



# THE OFFICIAL GAZETTE

## OF THE COLONY AND PROTECTORATE OF KENYA

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#### GOVERNMENT NOTICE No 66

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

T V N FORIESCUE,  
*Acting Clerk to the Legislative Council*

### A BILL ENTITLED AN ORDINANCE TO AMEND THE REGISTRATION OF PERSONS ORDINANCE

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 Registration of Persons (Amendment) Ordinance, 1951, and shall be read and construed as one with the Registration of Persons Ordinance, hereinafter referred to as the principal Ordinance Short title  
Cap 50
2. Section 2 of the principal Ordinance is amended by substituting for the words "who have attained or who are of the apparent age of sixteen years" occurring therein, the words "who at the commencement of this Ordinance have attained or shall thereafter attain the age of sixteen years or who at such commencement are or shall hereafter be of the apparent age of sixteen years" Amendment of  
section 2 of the  
principal  
Ordinance
3. Sub-section (1) of section 5 of the principal Ordinance is amended in the following respects— Amendment of  
section 5 of  
the principal  
Ordinance
  - (a) by substituting for paragraphs (d) and (e) the following paragraphs—
    - (d) Declared national status and race, and, where applicable, tribe
    - (e) Date of birth or apparent age, and place of birth, and
  - (b) by re-lettering paragraph (j) as paragraph (k) and by inserting the following new paragraph as paragraph (j)—
    - (j) If not born in the Colony, the date of first entry into the Colony
4. Section 6 of the principal Ordinance is amended in the following respects— Amendment of  
section 6 of  
the principal  
Ordinance
  - (a) by substituting a colon for the full stop at the end of sub-section (3) and by adding the following proviso—

Cap 127 of the  
1926 Edition  
of the Laws

Provided that if any such African applies to the registration officer to have endorsed on a certificate issued to him under the provisions of the Native Registration Ordinance (now repealed) the words "Voluntary Record of Employment—to be filled in only at the request of the employee" he shall not be required to surrender such certificate and the registration officer shall return the certificate duly endorsed as aforesaid to such African but such certificate shall upon such endorsement cease to be a certificate of identity for the purposes of this Ordinance,

and

(b) by substituting for sub-section 5 the following sub-section—

(5) (a) Any African may apply to a registration officer—

(i) to inscribe on that portion of his registration certificate issued under the Native Registration Ordinance (now repealed) which contains the record of his employment the words "Voluntary Record of Employment—to be filled in only at the request of the employee", or

(ii) to detach from his certificate as aforesaid that portion which contains the particulars of his identity

(b) In the case of an application under sub-paragraph (i) of paragraph (a) of this sub-section, the registration officer shall endorse on the certificate the words "Voluntary Record of Employment—to be filled in only at the request of the employee"

(c) In the case of an application under sub-paragraph (ii) of paragraph (a) of this sub-section, the registration officer shall inscribe on the portion of the certificate which contains the particulars of identity, such particulars as may be determined by the Principal Registrar, and shall inscribe on the other portion of such certificate the words "Voluntary Record of Employment—to be filled in only at the request of the employee" together with such other particulars as the Principal Registrar may determine, and both portions of the certificate shall be returned to the African

Insertion of  
new section 6A  
in the principal  
Ordinance

Immigrants to  
register within  
14 days of  
entry into  
the Colony

5. The principal Ordinance is amended by inserting next after section 6 the following new section—

6A (1) Subject to the provisions of sub-section (2) of this section, every person shall, within fourteen days of the date of his first entry into the Colony, attend before a registration officer for the purpose of being registered

(2) Nothing in this section shall apply to any person whose presence in the Colony is permitted by a valid Visitor's Pass issued to such person pursuant to any rules made under the Immigration Control Ordinance

(3) Every person who fails to comply with the provisions of sub-section (1) of this section shall be guilty of an offence against this Ordinance

Cap 51

Repeal and  
replacement of  
section 12 of  
the principal  
Ordinance

Evidential value  
of certificates

6. There shall be substituted for section 12 of the principal Ordinance the following section—

12 Any document purporting to be a certificate under the hand of the Principal Registrar, a registrar or

an assistant registrar and certifying that any return required to be made to him under the provisions of this Ordinance or any rules made thereunder has not been made, certifying a copy or extract of any record kept by the Principal Registrar under the provisions of this Ordinance or certifying that any thumb or finger impressions are the thumb or finger impressions of a person specified in such certificate, shall, in any proceedings for an offence against the provisions of this Ordinance be *prima facie* evidence of the facts stated therein

7. Sub-section (1) of section 13 of the principal Ordinance is amended in the following respects—

Amendment of section 13 of the principal Ordinance

- (a) by re-lettering paragraphs (a) to (l) as paragraphs (b) to (m) respectively and by inserting the following new paragraph as paragraph (a)
  - (a) fails to apply to be registered in accordance with the provisions of this Ordinance,
- (b) by substituting for paragraph (h) (re-lettered as paragraph (i)) a new paragraph as follows—
  - (i) having previously had issued to him an identity card under the provisions of this Ordinance, obtains or attempts to obtain another identity card without disclosing to the registration officer the fact of such previous issue and the loss, mutilation or destruction of any identity card previously issued
- (c) by substituting for the brackets and letters “(j), (k) and (l)” occurring in the proviso to sub-section (1), the brackets and letters “(k), (l) and (m)”, and
- (d) by substituting for the words “shall be liable on conviction to a fine not exceeding one thousand shillings and in default of payment to imprisonment for a term not exceeding six months” the words “shall be liable to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding six months or to both such fine and imprisonment”

#### MEMORANDUM OF OBJECTS AND REASONS

It will be recalled that a Commissioner was appointed in 1949 to review the Registration of Persons Ordinance, 1947, and to make recommendations for any amendments that he might consider necessary or desirable. The Commissioner reported in February, 1950, and made certain recommendations for amendment of the Ordinance. The principal recommendations were—

- (1) that provision should be made for an alternative method of registration, other than by finger-printing, which should be open to members of all communities, provided that they could fulfil certain requirements, the requirements were that they appear before a registration officer with acceptable sponsors, fill up a form in English and produce a photograph, and
- (2) that, instead of records of employment being required to be surrendered, provision should be made for the retention or issue to employees of voluntary records of employment, to be filled in only at the employee's request

Government has considered the Report of the Commissioner and the views expressed in the Legislative Council and the voting on the motion for the adoption of the report. Government has also considered the changed situation since the report was written and the fact that it is proposed shortly to introduce a Bill to provide for compulsory National Service in which connexion the most efficient system of national registration will be essential. In the light of these considerations, Government has decided to proceed with the second, but not with the first, of the above-mentioned recommendations of the Commissioner.

Accordingly this Bill does not contain provisions for an alternative method of registration, but *clause 4* of the Bill will amend sub-section (3) of section 6 of the Registration of Persons Ordinance (Cap 50) (hereinafter called the principal Ordinance) so as to provide that an African need not surrender his certificate issued under the Native Registration Ordinance upon registration under the principal Ordinance, if he applies to the registration officer to endorse on it the words "Voluntary Record of Employment—to be filled in only at the request of the employee". When such an endorsement has been made the certificate will cease to be a certificate of identity for the purposes of the principal Ordinance. *Clause 4* will also amend sub-section (5) of section 6 of the principal Ordinance so as to provide that when that portion of a certificate issued under the Native Registration Ordinance which contains particulars of identity has already been detached it shall cease to be a certificate of identity for the purposes of the principal Ordinance and that the other portion shall be endorsed with the words "Voluntary Record of Employment—to be filled in only at the request of the employee".

