AUTHORIZE FURTHER INCREASES UNDER, AND OTHERWISE TO AMEND, THE PENSIONS (INCREASE) ORDINANCE, 1945, AND TO CONTINUE THAT ORDINANCE IN FORCE AS AMENDED**

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

- | | |
|--|--|
| Short titles | 1. This Ordinance may be cited as the Pensions (Increase) (Amendment) Ordinance, 1949, and shall be read as one with the Pensions (Increase) Ordinance, 1945, hereinafter referred to as the principal Ordinance, and the principal Ordinance and this Ordinance may together be cited as the Pensions (Increase) Ordinances, 1945 and 1949, and shall be deemed to have come into force on the 28th day of January, 1945, and to have continued in force from that date |
| No 7 of 1945 | |
| Raising of limits for, and rates of pensions increases | 2. The limit specified in the proviso to sub-section (1) of section 3 of the principal Ordinance, under which an increase of pension is not to be made under that section where the income of the pensioner exceeds such limit, and in paragraph 4 of the Second Schedule to the principal Ordinance, which restricts any such increase to the amount required to raise the income of the pensioner to such limit, shall be increased as follows— |
| | <p>(a) where the pension is a pension specified in Part I of the First Schedule to the principal Ordinance—</p> <p>(i) in the case of a pensioner who is married or has at least one dependant, from four hundred and fifty pounds a year to six hundred and forty-five pounds a year,</p> <p>(ii) in the case of any other pensioner, from three hundred and fifty pounds a year to six hundred and forty-five pounds a year,</p> <p>(b) where the pension is a pension specified in Part II of the First Schedule to the principal Ordinance—</p> <p>(i) in the case of a pensioner who is married or has at least one dependant from two hundred and forty-seven pounds ten shillings a year to three hundred and eighty-seven pounds a year,</p> <p>(ii) in the case of any other pensioner, from one hundred and ninety-two pounds ten shillings a year to three hundred and eighty-seven pounds a year</p> |
| Amendment of section 3 of the principal Ordinance | 3. Sub-section (3) of section 3 of the principal Ordinance is amended in the following respects— |
| | <p>(a) by inserting at the end of paragraph (b) next after the words “sixteen years” the words “or, having attained that age, is receiving full time instruction at any</p> |

educational institution or undergoing training for any trade, profession or vocation", and

(b) by substituting for the full stop at the end of paragraph (d) a colon and by adding to the sub-section the following proviso —

5

Provided, however, that the pension of a pensioner within the meaning of paragraph (b) of this sub-section shall not be increased after he has ceased to receive full time instruction or training as aforesaid or after he has attained the age of twenty-one years, whichever is the earlier

10

4. Paragraphs 2 and 3 of the Second Schedule to the principal Ordinance are repealed and the following substituted therefor —

Amendment of
the Second
Schedule to
the principal
Ordinance

15

2 (1) Where the pension is a pension specified in Part I of the First Schedule to this Ordinance and the pensioner is married or has at least one dependant or the pension is payable for the benefit of at least two dependants in the category referred to in paragraph (a) of sub-section (5) of section 3 of this Ordinance, then, subject to the provisions of this Schedule—

20

(a) if the pension does not exceed one hundred pounds a year, the authorized increase shall be forty per centum of the amount of the pension,

25

(b) if the pension exceeds one hundred pounds a year but does not exceed one hundred and fifteen pounds a year, the authorized increase shall be the amount of forty pounds a year,

30

(c) if the pension exceeds one hundred and fifteen pounds a year but does not exceed one hundred and fifty pounds a year, the authorized increase shall be thirty-five per centum of the amount of the pension,

35

(d) if the pension exceeds one hundred and fifty pounds a year but does not exceed two hundred pounds a year, the authorized increase shall be thirty per centum of the amount of the pension,

40

(e) if the pension exceeds two hundred pounds a year but does not exceed two hundred and twenty-five pounds a year, the authorized increase shall be twenty-seven-and-a-half per centum of the amount of the pension,

