



THE OFFICIAL GAZETTE

OF THE COLONY AND PROTECTORATE OF KENYA

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GOVERNMENT NOTICE No 1223

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 INCREASE OF RENT (RESTRICTION) ORDINANCE, 1949

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 Increase of Rent (Restriction) (Amendment, No 2) Ordinance, 1949, and shall be read and construed as one with the Increase of Rent (Restriction) Ordinance, 1949 (hereinafter referred to as the principal Ordinance) Short title
No 22 of 1949
2. Sub-section (2) of section 1 of the principal Ordinance is amended in the following respects— Amendment of
section 1 (2) of
the principal
Ordinance
 - (a) by substituting for paragraph (a) the following paragraph—
 - 10 (a) premises of which the standard rent is in excess of ten thousand shillings per annum and which—
 - 15 (i) were not rented at the commencement of this Ordinance and have not been rented between that date and the commencement of the Increase of Rent (Restriction) (Amendment, No 2) Ordinance, 1949, or
 - 20 (ii) the landlord has lawfully recovered possession of after the commencement of this Ordinance,
 - (b) by deleting paragraph (d) and by re-lettering paragraph (e) as paragraph (d)
3. Sub-section (1) of section 5 of the principal Ordinance is amended by deleting from paragraph (d) thereof the word "furnished" Amendment of
section 5 (1) (d)
of the principal
Ordinance

Repeal and
replacement of
section 13 (1) (a)
of the principal
Ordinance

4. There shall be substituted for paragraph (a) of sub-section (1) of section 13 of the principal Ordinance the following paragraph—

(a) in the case of a dwelling house, by an amount not exceeding ten per centum, and in the case of business premises, by an amount not exceeding twenty per centum, of the standard rent as at the commencement of this Ordinance 5

Amendment of
section 16 (1) (i)
of the principal
Ordinance

5. Paragraph (i) of sub-section (1) of section 16 of the principal Ordinance is amended by inserting after the words "assigned or sub-let the whole of the premises," the words "or sub-let part of the premises" 10

Amendment of
section 22 of
the principal
Ordinance

6. Section 22 of the principal Ordinance is amended by deleting therefrom the words "on demand"

Date of
commencement
of sections 2,
4 and 5

7. The provisions of sections 2, 4 and 5 of this Ordinance shall be deemed to have come into operation on the 6th day of September, 1949 15

MEMORANDUM OF OBJECTS AND REASONS

Section 1 (2) (a) of the Increase of Rent (Restriction) Ordinance, 1949 (referred to as the principal Ordinance) provides that premises of which the standard rent exceeds Sh 10,000 per annum and of which the landlord has recovered vacant possession under the provisions of the Ordinance shall be excluded from its provisions

It has been pointed out that it is illogical that premises of which the standard rent would exceed Sh 10,000 were they let and which have not, in fact, ever been let or which were vacant at the date of the commencement of the principal Ordinance, should not also be excluded

This amendment has been brought to the notice of the members of the committee upon whose advice the principal Ordinance was enacted and they agree that it was always their intention that the provisions of the Ordinance should not apply to premises of which the landlord was at the commencement of the principal Ordinance, and has continued to be, in vacant possession and of which the standard rent exceeds Sh 10,000 per annum

By section 1 (2) (d) of the principal Ordinance it is provided that the Ordinance shall not apply to any building or erection in the Coast Province used as a place of residence built by the owner thereof on land rented by such owner as a monthly tenant. While such buildings come within the scope of the Eviction of Tenants (Control) Ordinance, 1949, the provisions of that Ordinance only safeguard the owner or tenant of such a building against eviction but leave him at the mercy of the landlord in so far as increases of rent are concerned

Clause 2 of the Bill will therefore amend the principal Ordinance—

(a) so as to remove the anomaly which exists in section 1 (2) (a), and

(b) by deleting paragraph (d) of sub-section (2) of section 1 and thereby rendering the Ordinance applicable to the buildings therein referred to if they come within the definition of "dwelling houses" within the meaning of the principal Ordinance