The opportunity has also been taken (*clauses 2, 3 and 6*) to amend sections 2, 5 and 12 of the principal Ordinance in certain minor respects which experience has shown to be desirable.

*Clause 5* will insert a new section 6B which provides that every immigrant shall, within 14 days of his first entry into the Colony, attend before a registration officer for the purpose of being registered. Holders of Visitor's Passes are exempted from the provisions of this section.

*Clause 7* will amend section 13 of the principal Ordinance in three respects, namely (i) by making it an offence to fail to apply to be registered under the Ordinance, (ii) by making it an offence for a person who has previously had an identity card issued to him to obtain or attempt to obtain another without first reporting to the registration officer the fact of such previous issue, and (iii) by enabling the court to impose imprisonment either in lieu of or in addition to a fine for making false statements or for the other offences enumerated in sub-section (1) of section 13.

It is not possible to estimate what additional expenditure, if any, will result if the provisions of this Bill become law.

Nairobi,  
12th January 1951

K. K. O'CONNOR,  
*Attorney General*

## GOVERNMENT NOTICE No 67

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

I V N FORTESCUE,  
*Acting Clerk to the Legislative Council*

## ARRANGEMENT OF SECTIONS

SECTION	SECTION
1—Short title	9—No action to lie against magistrates or police officers in cases where local authority had no lawful right to possession
2—Interpretation	10—Magistrate may order payment of rent due, award damages and payment of costs
3—Recovery of possession of property	11—Warrants shall not be executed on a Sunday or public holiday
4—Summons to tenant	SCHEDULE
5—Procedure for recovery of possession	
6—Trespass by local authority and stay of execution of warrant	
7—Action against local authority for irregularity in obtaining possession	
8—Forms	

**A BILL ENTITLED**  
**AN ORDINANCE TO FACILITATE THE RECOVERY**  
**OF POSSESSION OF IMMOVABLE PROPERTY**  
**BELONGING TO LOCAL AUTHORITIES AFTER**  
**THE LAWFUL TERMINATION OF THE TENANCY**

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

1. This Ordinance may be cited as the Local Authorities (Recovery of Possession of Property) Ordinance 1951 Short title
2. In this Ordinance unless the context otherwise requires— Interpretation
  - 5 “local authority” means—
    - (a) a municipal council or municipal board constituted under the Municipalities Ordinance, Cap 136
    - (b) a district council constituted under the Local Government (District Councils) Ordinance or any Ordinance replacing the same, Cap 140
    - 10 (c) an African district council established under the African District Councils Ordinance, 1950, No 12 of 1950
  - “magistrate” means a magistrate holding a subordinate court of the first or second class for the district or place within Recovery of possession of property
    - 15 which the premises, the recovery of which is sought, are situate,
    - “premises” means any land, house or other corporeal hereditament
3. Notwithstanding anything to the contrary in any Recovery of possession of property
  - 20 Ordinance or law, when the term or interest of the tenant of any premises held by him from a local authority at will or for any term not exceeding three years, either with or without being liable to the payment of rent, has expired or has been legally determined by a notice to quit or otherwise and such
  - 25 tenant or (if such tenant does not actually occupy the premises or only occupies a part thereof) any person by whom the same or any part thereof is actually occupied neglects or refuses to quit and deliver up possession of the premises or such part thereof, as the case may be, the local authority may make a
  - 30 complaint in writing on oath before the magistrate
4. (1) Upon receiving such complaint the magistrate Summons to tenant
  - shall issue a summons to the tenant or occupier neglecting or refusing to quit and deliver up possession requiring such
  - tenant or occupier to appear at a time and place specified in
  - 35 the summons and to show cause why possession of the premises or such part thereof should not be given to the local authority under the provisions of this Ordinance

(2) Such summons may be served either personally or by leaving the same with some person apparently residing at the place of abode of such tenant or occupier or, if such tenant or occupier cannot be found and his place of abode either is not known or admission thereto cannot be obtained for serving such summons the attachment of such summons to the premises held over shall be deemed to be good service upon such tenant or occupier 5

Procedure for  
recovery of  
possession

5. If the tenant or occupier fails to appear at the time and place specified in the summons or to show reasonable cause why possession of the premises should not be given under the provisions of this Ordinance and still refuses or neglects to quit and deliver up possession of the premises, or such part thereof of which he is then in possession to the local authority the local authority may give to the magistrate proof— 10 15

(a) of the letting of such premises and of the expiry or other determination of the tenancy and of the holding over,

(b) where the title of the local authority has accrued since the letting of the premises, of the right by which the local authority claims possession, and 20

(c) of the service of the summons and of the continued neglect or refusal of the tenant or occupier to quit and deliver up possession of the premises, 25

and the magistrate may issue a warrant under his hand to the police officers of the district or place within which the said premises are situated ordering them within a period to be named therein which shall not be less than fourteen nor more than twenty-one clear days from the date of the warrant, to enter, with such assistance as may be authorized by the warrant and by force if necessary, into the premises and give possession of the same to the local authority 30 40

Trespass by  
local authority  
and stay of  
execution of  
warrant

6. (1) If the local authority to which any warrant granted under section 5 of this Ordinance is granted had not at the time of the granting thereof lawful right to possession of the premises or of the part thereof so held over, the obtaining of such warrant shall, whether or not entry has been made under or by virtue of the warrant, be a trespass against the tenant or other occupier of the premises 40

(2) If the person against whom any such trespass has been committed enters into a bond with two sureties, to be approved by the magistrate in such sum as to the magistrate may seem reasonable having regard to the value of the premises and the probable costs of an action for trespass, to sue without delay the local authority by whom the warrant was obtained and to pay the costs of such action if judgment is given for the defendant or if the plaintiff discontinues and does not prosecute the action or is non-suited therein, then execution of the warrant shall be suspended until judgment has been given in such action for trespass and if a verdict is given in favour of the plaintiff such verdict shall supersede the warrant 45 50

(3) A bond mentioned in sub-section (2) of this section shall be given to the local authority at the cost of such local authority and shall be approved by the magistrate who shall indicate such approval by signing his name on such bond and if the bond is forfeited or if upon the trial of the action for securing the trial of which such bond was given, the Judge or magistrate by whom it is tried does not endorse upon the record of the case that the condition of the bond has been fulfilled, the local authority to which such bond was given may bring an action and recover thereon 55 60

Provided that the court before which such last-mentioned action is brought may make an order giving such relief to the parties to such bond as the justice of the case may require and any such order shall have the effect of a defeasance to  
5 such bond

7. Where the local authority at the time of applying for such warrant as aforesaid had lawful right to the possession of the premises or of the part thereof so held over as aforesaid, neither the local authority nor any person acting on its behalf  
10 shall be deemed to be a trespasser by reason merely of any irregularity or informality in the mode of proceeding for obtaining possession under the authority of this Ordinance but any party aggrieved may, if he think fit, bring an action for such irregularity or informality in which the damage alleged  
15 to be sustained thereby shall be specially pleaded, and may recover full satisfaction for such special damage with the costs of the suit

Action against local authority for irregularity in obtaining possession

Provided that if the special damage so pleaded is not proved, the defendant shall be entitled to a verdict and if such  
20 special damage is proved but is assessed at any sum not exceeding twenty shillings the plaintiff shall recover no more costs than damages unless the Judge or magistrate before whom the trial is held certifies on the record that in his opinion full costs ought to be allowed

25 **8.** (1) The complaint referred to in section 3 of this Ordinance shall be in the Form A in the Schedule to this Ordinance

Forms

(2) The summons referred to in section 3 of this Ordinance shall be in the Form B in the Schedule to this Ordinance

30 (3) The warrant referred to in section 5 of this Ordinance shall be in the Form C in the Schedule to this Ordinance