45

(f) if the pension exceeds two hundred and twenty-five pounds a year but does not exceed two hundred and seventy-five pounds a year, the authorized increase shall be twenty-five per centum of the amount of the pension,

50

(g) if the pension exceeds two hundred and seventy-five pounds a year but does not exceed three hundred pounds a year, the authorized increase shall be twenty per centum of the amount of the pension,

55

(h) if the pension exceeds three hundred pounds a year but does not exceed three hundred and ninety pounds a year, the authorized increase shall be the amount of sixty pounds a year,

60

(i) if the pension exceeds three hundred and ninety pounds a year but does not exceed four hundred and fifteen pounds a year, the authorized increase shall be twelve-and-a-half per centum of the amount of the pension,

- (j) if the pension exceeds four hundred and fifteen pounds a year but does not exceed four hundred and fifty pounds a year, the authorized increase shall be ten per centum of the amount of the pension, 5
- (k) if the pension exceeds four hundred and fifty pounds a year but does not exceed five hundred pounds a year, the authorized increase shall be seven-and-a-half per centum of the amount of the pension, 10
- (l) if the pension exceeds five hundred pounds a year but does not exceed five hundred and seventy-five pounds a year, the authorized increase shall be five per centum of the amount of the pension, and 15
- (m) if the pension exceeds five hundred and seventy-five pounds a year, the authorized increase shall be four per centum of the amount of the pension

(2) Where the pension is a pension specified in Part II of the First Schedule to this Ordinance, and the pensioner is married or has at least one dependant or the pension is payable for the benefit of at least two dependants in the category referred to in paragraph (a) of sub-section (5) of section 3 of the Ordinance, then, subject to the provisions of this Schedule— 20 25

- (a) if the pension does not exceed sixty pounds a year, the authorized increase shall be forty per centum of the amount of the pension,
- (b) if the pension exceeds sixty pounds a year but does not exceed sixty-nine pounds a year, the authorized increase shall be the amount of twenty-four pounds a year, 30
- (c) if the pension exceeds sixty-nine pounds a year but does not exceed ninety pounds a year, the authorized increase shall be thirty-five per centum of the amount of the pension, 35
- (d) if the pension exceeds ninety pounds a year but does not exceed one hundred and twenty pounds a year, the authorized increase shall be thirty per centum of the amount of the pension, 40
- (e) if the pension exceeds one hundred and twenty pounds a year but does not exceed one hundred and thirty-five pounds a year, the authorized increase shall be twenty-seven-and-a-half per centum of the amount of the pension, 45
- (f) if the pension exceeds one hundred and thirty-five pounds a year but does not exceed one hundred and sixty-five pounds a year, the authorized increase shall be twenty-five per centum of the amount of the pension, 50
- (g) if the pension exceeds one hundred and sixty-five pounds a year but does not exceed one hundred and eighty pounds a year, the authorized increase shall be twenty per centum of the amount of the pension, 55
- (h) if the pension exceeds one hundred and eighty pounds a year but does not exceed two hundred and thirty-four pounds a year, the authorized increase shall be the amount of thirty-three pounds a year, 60
- (i) if the pension exceeds two hundred and thirty-four pounds a year but does not exceed two hundred

and forty-nine pounds a year, the authorized increase shall be twelve-and-half per centum of the amount of the pension,

5 (j) if the pension exceeds two hundred and forty-nine pounds a year but does not exceed two hundred and seventy pounds a year, the authorized increase shall be ten per centum of the amount of the pension,

10 (k) if the pension exceeds two hundred and seventy pounds a year but does not exceed three hundred pounds a year, the authorized increase shall be seven-and-a-half per centum of the amount of the pension,

15 (l) if the pension exceeds three hundred pounds a year but does not exceed three hundred and forty-five pounds five shillings a year, the authorized increase shall be five per centum of the amount of the pension, and

20 (m) if the pension exceeds three hundred and forty-five pounds a year, the authorized increase shall be four per centum of the amount of the pension

25 3 (1) Where the pension is a pension specified in Part I of the First Schedule to this Ordinance, and the pensioner is unmarried and has no dependants, then, subject to the provisions of this Schedule—