The opportunity has also been taken to amend the principal Ordinance in certain other respects in which it has been shown to be defective

Section 5 (1) (d) is amended by deleting the word "furnished", thus enabling the Board to fix the amount of any service charge in respect of any premises, whether furnished or unfurnished (clause 3)

Section 13 is amended so as to make it clear that the standard rent over which a landlord may increase the rent of any premises by the authorized percentage is the standard rent as at the commencement of the Ordinance (clause 4). The section as it now stands is open to the interpretation that a landlord may increase the rent by the statutory percentage over and above any standard rent which the Board may fix in the future. This was not the intention,

Section 16 is amended so as to correct an omission Sub-section (1) (i) provides that an order for recovery of possession may be made if the tenant has, without the consent of the landlord "assigned or sub-let the whole of the premises, the remainder being already sub-let" It has been brought to notice that the words "or sub-let part of the premises" should be inserted immediately before the words "the remainder being already sub-let" Clause 5 of the Bill will remedy this omission

It is the intention that section 22 of the principal Ordinance should place on a landlord a duty to supply to the tenant a rent book whether or not the tenant makes a demand for it Clause 6, accordingly, deletes the words "on demand"

It is not expected that any additional expenditure of public moneys will be incurred if the provisions of this Bill become law

Nairobi,
2nd December, 1949

K K O'CONNOR,
Attorney General

GOVERNMENT NOTICE No 1224

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 GUARANTEE A LOAN OF TWENTY-THREE MILLION POUNDS STERLING TO BE RAISED BY THE HIGH COMMISSION FOR CERTAIN PURPOSES OF THE EAST AFRICAN RAILWAYS AND HARBOURS ADMINISTRATION TO FACILITATE THE INVESTMENT OF TRUST AND OTHER FUNDS IN THE UNITED KINGDOM IN HIGH COMMISSION SECURITIES ISSUED FOR THE PURPOSES OF SUCH LOAN, AND FOR OTHER MATTERS RELATING THERETO AND CONNECTED THEREWITH

WHEREAS the High Commission by an Act entitled the Loan (Railways and Harbours) Act, 1949, made in accordance with the provisions of section 28 (1) (a) of the East Africa (High Commission) Order in Council, 1947, is authorized to raise, either at one time or by instalments, a loan of twenty-three million pounds sterling for certain purposes of the East African Railways and Harbours Administration set out in the Schedule to such Act

AND WHEREAS the principal of and the interest on any such loan is by such Act charged upon and payable out of the Railways and Harbours Fund maintained for the East African Railways and Harbours Administration under the provisions of section 41 of the said Order in Council

AND WHEREAS it is expedient that repayment of the principal of and interest on such loan should be guaranteed out of the general revenues and other funds of the Colony and that any sums necessary for fulfilling such guarantee should be charged on such general revenues and other funds

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 Guarantee (High Commission Railways and Harbours Loan) Ordinance, 1949, and shall come into force on such date as the Governor may, by notice in the Gazette, appoint

Short title and
commencement

Interpretation

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

“High Commission (Railways and Harbours Loan) securities” means all securities created or issued by the High Commission on behalf of the East African Railways and Harbours Administration for the purpose of raising a loan of twenty-three million pounds sterling authorized by the Loan (Railways and Harbours) Act, 1949, to which for the time being the Colonial Stock Acts, 1877 to 1948, apply and which are for the time being registered in the United Kingdom in accordance with the provisions of those Acts, 5

“final judgment, decree, rule or order” means in case of appeal the final judgment decree, rule or order of the ultimate court hearing the appeal,

“the Secretary of State” means His Majesty’s principal Secretary of State for the Colonies 15

Guarantee of loan

3. The payment of the principal of and interest on any loan raised by the High Commission under the authority of the Loan (Railways and Harbours) Act, 1949, to the extent to which such principal and interest is not paid out of the Railways and Harbours Fund maintained for the East African Railways and Harbours Administration under the provisions of section 41 of the East Africa (High Commission) Order in Council, 1947, is hereby guaranteed out of the general revenues and funds of the Colony 25