9. No action or prosecution shall lie against the magistrate by whom any warrant as aforesaid is issued or against any police officer by whom any such warrant is  
35 executed in respect of the issuing or executing of such warrant respectively by reason that the local authority on whose application the same was granted had no lawful right to the possession of the premises in respect of the recovery of which such warrant was issued

No action to lie against magistrates or police officers in cases where local authority had no lawful right to possession

40 **10.** The magistrate may, at the time of and in addition to the granting of a warrant under section 5 of this Ordinance, order the defendant to pay—

Magistrate may order payment of rent due, award damages and payment of costs

(a) any rent due and unpaid,

45 (b) such sum by way of damages for his neglect or refusal to quit and deliver up possession as the magistrate thinks fit but not exceeding an amount equal to three months' rent of the premises,

(c) the costs of the proceedings

50 **11.** A warrant under section 5 of this Ordinance shall not be executed on a Sunday or public holiday nor on any day except between the hours of eight o'clock in the morning and four o'clock in the afternoon

Warrants shall not be executed on a Sunday or public holiday



## SCHEDULE

## FORM A

(Sections 3 & 8) THE LOCAL AUTHORITIES (RECOVERY OF POSSESSION OF PROPERTY) ORDINANCE, 1951

*Complaint*

The Complaint of  
acting on behalf of

a local authority within the meaning of the Local Authorities (Recovery of Possession of Property) Ordinance 1950, made and taken on oath before me a magistrate of a subordinate court of the class having jurisdiction within the limits of the Province/District who saith—

1 That certain premises situate at \_\_\_\_\_ in the \_\_\_\_\_ District in the \_\_\_\_\_ Province were let to \_\_\_\_\_ of \_\_\_\_\_ at a rent of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_,

Here insert any other cause for which tenancy determined

2 That the said tenancy expired (or was determined by notice to quit given by the said \_\_\_\_\_ (local authority)), or

on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_,

3 That the said \_\_\_\_\_ (local authority) is entitled to possession of the said premises

4 That the said \_\_\_\_\_ refuses (or neglects) to quit and deliver up possession of the said premises and still detains the same

And the said \_\_\_\_\_ (local authority) therefore prays that the said \_\_\_\_\_ may be called upon to shew cause why he should not quit and deliver up possession of the said premises and answer to this complaint according to law

Taken and sworn before me at this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_,

for \_\_\_\_\_  
Magistrate  
Province/District

## FORM B

(Sections 4 & 8) THE LOCAL AUTHORITIES (RECOVERY OF POSSESSION OF PROPERTY) ORDINANCE 1951

*Summons*

To

Whereas complaint has been made before me—

1 That you \_\_\_\_\_ are the tenant (or occupier) of premises situate at \_\_\_\_\_ in the \_\_\_\_\_ District in the Province of \_\_\_\_\_

Here insert any other cause for which tenancy determined

2 That the said tenancy expired (or was determined by notice to quit given by \_\_\_\_\_ (local authority)), or

3 That the said \_\_\_\_\_ (local authority) is entitled to possession of the said premises

4 That you refuse (or neglect) to quit and deliver up possession of the said premises and still detain the same

You are hereby required to appear in person at the \_\_\_\_\_ Class Subordinate Court at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, to shew cause why possession of the said premises should not be given to the said \_\_\_\_\_ (local authority)

If you fail to appear at the time and place specified in this summons possession may be given to the said \_\_\_\_\_ (local authority) in default of your appearance

for \_\_\_\_\_  
Magistrate,  
Province/District



## SCHEDULE—(Contd.)

## FORM C

THE LOCAL AUTHORITIES (RECOVERY OF POSSESSION OF PROPERTY) (Sections 5 & 8)  
ORDINANCE, 1951

## Warrant

Whereas it has been proved to my satisfaction that the term or interest of \_\_\_\_\_ in \_\_\_\_\_ premises held by him from \_\_\_\_\_ a local authority within the meaning of the Local Authorities (Recovery of Possession of Property) Ordinance, 1950, has expired (or has been legally determined) and the said \_\_\_\_\_ without just cause neglects or refuses to quit and deliver up possession of the said premises

Now therefore I \_\_\_\_\_ a magistrate of a subordinate court of the \_\_\_\_\_ class do authorize and command you on any day between the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ and the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ (other than a Sunday or public holiday), between the hours of eight o'clock in the morning and four o'clock in the afternoon to enter by force if necessary, and with or without the assistance of any agent of the said local authority or any other person or persons whom you may think requisite to call to your assistance, into and upon the said premises, and to eject therefrom any person and deliver up to the aforesaid local authority or its agent full and peaceable possession

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

Magistrate,

To \_\_\_\_\_ and \_\_\_\_\_  
all other police officers  
for the District of \_\_\_\_\_

## MEMORANDUM OF OBJECTS AND REASONS

It has been represented that local authorities which have provided housing either at barely economic rents or at sub-economic rents experience considerable difficulty and frustration in the recovery of possession of some of these houses from tenants who hold over after their tenancy has been determined. This is so although municipal property is not subject to rent control laws. Considerable delay and expense are also caused because by reason of the value of the premises concerned it is necessary to institute proceedings in the Supreme Court. This Bill will accordingly make provision on the lines of the United Kingdom Small Tenements Recovery Act of 1838 for the more speedy recovery in subordinate courts of the possession of premises held from local authorities.

Clause 3 and 4 of the Bill will enable a local authority, if a tenant neglects or refuses to deliver up possession, to make a complaint on oath before a magistrate and to cause the person holding over to be served with a summons requiring him to appear before the magistrate on a day named in the summons, when application will be made for a warrant directed to the police officers of the district to eject such person, unless such person shews cause why the warrant should not issue.

Clause 5 sets out the proof which the local authority must give to the magistrate when asking for a warrant to be issued, and provides for the issue of the warrant which will direct that possession be given to the local authority not less than fourteen nor more than twenty-one days from the date of the warrant.

Clause 6 provides that if the local authority had not at the time of obtaining the warrant a lawful right to the possession of the premises, the mere obtaining of the warrant shall be a trespass and the tenant may, upon entering into a bond to bring an action against the local authority and to pay the costs if unsuccessful, secure that the execution of the warrant is delayed until judgment in the action has been given. The clause also provides that the bond shall be entered into at the cost of the local authority.

Clause 7 protects the local authority and any person acting on its behalf from being deemed a trespasser merely by reason of any irregularity or informality in the mode of procedure for obtaining possession of premises under the Ordinance, but enables any person who can prove that he has suffered special damage to bring an action in respect of the irregularity or informality complained of.