(a) if the pension does not exceed seventy-five pounds a year, the authorized increase shall be forty per centum of the amount of the pension,

30 (b) if the pension exceeds seventy-five pounds a year but does not exceed one hundred pounds a year, the authorized increase shall be the amount of thirty pounds a year,

35 (c) if the pension exceeds one hundred pounds a year but does not exceed one hundred and fifty pounds a year, the authorized increase shall be thirty per centum of the amount of the pension,

40 (d) if the pension exceeds one hundred and fifty pounds a year but does not exceed three hundred and five pounds a year, the authorized increase shall be the amount of forty-five pounds a year,

45 (e) if the pension exceeds three hundred and five pounds a year but does not exceed three hundred and twenty-five pounds a year, the authorized increase shall be ten per centum of the amount of the pension,

50 (f) if the pension exceeds three hundred and twenty-five pounds a year but does not exceed three hundred and seventy-five pounds a year, the authorized increase shall be seven-and-a-half per centum of the amount of the pension,

55 (g) if the pension exceeds three hundred and seventy-five pounds a year but does not exceed four hundred and fifty pounds a year, the authorized increase shall be five per centum of the amount of the pension,

(h) if the pension exceeds four hundred and fifty pounds a year but does not exceed five hundred pounds a year, the authorized increase shall be four per centum of the amount of the pension,

60 (i) if the pension exceeds five hundred pounds a year but does not exceed five hundred and seventy-five pounds a year, the authorized increase shall be three per centum of the amount of the pension, and

- (j) if the pension exceeds five hundred and seventy-five pounds a year, the authorized increase shall be two-and-a-half per centum of the amount of the pension

(2) Where the pension is a pension specified in Part II of the First Schedule to this Ordinance, and the pensioner is unmarried and has no dependants, then, subject to the provisions of this Schedule—

- (a) if the pension does not exceed forty-five pounds a year, the authorized increase shall be forty per centum of the amount of the pension, 10
- (b) if the pension exceeds forty-five pounds a year but does not exceed sixty pounds a year, the authorized increase shall be the amount of eighteen pounds a year, 15
- (c) if the pension exceeds sixty pounds a year but does not exceed ninety pounds a year, the authorized increase shall be thirty per centum of the amount of the pension,
- (d) if the pension exceeds ninety pounds a year but does not exceed one hundred and eighty-three pounds fifteen shillings a year, the authorized increase shall be the amount of twenty-seven pounds fifteen shillings a year, 20
- (e) if the pension exceeds one hundred and eighty-three pounds a year but does not exceed one hundred and ninety-five pounds fifteen shillings a year, the authorized increase shall be ten per centum of the amount of the pension, 25
- (f) if the pension exceeds one hundred and ninety-five pounds fifteen shillings a year but does not exceed two hundred and twenty-five pounds five shillings a year, the authorized increase shall be seven-and-a-half per centum of the amount of the pension, 30 35
- (g) if the pension exceeds two hundred and twenty-five pounds five shillings a year but does not exceed two hundred and seventy pounds a year, the authorized increase shall be five per centum of the amount of the pension, 40
- (h) if the pension exceeds two hundred and seventy pounds a year but does not exceed three hundred pounds a year, the authorized increase shall be four per centum of the amount of the pension,
- (i) if the pension exceeds three hundred pounds a year but does not exceed three hundred and forty-five pounds a year, the authorized increase shall be three per centum of the amount of the pension, and 45
- (j) if the pension exceeds three hundred and forty-five pounds a year, the authorized increase shall be two-and-a-half per centum of the amount of the pension 50

Amendment of section 3 of the principal Ordinance

5. Section 3 of the principal Ordinance is amended by substituting the word "fifty" for the words "fifty-five" where they appear in paragraph (a) of sub-section (2) and in paragraph (a) of sub-section (3) thereof 55

Cases where no increase of pension is payable

6. Where the amount of a pension is determined by reference to emoluments which have been revised in accordance with— 60

- (a) the revised scales of salary and conditions of service approved by the Legislative Council of the Colony on the third day of September, 1948, and any amendments or additions thereto, or