Provided that in respect of payments the amount of the principal of the loan guaranteed under this Ordinance shall not in the aggregate exceed twenty-four million pounds sterling

Sums charged on general revenues

4. Any sum required for fulfilling any guarantee under this Ordinance shall be charged upon and paid out of the general revenues and other funds of the Colony, and the Governor shall appropriate out of the general revenues and funds of the Colony and remit to the Crown Agents any such sum, and any sum received by way of the repayment of any sum so paid shall form part of the general revenues 35

Provision for payment of money due to stock holders

5. Whenever by the final judgment, decree, rule or order of any court of competent jurisdiction in the United Kingdom any sum of money is adjudged or declared to be payable in respect of any of the High Commission (Railways and Harbours Loan) securities, then that sum, if not forthwith paid by the High Commission, shall forthwith be paid by the Governor out of the funds of the Colony in the hands of the Crown Agents without further appropriation than this Ordinance 40

Certificate by Crown Agents

6. In order to enable every such payment to be duly made, a certificate under the hand of the Crown Agents, specifying the sums so paid under order of any court, shall be sufficient authority to the Auditor General, or other officer having the auditing of their accounts for passing such sum without further appropriation 45

Certain Ordinances may properly be disallowed

7. If at any time hereafter an Ordinance is passed which appears to the Secretary of State to alter any of the provisions affecting the High Commission (Railways and Harbours Loan) securities to the injury of the holder thereof, or to involve a departure from the original contract in regard to these securities, that Ordinance may properly be disallowed 50

MEMORANDUM OF OBJECTS AND REASONS

- By the Loan (Railways and Harbours) Act, 1949, the East Africa High Commission is authorized to raise a loan of twenty-three million pounds for certain purposes of the East African Railways and Harbours Administration specified in a Schedule to the aforesaid Act

In order to provide further security for investors it is considered essential that the repayment of the loan should be guaranteed by each of the three territories concerned. The guarantee must be for an amount greater than the authorized amount of the loan to allow for the possibility of the loan being issued at a discount.

Accordingly this Bill will guarantee the payment, out of the general revenues and funds of the Colony, of the principal and interest on any loan raised by the High Commission under the authority of the Loan (Railways and Harbours) Act, 1949 to the extent to which such principal and interest is not paid out of the funds of the Railways and Harbours Fund maintained under the provisions of section 41 of the East Africa (High Commission) Order in Council, 1947. This guarantee is, however, expressly limited to a maximum of twenty-four million pounds (*clause 3*). It should be emphasized that although the guarantee has a ceiling of twenty-four million pounds it would only become operative to the extent of any failure of the Railways and Harbours Fund to meet its obligations. It is proposed that an agreement should be negotiated between the Governments of Kenya, Tanganyika and Uganda providing for contribution by each of them to the payment of any sum which may fall due.

Clause 4 will provide that any sum required for fulfilling the guarantee shall be charged upon and paid out of the general revenues and other funds of the Colony and authorizes the Governor to appropriate out of the general revenues and remit to the Crown Agents any such sum.

Clause 5 provides that where any sum is by the final order of a court of competent jurisdiction in the United Kingdom adjudged to be payable then if the High Commission fail forthwith to pay it, the Governor shall forthwith pay it out of the funds of the Colony in the hands of the Crown Agents.

Clause 6 provides that a certificate under the hand of the Crown Agents specifying any sums paid by them under an order of any court shall be sufficient authority to their auditors for passing any such sum.

Clause 7 declares that any Ordinance which may hereafter be passed which alters any provisions affecting High Commission (Railways and Harbours Loan) securities to the injury of the holder of such securities or varies the original contract in relation thereto may properly be disallowed by His Majesty.

It is not possible to state whether any and if so what additional expenditure of public moneys will be involved if the provisions of this Bill become law.