*Clause 9* protects magistrates and police officers from actions for issuing and executing warrants where the warrant was granted to a local authority which had no lawful right to the possession of the premises

*Clause 10* will enable the magistrate to award a limited sum by way of damages, and also to order payment of any rent due and the costs of the proceedings for the recovery of possession

*Clause 11* will ensure that a warrant is executed only between 8 a m and 4 p m and that it is not executed on a Sunday or public holiday

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

Nairobi,  
20th November, 1950

K K O'CONNOR,  
*Attorney General*

## GOVERNMENT NOTICE No 68

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

T V N FORTISCUE,  
*Acting Clerk to the Legislative Council*

## ARRANGEMENT OF SECTIONS

SECTION	SECTION
1—Short title and commencement	19—Local Manpower Committees
2—Ordinance not to apply to specified classes of persons	20—Duties of Local Manpower Committees
3—Interpretation	21—Medical examinations
4—Compulsory National Service	22—Power to establish a force for civil defence
5—Transfers	23—Supervision of business where owner is away on national service
6—Appointment of Manpower Authorities	24—Appointment and powers of inspectors
7—Composition of Central Manpower Committee	25—Appointment of inspectors of essential undertaking and their duties
8—Powers of the Director of Manpower	26—Obstructing an inspector appointed under this Ordinance
9—Notice of call up	27—Breaches of discipline by persons engaged in reserved occupations
10—Director of Manpower to render quarterly returns to Governor in Council	28—Special provisions in relation to specified classes of persons
11—Power to require certain persons to remain in reserved occupations	29—Local Exemption Tribunals
12—General power to require persons to remain in reserved occupations for first three months after commencement of hostilities	30—Provincial Exemption Tribunals
13—To limit number of employees	31—Establishment of a Central Exemptions Tribunal
14—To call for returns	32—Enforcement of Exemptions Tribunals' decision
15—Duties of Central Wages Board	33—Penalties
16—Application of minimum wage scale and terms of service to voluntarily engaged persons	34—Special provision for revision of sentence
17—Person liable for payment	35—Power to make regulations
18—Offence to fail to pay wages or provide conditions of service	36—Rules
	SCHEDULE

**A BILL ENTITLED  
AN ORDINANCE TO PROVIDE FOR COMPULSORY  
NATIONAL SERVICE AND THE ESTABLISHMENT  
OF A FORCE FOR CIVIL DEFENCE; AND FOR  
MATTERS CONNECTED WITH THE FOREGOING  
PURPOSES**

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 Compulsory National Service Ordinance, 1951, and shall come into operation on such date as the Governor may, by notice in the Gazette, appoint, and different dates may be appointed for the coming into operation of different sections Short title and commencement
2. Subject to the provisions of section 28 of this Ordinance, nothing in this Ordinance shall apply to the classes of persons specified in the Schedule to this Ordinance Ordinance not to apply to specified classes of persons
3. In this Ordinance, unless the context otherwise requires— Interpretation
  - “Central Exemptions Tribunal” means the Central Exemptions Tribunal established under section 31 of this Ordinance,
  - “Central Manpower Committee” means the Central Manpower Committee appointed under section 6 of this Ordinance,
  - “Central Wages Board” means the Central Wages Board appointed under section 6 of this Ordinance
  - “Director of Manpower” means the Director of Manpower appointed under section 6 of this Ordinance,
  - “essential undertaking” means an undertaking, whether public or private, declared by the Governor in Council to be an undertaking essential to the successful prosecution of any war in which His Majesty may be engaged, the defence of the Colony, or the maintenance of supplies and services essential to the life of the community,

"habitation centre" means a centre established under the provisions of this Ordinance at which an African directed to compulsory military service may be accommodated and receive, before being enrolled, such preliminary care and instruction as may be prescribed by rules under this Ordinance, 5

"Local Exemptions Tribunal" means a Local Exemptions Tribunal appointed under section 29 of this Ordinance,

"Local Manpower Committee" means a Local Manpower Committee established under section 19 of this Ordinance, 10

"national service" means—

(a) service in the Armed Forces of the Crown, or in any force or unit established for civil defence, or

(b) service in an essential undertaking

"Provincial Exemptions Tribunal" means a Provincial Exemptions Tribunal established under section 30 of this Ordinance, 15

"reception centre" means a centre established under the provisions of this Ordinance at which a person directed to employment in an essential undertaking under the provisions of this Ordinance may be accommodated and receive such medical or other care as may be prescribed by rules under this Ordinance before proceeding to his place of work, 20

"reserved occupation" means employment in an essential undertaking 25

Compulsory  
national  
service

4. Every person for the time being in the Colony shall, unless exempted under the provisions of this Ordinance, be liable to be called up for compulsory national service, either whole-time or part-time, for such period as may from time to time be prescribed not exceeding a period of two years or the duration of any war in which His Majesty may then be engaged and one year thereafter, whichever period is the longer, as follows— 30

(a) if a male British subject or a male British protected person of or above the age of eighteen years but below the age of forty-five years, to be enrolled for military service and to serve in any unit of His Majesty's Forces which has been lawfully established in the Colony (whether such unit is serving within or without the Colony) or in any unit of His Majesty's Forces which is serving in the Colony, 40

(b) if a female British subject or a female British protected person of or above the age of eighteen years but below the age of forty-five years, to be enrolled and to serve in the Women's Territorial Service (East African) or such other women's unit as may at any time be established, 45

(c) if a male British subject or a male British protected person of or above the age of eighteen years, but below the age of sixty years, to be enrolled and to serve in any force which may be established in the Colony by regulations made under section 22 of this Ordinance for civil defence or for maintaining internal security within the Colony, 50

(d) if not called up to perform any of the services specified in paragraphs (a), (b) and (c) of this section or until so called up, as the case may be, to perform such national service as may be specified in a notice issued to such person under the provisions of section 9 of this Ordinance 55

Provided that the provisions of this paragraph shall not apply to any male person over the age of sixty-five years or to any female person over the age of fifty-five years

5      5. The Governor may order the compulsory transfer to Transfers  
any unit of His Majesty's Forces which has been lawfully  
established in the Colony (whether such unit is serving in or  
beyond the Colony) or to any unit of His Majesty's Forces  
which is serving in the Colony, of any person enrolled for  
10 military service under the provisions of this Ordinance

6. The Governor in Council may by notice in the Appointment of  
Gazette— manpower  
authorities

(a) appoint a Director of Manpower and a Deputy Director of Manpower, and

15      (b) establish a Central Manpower Committee and a  
Central Wages Board and appoint the members  
thereof

7. The Central Manpower Committee shall consist of Composition of  
the Director of Manpower, as Chairman, the Deputy Director Central Man  
20 of Manpower, as Vice-Chairman, and such other members as power  
Committee  
the Governor in Council may appoint by notice in the Gazette

8. It shall be the duty of the Director of Manpower, with Powers of  
the advice of the Central Manpower Committee and subject to the Director  
of Manpower  
25 the provisions of this Ordinance and of any regulations made of Manpower  
thereunder, to select and call up for national service under  
this Ordinance such number of persons as may, from time to  
time, be required

Provided that, in so doing, he shall have due regard to the  
needs of civil life and to the circumstances of each case

30      9. (1) Subject to the provisions of this Ordinance the Director of Manpower may cause to be served on any person Notice of  
who is, for the time being, liable to be called up for national call up  
service under section 4 of this Ordinance a notice calling up  
such person

35      (2) Such notice shall be signed by the Director of Manpower or a person deputed by him in writing to act on his behalf

(3) Every such notice shall require the person upon whom it is served to present himself, in accordance with the terms  
40 of the notice, at such place and time (not earlier than fourteen days after the date of the service of the notice) and to such authority and for such service as may be specified in the notice, and to continue in such service for such period as may be specified or until released by further order

45      (4) Every person who is required to present himself in accordance with a notice served upon him under this section shall present himself accordingly and for such purpose receive such travelling and other allowances as may be prescribed by the Director of Manpower under this Ordinance

50      (5) An appeal shall lie against any notice served under the provisions of this section to the appropriate Local Exemptions Tribunal appointed under section 29 of this Ordinance

10. The Director of Manpower shall render to the Director of  
Governor in Council at intervals not exceeding three months a Manpower to  
55 return showing, by races, sexes and employment categories, in render quarterly  
such detail as the Governor in Council may require, the total returns to  
number of persons for whose compulsory recruitment for Governor in  
various forms of national service applications have been sanctioned, and the numbers provided. In rendering such returns Council

the Director shall append such comment as he and the Central Manpower Committee think fit upon the effect which such recruitment is having upon the social structure of the Colony and the normal course of civil life