(b) any similar revision of scales of salary and conditions of service approved by any other Legislature which the Member for Finance may, either generally or in any specific case, declare to be applicable for the purposes of this section,

5

no increase of the pension shall be payable to the pensioner under the terms of this or of the principal Ordinance

Provided that, if his old pension (that is to say the pension which would have been payable to the pensioner if any such revised scale had not become applicable to him, increased by any sum which would have been payable to him under the terms of the principal Ordinance before its amendment by this Ordinance) exceeds his new pension (that is to say the pension payable to the pensioner by virtue of any such revised scale as is mentioned in paragraph (a) or paragraph (b) of this section), an increase of pension shall be paid to the pensioner of the amount by which his old pension exceeds his new pension

7. Sub-section (5) of section 3 of the principal Ordinance is amended by substituting the words "one hundred and fifty pounds a year in the case of a pension specified in Part I of the First Schedule to this Ordinance and ninety pounds a year in the case of a pension specified in Part II of the First Schedule to this Ordinance" for the words "fifty-two pounds a year", which appear in the sixth line thereof

Amendment of
section 3 (5) of
the principal
Ordinance

8. Sub-section (2) of section 4 of the principal Ordinance is repealed and the following substituted therefor —

Repeal and
replacement of
section 4 (2) of
the principal
Ordinance

(2) (a) In the case of a pensioner who is married or has one dependant and a pension specified in Part I of the First Schedule to this Ordinance the first three hundred pounds a year or any lower sum that the Governor in Council may prescribe, of any income accruing to any pensioner otherwise than in respect of a pension specified in the First Schedule to this Ordinance may, if the Governor in Council so directs, be disregarded

(b) In the case of any other pensioner and a pension specified in Part I of the First Schedule to this Ordinance the first two hundred pounds a year or any lower sum that the Governor in Council may prescribe, of any income accruing to any pensioner otherwise than in respect of a pension specified in the First Schedule to this Ordinance may, if the Governor in Council so directs, be disregarded

(c) In the case of a pensioner who is married or has at least one dependant and a pension specified in Part II of the First Schedule to this Ordinance the first one hundred and eighty pounds a year or any lower sum that the Governor in Council may prescribe, of any income accruing to any pensioner otherwise than in respect of a pension specified in the First Schedule to this Ordinance may, if the Governor in Council so directs, be disregarded

(d) In the case of any other pensioner and a pension specified in Part II of the First Schedule to this Ordinance the first one hundred and twenty pounds a year or any lower sum that the Governor in Council may prescribe, of any income accruing to any pensioner otherwise than in respect of a pension specified in the First Schedule to this Ordinance may, if the Governor in Council so directs, be disregarded

9. Section 9 of the principal Ordinance is repealed and the following substituted therefor —

Repeal and
replacement of
section 9 of
the principal
Ordinance

9 This Ordinance shall continue in force until the thirty-first day of December, 1950, and shall then expire.

Duration of
principal
Ordinance

Provided that the Governor may, with the approval of the Legislative Council of the Colony, by proclamation,

No 32 of 1948	<p>declare that this Ordinance shall remain in force until a date to be fixed in such proclamation or until repealed</p> <p>Provided further that upon the expiry of this Ordinance sub-section (2) of section 10 of the Interpretation and General Clauses Ordinance, 1948 (which relates to the effect of repeals), shall have effect as if this Ordinance had then been repealed</p>	6
Amendment of Second Schedule to the principal Ordinance	<p>10. Paragraph 7 of the Second Schedule to the principal Ordinance (as amended by the Pensions (Increase) (Amendment) Ordinance, 1945), is amended—</p> <p>(a) by adding after the words “determining the percentage” which occur in the first line thereof, the words “or amount”, and</p> <p>(b) by deleting the proviso thereto</p>	10
Repeal No 19 of 1948	<p>11. The Pensions (Increase) (Amendment) Ordinance, 1948, is hereby repealed</p>	