Nairobi,
8th December, 1949

K. K. O'CONNOR,
Attorney General

GOVERNMENT NOTICE No 1225

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 EVICTION OF
TENANTS (CONTROL) ORDINANCE, 1949

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

Short title

1. This Ordinance may be cited as the Eviction of Tenants (Control) (Amendment) Ordinance, 1949, and shall be read and construed as one with the Eviction of Tenants (Control) Ordinance, 1949 (hereinafter referred to as the principal Ordinance) 5

No 12 of 1949

Amendment of
section 2 of
the principal
Ordinance

2. There shall be substituted for the definition of "house" in section 2 of the principal Ordinance the following definition —

"house" means any building or erection used as a place of residence and constructed on land which is not 10 owned by the owner of such building or erection

Repeal and
replacement of
section 3 of
the principal
Ordinance

3. There shall be substituted for section 3 of the principal Ordinance the following —

Restriction on
eviction and
raising of rents
by ground
landlord
No 22 of 1949

3 (1) Notwithstanding anything to the contrary in the Increase of Rent (Restriction) Ordinance, 1949, or in 15 any other law in force in the Colony no person shall take any action for the eviction of an owner or of a tenant occupying a house in any of the areas set out in the Schedule to this Ordinance without the consent in writing of the Board 20

(2) No person shall raise the rent of the land upon which any house is built within any of the areas set out in the Schedule to this Ordinance above the rent payable therefor on the 6th day of September 1949, without the consent of the Board 25

No of 1949

(3) If any landlord of land to which sub-section (2) of this section applies has raised the rent of such land after the 6th day of September, 1949, and before the commencement of the Eviction of Tenants (Control) (Amendment) Ordinance, 1949, any excess of rent paid to him over and 30 above the rent payable to him on that date shall be recoverable and may be recovered by deduction from future rents

(4) Any consent required under the two preceding sub-sections shall be given under the hand of the Chairman 35 of the Board or his deputy

(5) The Governor in Council may, by notice in the Gazette, add to, amend or vary the Schedule to this Ordinance

Repeal and
replacement of
section 4 (1) of
the principal
Ordinance

4. There shall be substituted for sub-section (1) of section 40 4 of the principal Ordinance the following —

(1) The Board shall not give such consent except on the grounds of hardship or, in the case of a consent required under sub-section (1) of the last preceding section, on the grounds that any land upon which any house is 45 situated is required by the owner of such land for the purpose of erecting a building containing permanent residential accommodation substantially superior in size and

quality to such house and that such accommodation will be erected within the time approved by the Board or, in the case of any consent required under sub-section (2) of the last preceding section, on the grounds that the rates payable in respect of the land have been increased

MEMORANDUM OF OBJECTS AND REASONS

This Bill is complementary to the Increase of Rent (Restriction) (Amendment) Bill which will extend the provisions of the Increase of Rent (Restriction) Ordinance, 1949, to tenants of dwelling houses owned by persons other than the owners of the land on which they are built

This Bill will make it plain that the protection against eviction already given to such tenants in certain districts of Mombasa by the Eviction of Tenants (Control) Ordinance, 1949, will continue, notwithstanding the application to them of the provisions of the Increase of Rent (Restriction) Ordinance

The Bill will also prohibit the raising of the rent of the land upon which a house not belonging to the owner of the land is built above the rent payable therefor on the date of the commencement of the Increase of Rent (Restriction) Ordinance 1949 without the consent of the Board. Provision is also made whereby any rent in excess paid between the aforesaid date and the commencement of this Bill may be recovered by the tenant by deduction from future rents. These amendments are effected by *clause 3*, which substitutes for section 3 a new section containing these provisions

It is not expected that any additional expenditure of public moneys will be incurred if the provisions of this Bill become law

Nairobi
2nd December, 1949

K K O'CONNOR,
Attorney General

GOVERNMENT NOTICE NO 1226

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 INDUSTRIAL LICENSING ORDINANCE, 1948