Power to  
require certain  
persons to  
remain in  
reserved  
occupations

**11.** (1) The Director of Manpower may order any person, 5 who is liable to be called up for national service under this Ordinance and who, at the time of such order, is engaged in a reserved occupation either on his own account or as a voluntary employee at a salary of not less than fifty shillings a month, to remain in such occupation until released by a written 10 authority signed by or on behalf of the Director of Manpower. Such an order shall be valid notwithstanding any provisions to the contrary in any contract, whether entered into before or after the commencement of this Ordinance

(2) An order under sub-section (1) of this section may be 15 made to apply either generally to all persons to whom the sub-section is applicable or to a particular class of such persons or to a particular person named in the order. If the order applies generally or to a particular class of persons it shall be made by notice in the Gazette. If it applies to a particular person named 20 therein it shall be in the form of a letter addressed personally to the person and signed by or on behalf of the Director of Manpower

(3) Any person to whom such an order applies may appeal to the appropriate Local Exemptions Tribunal 25 appointed under section 29 of this Ordinance

(4) The Director of Manpower may, by notice in the Gazette, depute any or all of his powers under this section to an administrative officer or any person approved by the Central Manpower Committee and shall in such notice define 30 the exact limits within which such administrative officer or person as aforesaid shall so act

General power  
to require  
persons to  
remain in  
reserved  
occupations for  
first three  
months after  
commencement  
of hostilities

**12.** Notwithstanding anything contained in sub-section (1) of section 11 of this Ordinance, the Director of Manpower may, at any time during the first three months after the com- 35 mencement of any hostilities, issue, by notice in the Gazette a general order to all persons employed in reserved occupations, requiring them to remain in such employment for a period of three months, or such lesser period as he may specify in such order, from the date of such order, unless exempted by 40 an authorization signed by him or on his behalf. Any such order shall apply to all reserved occupations and to all persons engaged therein, save in so far as the order may specifically otherwise provide

To limit  
number of  
employees

**13.** (1) The Director of Manpower, with the advice and 45 consent of the Central Manpower Committee, may, by order, restrict the number of employees who may be employed in any class of employment, or in any industry or in any undertaking, either generally or in relation to any particular estate or concern 50

Provided that, where the order specifically limits the number of such employees who may be employed on a particular estate or in a particular concern operating in a particular locality the Local Manpower Committee shall first be consulted 55

(2) Every employer to whom such order is addressed shall, within the period specified in such order, reduce the number of his employees to a number within the limited maximum

Provided that, if he is aggrieved by such order he may appeal to the appropriate Local Exemptions Tribunal 60 appointed under section 29 of this Ordinance and such Tribunal shall hear and deal with such appeal in the manner specified in this Ordinance.

(3) An employee who is dismissed by reason of an order under this section may, if he was working under a written contract of service which had not expired, appeal to the appropriate Local Exemptions Tribunal appointed under section 29 of this Ordinance and such Tribunal shall have power, in deciding the appeal, to uphold, vary or set aside the contract as it may deem fit

14. The Director of Manpower may require, by notice in the Gazette, the submission by any member of the public generally or by the members of any section of the public of such returns as he considers requisite for the purposes of this Ordinance

To call for  
returns

15. (1) The duties of the Central Wages Board shall, subject to the provisions of this Ordinance and of any regulations made thereunder, be as follows—

Duties of  
Central Wages  
Board

(a) subject to the approval of the Governor in Council, by notice in the Gazette to fix minimum rates of wages and conditions of service for all persons directed to perform national service of a civil character under the provisions of this Ordinance, and different rates of wages and different conditions of service may be fixed for different areas in the Colony, for different classes of work, and for different degrees of competence, and, in fixing such rates of wages or conditions of service, the Board shall have due regard to the maintenance of a satisfactory standard of living, to the increased cost of living arising from war conditions, and to the average rate of wages and conditions of employment prevailing in the area concerned;

(b) to make recommendations, through the Director of Manpower, to the Governor in Council as to the rates of pay and conditions of service applicable to persons compulsorily enrolled for military service in any force or unit established in East Africa by the authority of the Governor,

(c) to tender advice to the Governor in Council and to the Director of Manpower on the exercise of their power to make regulations and rules, respectively under sections 35 and 36 of this Ordinance, in so far as the subject matter of such regulations or rules relates to matters falling within the purview of the Board

(2) In exercising its powers to fix rates of wages by notice as provided in sub-section (1) of this section the Board may exclude from the scope of such notice apprentices, learners, improvers, leading artisans, charge hands, mistresses, and persons engaged in trades and occupations who, before the date fixed in such notice for the coming into operation of the said rates of wages, were in receipt of a higher rate than the scale fixed for such class of work

(3) Any rate of wages fixed by the Board shall be published in the Gazette and shall come into force on such date as may be specified in such notice,

16. (1) The minimum rates of wages and conditions of service fixed by the Central Wages Board under the provisions of paragraph (a) of sub-section (1) of section 15 of this Ordinance shall apply not only to persons called up for national service and assigned to a particular employer under the provisions of this Ordinance but also to voluntarily engaged persons working for the same employer on the same or a similar class of work,

Application of  
minimum wage  
scale and  
terms of  
service to  
voluntarily  
engaged persons



(2) Any employer who fails to give effect to the provisions of sub-section (1) of this section shall be guilty of an offence against this Ordinance

Person liable  
for payment

**17.** In the case of persons called up for national service in a reserved occupation under this Ordinance the person liable 5 to pay the remuneration and provide the conditions of service fixed by the Central Wages Board shall be the person for whom such service is to be rendered or such work is to be performed

Offence to fail  
to pay wages  
or provide  
conditions of  
service

**18.** Any person who, without lawful excuse fails to pay the rates of wages or to provide the conditions of service fixed 10 by the Central Wages Board to be paid and provided to persons directed to perform national service of a civil character, shall be guilty of an offence against this Ordinance

Local  
Manpower  
Committees

**19.** Whenever he deems it necessary the Director of Manpower shall establish a Local Manpower Committee and shall 15 include among the members of such Committee persons representative of the District Production and Manpower Committee appointed under the Increased Production of Crops Ordinance 1942 and of any local Chamber of Commerce

Cap 100

Provided that, in the case of a Local Manpower Com- 20 mittee whose jurisdiction is to be confined wholly or mainly to the native land units as defined in the Native Lands Trust Ordinance, the duty of establishing such a Committee and appointing the members thereof may be delegated to the Provincial Commissioner and the Chairman of any such 25 Committee shall be the District Commissioner of the district

Duties of  
Local  
Manpower  
Committees

**20** The duties of a Local Manpower Committee shall be—

(a) to tender advice to the Central Manpower Committee upon the special requirements of the area in respect 30 of manpower both as regards the area as a whole and particular undertakings in it, the degree of priority of such requirements and the capacity of the area to supply manpower for national service,

(b) when so required by the Director of Manpower to 35 make preliminary selections of persons for national service for consideration by the Central Manpower Committee,

(c) to advise the Central Wages Board on all matters relating to rates of wages and conditions of employ- 40 ment prevailing in the area for which such Local Manpower Committee is appointed

Medical  
examinations

**21** (1) In accordance with such procedure as may be prescribed by regulations made under this Ordinance every person who receives a notice duly issued to him under the 45 provisions of section 9 of this Ordinance shall, without avoidable delay, be medically examined by a Medical Officer approved by the Governor to be an examining officer for such purpose. Such examining officer shall notify the result of such examination to the person examined and to the authority 50 which issued the notice

(2) The standards of physical fitness required for the various types of national service shall be determined by a Board, to be set up by the Governor under the Chairmanship of the Director of Medical Services, and shall be published in 55 the Gazette. The Board shall be known as the National Service Medical Board