MEMORANDUM OF OBJECTS AND REASONS

The Pensions (Increase) Ordinance, 1945 (referred to hereafter as the principal Ordinance), was modelled on legislation in the United Kingdom. It provided for temporary increases in the lower range of pensions in order to mitigate cases of hardship which were occurring under the then existing conditions. As a result of the continued rise in the cost of living the United Kingdom legislation was amended in 1947 to provide for more generous increases. Following the lines of that amendment, the principal Ordinance was amended by the Pensions (Increase) (Amendment) Ordinance, 1948 (Ordinance No 19 of 1948), so as to effect a raising of the ceilings up to which increases in pensions might be granted, a lowering of the age limit at which increases might be payable and an increase in the amounts by which pensions might be increased.

The adjustments provided for under the Pensions (Increase) (Amendment) Ordinance, 1948, have been found to be still inadequate. This Bill, accordingly, provides for a further raising of the ceilings up to which increases in pensions may be granted (clauses 2 and 4), a further lowering of the age at which pension increases become payable (clause 5), and for an increase in the amount of income, apart from pension, which may be disregarded in relation to the ceilings (clauses 7 and 8).

Clause 6 of the Bill provides that an officer who has elected for the revised terms of service shall not be eligible for any increase in pension under this or the principal Ordinance, unless he retired between 1st January, 1946, and the 1st October, 1948. The object of making this exception is to ensure that no officer will, as a result of this Bill, suffer any reduction in a pension already awarded, or due.

The opportunity has also been taken to remove certain anomalies which experience has shown to exist. Firstly, under sub-section (3) of section 3 of the principal Ordinance, a child of a pensioner whose mother is dead ceases to be eligible for any increase of pension when he attains sixteen years of age notwithstanding the fact that he may still be receiving full time educational instruction or training for some trade, profession or vocation whereas a child whose mother is alive continues to be eligible for the increase if receiving such full time instruction or training. Clause 3 of the Bill accordingly will amend sub-section (3) of section 3 so as to provide that the increase will only cease to be payable when the child attains sixteen years of age if he is not receiving full time instruction or training as aforesaid. A proviso is inserted to provide that the increase shall cease to be paid upon the child ceasing to receive such instruction or training or upon his attaining twenty-one years of age, whichever is the earlier.

The other anomaly which this Bill will rectify is that whereas in the case of a pension payable for the benefit of a widow and at least one child the principal Ordinance provides for the increase to be at married rates, if the widow dies and the pension is then payable for the benefit of two or more children the increase can only be at single rates. Sub-paragraph (1) and (2) of paragraph 2 of the Second Schedule to the principal Ordinance will accordingly be amended so as to enable the increase to be paid at married rates if the pension is payable for the benefit of at least two dependants in the category referred to in paragraph (a) of sub-section (5) of section 3 of the Ordinance, that is to say, children under sixteen years of age or who are receiving full time instruction or training.

The Bill provides (*clause 1*) for the new adjustments to have retrospective effect from the date from which the principal Ordinance became operative. This provision is inserted for the reason that the increases provided for in the principal Ordinance were inadequate to meet the then existing circumstances.

This Bill continues the principal Ordinance in force until the 31st day of December, 1950, when it will expire unless further continued by Proclamation of the Governor, made with the approval of Legislative Council (*clause 9*).

As the provisions of the Pensions (Increase) (Amendment) Ordinance, 1948, have been incorporated in the present Bill, that Ordinance will no longer be required and will be repealed (*clause 11*).

Any additional expenditure which will be incurred, if this Bill becomes law, will be limited to the pensions' adjustments made by the Bill itself.