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

- | | | |
|----|---|--|
| 1 | 1. This Ordinance may be cited as the Industrial Licensing (Amendment) Ordinance, 1949, and shall be read and construed as one with the Industrial Licensing Ordinance, 1948 (hereinafter referred to as the principal Ordinance) | Short title

No 26 of 1948 |
| 5 | 2. Section 10 of the principal Ordinance is amended in the following respects— | Amendment of section 10 of the principal Ordinance |
| 10 | <p>(a) by re-numbering the present section as sub-section (1),</p> <p>(b) by substituting for the words "A decision of the Council that a licence should not be granted shall only be made upon one or more of the following grounds" the words "Subject to the provisions of sub-section (2) of this section, a decision of the Council that a licence should not be granted shall only be made upon one or more of the following grounds",</p> | |
| 15 | <p>(c) by adding to the section the following sub-section—</p> <p>(2) Where under section 9 of this Ordinance the Council decides that a licence shall be granted in respect of any article, then it may, on the application of the applicant, declare that, subject to the provisions of section 7 of this Ordinance, no other licence to establish and operate a factory for the manufacture for sale, or to manufacture for sale, any such</p> | |
| 20 | | |

article shall be granted during such period, not exceeding five years from the date of such declaration, as the Council may determine

3. The principal Ordinance is amended by inserting
5 therein immediately after section 10 the following section—

Insertion of
section 10A in
the principal
Ordinance

10A Where prior to the 1st day of September, 1949, a
licence in respect of any article has been granted under
section 11 of this Ordinance, then the licensee may apply
to the Council for a declaration that, subject to the provi-
10 sions of section 7 of this Ordinance, no other licence to
establish and operate a factory for the manufacture for
sale, or to manufacture for sale, such article shall be
granted in respect of such period, not exceeding five years
from the 1st day of September, 1949, as the Council may
15 determine to any person who was not on that date a
licensee in respect of such article

Power of
existing licensee
to apply for
declaration

4. Section 14 of the principal Ordinance is amended by
inserting therein immediately before the word "refused" the
words "granted or"

Amendment of
section 14 of
the principal
Ordinance

20 5. The following section shall be substituted for section
15 of the principal Ordinance—

Repeal and
replacement of
section 15 of
the principal
Ordinance

15 If the Appeal Tribunal decides under the provi-
sions of section 14 of this Ordinance—

Action
consequent upon
decision of
Appeal
Tribunal

25 (a) that the licence should be granted, the Registrar
shall grant the licence subject to such conditions,
if any, as the Appeal Tribunal may, after con-
sultation with the Court direct to be attached
thereto,

30 (b) that the licence should not be granted, the
Registrar shall refuse to grant the licence or, if it
has already been granted, shall cancel the licence
with effect from the date of such decision

MEMORANDUM OF OBJECTS AND REASONS

Since the enactment of the Industrial Licensing Ordinance, 1948 (referred to as the principal Ordinance), it has become apparent that there are certain defects in the Ordinance and it is the object of this Bill to remedy those defects

In the first place, the principal Ordinance contains inadequate provision for protecting a new industry from uneconomic competition

This Bill will, accordingly, insert a new sub-section in section 10 of the principal Ordinance which will enable the Industrial Licensing Council at the time of the grant of a licence to declare that for a period to be specified and which may not exceed five years no similar licence shall be granted (*Clause 2*). A new section 10A will also be inserted enabling the Council to make a similar declaration in relation to a licence which has already been granted

The other respect in which the principal Ordinance is defective is that, although provision exists for an appeal by any person aggrieved by a refusal of the Council to grant a licence, no provision exists for any appeal by a person aggrieved by the grant of a licence. *Clause 4* of the Bill will remedy this omission by amending section 14 of the principal Ordinance so as to confer a right of appeal upon any person aggrieved by a decision of the Council to grant a licence and *Clause 5* of the Bill will substitute a new section 15 which will provide for the action to be taken consequent upon a decision of the Appeal Tribunal

It is not expected that there will be any additional expenditure of public moneys if the provisions of this Bill become law

Nairobi,
5th December, 1949

K K O'CONNOR,
Attorney General