Power to  
establish a force  
for civil  
defence

**22** Subject to the provisions of this Ordinance the Governor may by regulation establish a force for civil defence and for maintaining internal security within the Colony, and in 60 such regulations may provide for the powers, duties, pay, appointment, promotion, reduction in rank and discipline of the officers and members of such force

**23.** (1) Where any person is enrolled for service under the provisions of this Ordinance or under any other law for the time being in force in the Colony and, in the opinion of the Governor, it is necessary that the business of that person should be carried on under supervision the Governor may with the consent of the owner of the business make all such arrangements as, in his opinion, are necessary for the carrying on of such business

Supervision of  
business where  
owner is away  
on national  
service

(2) Where, in order to carry on such business the Governor, under the provisions of this section appoints any person to manage or supervise such business, the Governor may, without prejudice to the generality of the powers conferred by sub-section (1) of this section, with the consent of the owner of the business, authorize the person so appointed to do all such acts as are customary and necessary in the conduct and management of the business as if such person had been duly appointed under a power of attorney to carry on such business, including authority to enter into contracts in connexion with such business, and, with the approval of the Local Manpower Committee of the area in which the business is situated to engage and recruit staff and with the approval of the Governor or of such other person or body of persons as the Governor may appoint, to raise moneys by way of loan in the case of a business other than farming on the movable assets of the business and, where the business is that of farming, on the produce grown produced, or to be grown or produced on the farm, and all persons and courts shall have the same regard to such authorization as if the powers therein conferred had been contained in a properly executed power of attorney duly registered and stamped in accordance with the provisions of any law relating thereto for the time being in force in the Colony

(3) The Governor may also direct that any remuneration to be paid to the person so managing or supervising such business and all expenses properly incurred by such person shall be paid by the owner of such business. Any such direction may specify the rate of remuneration and may provide for such incidental and supplementary matters as the Governor may think fit

(4) Where any such direction has been given, the amount of the remuneration or expenses specified therein shall be recoverable as a civil debt at the suit of the person managing or supervising the business

**24.** (1) The Member may appoint, on such terms and conditions as he may think fit any person to be an inspector for the purpose of inspecting any business being supervised or managed under the provisions of section 23 of this Ordinance

Appointment  
and powers  
of inspectors

(2) An inspector appointed under sub-section (1) of this section may enter at all reasonable times, the premises of any business which is being supervised or managed under the provisions of section 23 of this Ordinance for the purpose of inspecting and taking copies of the accounts of such business and may give such advice as he may think necessary for the proper supervision or management of the business

(3) If any such inspector considers that any such business is being mismanaged by the person appointed to supervise or manage it under the provisions of section 23 of this Ordinance he may, after giving due notice of his intention to such manager or supervisor, submit an adverse report to the Member

(4) The Member, on receipt of an adverse report submitted under the provisions of sub-section (3) of this section shall give an opportunity to the manager or supervisor

against whom the complaint is made to show, to his satisfaction, either that the complaint is unjustified or that appropriate action will be taken to rectify the matters under complaint

(5) On receipt of a report under the provisions of sub-section (4) of this section the Member shall, if the person on whose behalf the manager or supervisor has been appointed is available to be consulted by personal interview or by letter and is not engaged on an active operational front, consult him as to whether he wishes to lay a complaint against such manager or supervisor and, if he does so wish to lay a complaint it shall be made in writing and shall be submitted to the Member for adjudication

(6) The Member, before adjudicating upon a complaint referred to it under sub-section (5) of this section, may appoint an investigator having special knowledge of the type of business with which the complaint is concerned or, at its discretion, an investigating committee containing among its members persons with such special knowledge and, in such case, shall await the report of such investigator or committee before making its award

(7) If the Member, in adjudicating upon a complaint submitted under the provisions of sub-section (5) of this section, considers after due inquiry that mismanagement has taken place and that the matters under complaint are unlikely otherwise to be rectified, he may cancel the appointment of such manager or supervisor and appoint another person in his stead

Appointment  
of inspectors  
of essential  
undertakings  
and their  
duties

**25.** (1) The Member may appoint inspectors for the purpose of visiting estates and other concerns engaged in any essential undertaking for which labour recruited under the provisions of this Ordinance is employed

(2) The duty of such inspectors shall be to ascertain whether the rates of pay and conditions of service are being properly observed both by the employer and the employees and to render reports to the Director of Manpower or such authority as the Member may designate

Obstructing an  
inspector  
appointed under  
this Ordinance

**26.** Any person who wilfully obstructs or hinders any inspector duly appointed under this Ordinance while exercising his powers under this Ordinance shall be guilty of an offence against this Ordinance

Breaches of  
discipline by  
persons engaged  
in reserved  
occupations

**27.** Any person employed in a reserved occupation who—

- (a) without leave or other lawful cause absents himself, temporarily and in circumstances not amounting to permanent desertion, from his employer's premises or other place appointed for the performance of his work, or
- (b) during working hours unfits himself for the proper performance of his work by being or becoming intoxicated, or
- (c) neglects to perform any work which it is his duty to perform or carelessly or improperly performs any work which it is his duty under his contract to perform carefully and properly, or
- (d) uses to his employer or to any person placed by his employer in authority over him any abusive or insulting language likely to lead to a breach of the peace or behaves in such an insulting manner to his employer or to such person as is likely to lead to a breach of the peace, or
- (e) refuses to obey any lawful command of his employer or of any person lawfully placed by his employer in authority over him which command it is his duty to obey, or

(f) wilfully or by wilful breach of duty or through drunkenness, does any act tending to the immediate loss of or damage to, or of serious risk of loss of or damage to, any property placed by his employer in his charge or placed by any other person in his charge for delivery to or on account of his employer, or

(g) by wilful breach of duty or by neglect of duty or through drunkenness refuses or neglects to do any lawful act proper and requisite to be done by him for protecting the safety of any property placed by his employer in his charge, or placed by any other person in his charge for delivery to or on account of his employer,

shall be guilty of an offence against this Ordinance and liable to the penalties prescribed by sub-section (4) of section 33 of this Ordinance

**28.** (1) Notwithstanding anything to the contrary in this Ordinance, the classes of persons specified in items 2 to 9, both inclusive, of the Schedule to this Ordinance shall, in case of a threat or hostile attack or internal disturbance be liable to perform any work or render any service required in the national interest which may be ordered by the Governor

Special provisions in relation to specified classes of persons

(2) Persons certified by a medical officer under the provisions of sub-section (1) of section 21 of this Ordinance to be physically or mentally unfit either for national service generally or for any particular form of national service shall be exempted to the extent specified in such certificate from the performance of national service

**29.** (1) The Member shall, for such areas of the Colony as he thinks fit, appoint Local Exemptions Tribunals

Local Exemptions Tribunals

(2) The duties of any such Tribunal shall be to hear and determine any appeal which is made to it in accordance with the provisions of this Ordinance by any person against—

(a) a notice served upon him under the provisions of section 9 of this Ordinance, or

(b) an order issued to him under the provisions of section 11 of this Ordinance to continue in his employment or

(c) an order given to him under sub-section (1) of section 13 of this Ordinance to reduce the number of his employees, or

(d) an order of dismissal given to him by his employer in consequence of an order given to the said employer under sub-section (1) of section 13 of this Ordinance

(3) The appropriate Local Exemptions Tribunal for the hearing of an appeal by any person against an order calling him up for national service shall be the Local Exemptions Tribunal appointed for the district or area in which the said person normally resides but the Local Exemptions Tribunal appointed for the district or area in which such person is, for the time being, residing may, at its discretion, hear and dispose of the appeal in either of the following circumstances—

(a) if the applicant expresses a desire that that Tribunal should hear the appeal, or