Nairobi,
1st October, 1949

K K O'CONNOR,
Attorney General

GOVERNMENT NOTICE No 1006

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

**A BILL ENTITLED
AN ORDINANCE TO AMEND THE ASIATIC WIDOWS'
AND ORPHANS' PENSION ORDINANCE, 1927**

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 Asiatic Widows' and Orphans' Pension (Amendment) Ordinance, 1949, and shall be read and construed as one with the Asiatic Widows' and Orphans' Pension Ordinance, 1927 (hereinafter referred to as the principal Ordinance), and all amendments thereto. Short title
No 20 of 1927
2. There shall be substituted for the definition of "beneficiary" in section 2 of the principal Ordinance the following definition— Amendment of
section 2 of
the principal
Ordinance

"beneficiary" means one or more of the following persons,

 - (a) the widow, or if more than one the widows, of a contributor,
 - (b) the children of a contributor, by his marriage with any wife who dies in his lifetime, which children are alive and are of a pensionable age at the death of the contributor.
3. There shall be substituted for section 16 of the principal Ordinance the following section — Repeal and
replacement of
section 16 of
the principal
Ordinance

16. (1) Every contributor who marries while he is a contributor shall, within three months after his marriage or after each marriage, as the case may be, notify the fact of his marriage to the Accountant General in writing, and shall state the date of the birth of his wife or of each wife, as the case may be

(2) Every contributor shall, within three months from the date of the event, notify to the Accountant General in writing—

 - (a) the birth of any child born to him,
 - (b) the marriage, under the age of twenty-one years, of any female child of the contributor;
 - (c) the death of his wife, or of any of his wives, as the case may be,
 - (d) the death of any child of a pensionable age,Information to
be furnished by
contributors and
beneficiaries

(3) After the death of any married contributor, the widow, or each widow, as the case may be, shall, within three months from the date of the event, notify the Accountant General in writing—

- (a) the date of the death of the contributor, if he was not at the time of his death in the service of the Government, 5
- (b) the birth of any posthumous child born to the contributor,
- (c) the marriage, under the age of twenty-one years, of any female child of the contributor, 10
- (d) the death of any child of the contributor of a pensionable age

(4) Any such statement or notice shall be proved by the production of a birth, death or marriage certificate or by an affidavit or otherwise, to the satisfaction of the Accountant General 15

Amendment of
section 18 of
the principal
Ordinance

4. There shall be substituted for section 18 of the principal Ordinance the following section —

Lapsed pensions

18. (1) Where the beneficiary is a widow or widows of a contributor, the pension payable to such beneficiary shall, subject to any deduction in respect of partial forfeiture under sub-section (2) of section 17 of this Ordinance, be paid to such widow or widows, as the case may be, and shall, in respect of any such widow, cease on her death, bankruptcy or re-marriage, or on the forfeiture of the whole of such benefits under that sub-section 20

(2) If on such pension ceasing as aforesaid, there are no children of the marriage with the contributor of any such widow living and of a pensionable age, the pension shall lapse 25

(3) If on such pension ceasing as mentioned in sub-section (1) of this section, there are children of the marriage with the contributor of such widow living and of pensionable age, the pension shall be continued and shall be paid to such children in the manner hereinbefore provided and such children shall be deemed to constitute a beneficiary within the meaning of this Ordinance 30 35

MEMORANDUM OF OBJECTS AND REASONS

The Asiatic Widows' and Orphans' Pension Ordinance, 1927, (called the principal Ordinance) was amended in 1948 (Ordinance No 80 of 1948) so as to provide that, where a contributor had more than one wife, each such wife might benefit under the principal Ordinance upon the death of the contributor

It has been brought to notice that this amendment to the principal Ordinance renders it desirable to make certain consequential amendments of a minor nature to the principal Ordinance and this Bill effects those amendments

The definition of "beneficiary" in section 2 of the principal Ordinance will be amended so as to make it clear that expression includes more than one widow of a contributor (*clause 2*)

The Fund was closed to new entrants in 1942. Accordingly, some of the information which was previously required to be supplied by new entrants is no longer necessary. Section 16 of the principal Ordinance will be re-enacted so as to confine the information there called for to information which is still necessary, and to make it plain that the information required must be supplied in respect of each wife (*clause 3*)

Section 18 of the principal Ordinance will be re-enacted so as to render it applicable to the case of a contributor who at his death leaves more than one widow (*clause 4*)

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

Nairobi,
4th October, 1949.

K K O'CONNOR,
Attorney General