(b) if the Director of Manpower or any person lawfully acting on his behalf represents that the applicant has been so long and habitually absent from his home district that his appeal may fairly and without injury to his case be so heard

(4) The appropriate Local Exemptions Tribunal for hearing an appeal by any person against an order issued to him, under the provisions of section 11 of this Ordinance, to continue in his employment or against an order of dismissal given to him by his employer in consequence of an order given to such employer under the provisions of sub-section (1) of section 13 of this Ordinance to reduce the number of his employees shall be deemed to be the Local Exemptions Tribunal of the district in which such person is, for the time being, employed, but if in support of his appeal such person raises issues which cannot be properly determined without the hearing of evidence better obtainable in his home district or area, the Tribunal may, at its discretion, refer such issue to the Local Exemptions Tribunal appointed for such district or area

(5) The appropriate Local Exemptions Tribunal for hearing an appeal by any person against an order issued to him under sub-section (1) of section 13 of this Ordinance to reduce the number of his employees shall be the Local Exemptions Tribunal of the district in which the place of employment is situated

(6) After hearing an appeal, a Local Exemptions Tribunal may either grant the application or refuse the application or, in the case of an appeal against a notice issued under section 9 of this Ordinance or against an order issued to the applicant under sub-section (1) of section 13 of this Ordinance or against dismissal by an employer in consequence of an order issued to such employer under sub-section (1) of section 13 of this Ordinance may grant a respite for such period as it thinks fit

Provincial  
Exemptions  
Tribunals

**30.** (1) The Director of Manpower if he considers it necessary or expedient so to do may by notification in the Gazette establish in any province of the Colony a Provincial Exemptions Tribunal and may, by such notification appoint the Chairman and members thereof and direct that all appeals from the decisions of all the Local Exemptions Tribunals situate in such province, or from such of the Local Exemptions Tribunals so situate as he may by Gazette notification from time to time specify, shall be heard and determined by such Provincial Exemptions Tribunal

(2) A Provincial Exemptions Tribunal may grant or refuse an appeal or make such order thereon as the justice of the case may require

(3) The decisions of a Provincial Exemptions Tribunal shall be final and conclusive, except that an appeal shall lie to the Central Exemptions Tribunal on any matter of law

Establishment of  
a Central  
Exemptions  
Tribunal

**31.** (1) The Governor may, by notice in the Gazette establish a Central Exemptions Tribunal for hearing appeals under this Ordinance and such Tribunal shall consist of a Chairman and such number of members as the Governor may appoint

(2) The Chairman shall be either a Judge of the Supreme Court or some other person having judicial experience

(3) The Governor may nominate a special section of any such Tribunal for the hearing of appeals by women

(4) For the purpose of hearing appeals the Tribunal may co-opt such number of persons as it deems fit to sit as members of the Tribunal

Provided that the number of co-opted members shall not exceed one-third of the total number of members inclusive of such co-opted members

(5) The Central Exemptions Tribunal may hear appeals either from a Local Exemptions Tribunal established under the provisions of section 29 of this Ordinance or from a Provincial Exemptions Tribunal established under the provisions of section 30 of this Ordinance

Provided that the Central Exemptions Tribunal shall not—

- (i) hear any appeal direct from a decision of a Local Exemptions Tribunal in any case in which an appeal from such Local Exemptions Tribunal to a Provincial Exemptions Tribunal lies under the provisions of section 30 of this Ordinance, or
- (ii) hear an appeal against a decision of a Provincial Exemptions Tribunal except upon a matter of law

32. Any person who, without lawful excuse, or unless an appeal is pending, fails to give effect to a decision of any Exemptions Tribunal established under this Ordinance shall be guilty of an offence against this Ordinance

Enforcement  
Exemptions  
Tribunals  
decisions

33. (1) Any person who receives a notice issued under the provisions of section 9 of this Ordinance requiring him to undertake a specified form of national service and who without having been exempted or granted a respite under any of the provisions of this Ordinance, refuses or neglects to undertake the service specified in such notice or having undertaken such service, abandons it without lawful cause shall be guilty of an offence against this Ordinance and shall be liable, on conviction before a magistrate of the first or second class to a term of imprisonment not exceeding three years

Penalties

(2) Any person who, wilfully and without lawful excuse disobeys a lawful order given to him under the provisions of section 11 of this Ordinance to continue in his employment in a reserved occupation or who, having been called up for service in a reserved occupation under the provisions of section 9 of this Ordinance and having begun such service subsequently leaves such occupation without due authorization or lawful excuse, shall be guilty of an offence against this Ordinance and shall be liable on conviction before a magistrate of the first or second class, to a fine not exceeding one thousand shillings and, in default, to imprisonment for a period not exceeding six months and, in addition, the Court may order him, upon payment of such fine or completion of such term of imprisonment as the case may be to return to his employment

(3) Any person who, being an employer of labour, wilfully and without lawful excuse, fails in disobedience of an order issued to him under section 13 of this Ordinance to reduce the number of his employees shall be guilty of an offence against this Ordinance and shall be liable, on conviction before a magistrate of the first or second class, to a fine not exceeding one thousand shillings and, in default, to imprisonment for a period not exceeding six months

(4) Any person who commits any of the offences specified in section 27 of this Ordinance shall be liable to a fine not exceeding four hundred shillings and, in default, to a period of imprisonment not exceeding two months

Provided that no fine imposed under this sub section in respect of a first offence shall exceed two months' pay

(5) Any person who is guilty of an offence against this Ordinance for which no other penalty is specifically provided shall be liable to a fine not exceeding four hundred shillings or, in default, to imprisonment for a period not exceeding two months



Provided that no person shall be liable to be punished for any offence under the provisions of this Ordinance as well as under the provisions of the Naval Discipline Act (12 and 13 Geo 5, Ch 37), the Army Act (44 and 45 Vict Ch 58), or the Air Force (Constitution) Act (7 and 8 Geo 5 Ch 51) 5

Special provision  
for revision of  
sentence

**34.** Any person who has been convicted of the offence of refusing, wilfully and without lawful excuse, to undertake national service as specified in a notice served upon him under the provisions of section 9 of this Ordinance and who has been sentenced under sub-section (1) of section 33 of this 10 Ordinance to imprisonment for any period exceeding six months, may after serving six months of his sentence, apply for remission of the remainder of his sentence on condition that he undertakes the national service which he was required by the aforementioned notice to undertake or some other 15 form of national service which may lawfully be required in substitution for it. On the making of any such application the applicant shall be taken before the Court which convicted him and such Court may, at its discretion provisionally remit the remainder of his sentence, so, however, that, if he 20 fails to undertake such national service, or, having undertaken it, abandons it without lawful cause, he shall be brought before the Court and recommitted to prison to serve the remainder of his sentence

Power to make  
regulations

**35.** The Governor in Council may make regulations 25 generally for better carrying out the provisions of this Ordinance and such regulations may, without prejudice to the generality of the aforesaid power--

- (a) prescribe anything required to be prescribed under this Ordinance, 30
- (b) prescribe the procedure to be adopted by manpower committees and exemptions tribunals appointed under the provisions of this Ordinance and the grounds upon which exemptions may be allowed,
- (c) prescribe the rates of pay and terms of service for any 35 person compulsorily enlisted for military service under the provisions of this Ordinance,
- (d) make provision for the payment of any award, gratuity or pension in respect of the death, disablement or sickness resulting from any personal service under 40 the provisions of this Ordinance,
- (e) provide for the establishment recruitment payment and maintenance of a force for civil defence and for maintaining internal security within the Colony,
- (f) provide for the selection, recruitment, collection, 45 reception, organization, distribution, removal and dispersal of persons called up for national service under section 9 of this Ordinance and the procedure for making and dealing with applications for the services of such persons, 50
- (g) provide for the establishment and maintenance of collecting centres, reception centres, transit camps and dispersal centres,
- (h) provide for the carrying and production of identity cards issued under the Registration of Persons 55 Ordinance

Rules

**36.** The Director of Manpower may make rules relating to--

- (a) the administration of reception centres and habituation centres and the discipline therein and may prescribe 60 punishments for breaches of discipline.



- Provided that no punishment so prescribed shall exceed a fine of fourteen days' pay or confinement to the reception centre or habitation centre for more than seven days or both such fine and confinement,
- 5 (b) the work, pay and treatment of persons in reception centres and habitation centres,
- (c) the scale of feeding, care and medical examination of persons in such centres or in transit to or from any such centre or to any dispersal centre,
- 10 (d) conditions regulating the period for which any person called up for national service under section 9 of this Ordinance may be required to serve and the type of work and leave of any such person
- 15 (e) the capitation fees and charges to be paid in respect of any such person by any employer

#### SCHEDULE

(Sections 2 and 28)

1 Officers, warrant officers, non-commissioned officers and men of—

- (a) the Royal Navy, the Regular Army and the Royal Air Force,
- (b) the regular reserves of the Royal Navy, Army and Royal Air Force,
- (c) the Territorial Army and the Territorial Army Reserves,
- (d) any naval military or air force unit established in the Colony before the coming into operation of this Ordinance

2 Ministers of religion who have undergone a ceremony of ordination in a recognized church

3 Judges of the Supreme Court and President Vice President and Judges of the Court of Appeal for Eastern Africa

4 Members of Executive and Legislative Council

5 Members of the Central Legislative Assembly

6 All members of the Kenya Police Force

7 All members of the Kenya Prisons Service

8 Administrative Officers and Resident Magistrates

9 Any person who is, under the provisions of any Act in force in a dominion, a national or citizen of that dominion within the meaning of that Act or who is a person born or domiciled in a dominion, if in either case he has been ordinarily resident in the Colony for less than two years

For the purpose of this Schedule "dominion" means a dominion within the meaning of the Statute of Westminster, 1931

#### MEMORANDUM OF OBJECTS AND REASONS

This Bill will render every British subject and British protected person between the ages of eighteen and sixty-five, if a male, or fifty-five, if a female, other than persons within the classes exempted by clause 2 of the Bill, liable for national service of one kind or another

Clause 4 will render a person, if a British subject or British protected person, liable to be called up—

(a) if a male,

- (i) for service in any unit of the armed forces whether established in the Colony or not if he is between the ages of eighteen and forty-five, or
- (ii) in any civil defence force established in the Colony under the Ordinance if he is between the ages of eighteen and sixty, or
- (iii) if not called up, or until called up, as the case may be, for any service mentioned under paragraph (i) or (ii) for any other service which the Director of Manpower may by notice require him to perform,

(b) if a female

(i) for service in the Women's Auxiliary Territorial Service (East African) or any other women's unit which may be established,

(ii) if not called up, or until called up, as the case may be, for the service mentioned under paragraph (i), for any other national service which the Director of Manpower may by notice require her to perform

*Clause 6* will provide for the appointment of a Director of Manpower and Deputy Director of Manpower, a Central Manpower Committee and a Central Wages Board, and *clause 7* provides for the composition of the Central Manpower Committee

*Clause 9* will make provision for the procedure to be followed in calling up persons for national service *Sub-clause 5* provides for an appeal to the appropriate Local Exemptions Tribunal against a calling-up notice

*Clause 11* will empower the Director of Manpower to require any person liable to be called up who is engaged in a reserved occupation to remain in such occupation until released by a written authority by or on behalf of the Director of Manpower. Such an order may be given to an individual or to a class of persons or generally to all persons engaged in reserved occupations. *Sub-clause (3)* of the clause provides for an appeal against such an order to the appropriate Local Exemptions Tribunal

*Clause 12* will enable the Director of Manpower at any time during the first three months after the commencement of any hostilities to issue a general order requiring all persons employed in reserved occupations to remain in such occupations for a period not exceeding three months from the date of the order unless exempted by an authorization signed by or on behalf of the Director of Manpower

*Clause 13* will enable the Director of Manpower to make an order restricting the number of employees who may be employed in any class of employment or in an industry or undertaking

*Clause 15* will provide for the duties of the Central Wages Board. The Board will have power to fix the rates of wages and other conditions of employment of all persons directed to perform national service of a civil character. The Board will also have power to make recommendations as to the rates of pay and conditions of service applicable to persons called up for military service in any unit established in East Africa and to tender advice to the appropriate authority as to the making of regulations under the Ordinance

*Clause 16* will provide that any rates of wages and conditions of service fixed by the Central Wages Board shall apply to persons voluntarily engaged by an employer as well as to persons called up for such employment

*Clause 18* will make it an offence for any person to fail to pay the rates of wages or to provide the conditions of service fixed by the Central Wages Board

*Clause 19* will enable the Director of Manpower to establish Local Manpower Committees and *clause 20* will provide that the duties of such committees shall be to—

- (a) advise the Director of Manpower upon the special manpower requirements of the area for which it is established,
- (b) when required by the Director of Manpower, to make preliminary selections of persons for national service, and
- (c) advise the Central Wages Board in all matters relating to rates of wages and conditions of employment prevailing in its area

*Clause 22* will provide for the establishment by regulations under the Ordinance of a force for civil defence

*Clauses 23 and 24* will contain provisions for the carrying on supervision and inspection of the business of any person called up for national service

*Clause 27* will make certain breaches of discipline by persons engaged in any reserved occupation punishable by fine or, in default by imprisonment

*Clause 28* will enable the Governor in case of a threat of hostile attack to order any person within any of the classes specified in items 2 to 9 of the Schedule who are otherwise exempted from the Ordinance to perform any work or render any service required in the national interest

*Clause 29* will provide for the appointment by the Member of Local Exemptions Tribunals and will set out their duties

These tribunals will hear appeals made by any person in accordance with the provisions of the Ordinance against—

- (a) a calling-up notice served on him under section 9,
- (b) an order to remain in a reserved occupation issued to him under section 11,
- (c) an order to reduce the number of his employees issued to him under section 13,
- (d) an order of dismissal of an employee given by an employer in consequence of an order issued under section 13

*Clause 30* will provide for the establishment of Provincial Exemptions Tribunals for the hearing of appeals from Local Exemptions Tribunals in a province *Sub-clause (3)* will provide that the decision of a Provincial Exemptions Tribunal shall be final except that in a matter of law only an appeal will lie to the Central Exemptions Tribunal

*Clause 31* will provide for the establishment and composition of a Central Exemptions Tribunal for hearing appeals *Sub-clause (4)* will enable the Tribunal to co-opt persons for the hearing of appeals. The number co-opted may not exceed one-third of the number of members of the Tribunal inclusive of the co-opted members

*Sub-clause (5)* will provide that the Tribunal may hear appeals from a Local Exemptions Tribunal or from a Provincial Exemptions Tribunal but that it shall not hear an appeal direct from a Local Exemptions Tribunal in any case in which an appeal from that Tribunal lies to a Provincial Exemptions Tribunal nor from a Provincial Exemptions Tribunal except in a matter of law

*Clause 32* makes it an offence for any person, without lawful excuse or except while an appeal is pending, to fail to give effect to a decision of any Exemptions Tribunal

*Clause 33* will prescribe penalties for offences under the Ordinance and *clause 34* will empower a court to order any person convicted of refusing, wilfully and without lawful excuse, to undertake national service and who is sentenced to more than six months' imprisonment to order, on the application of such a person, the remission of the remainder of his sentence conditionally on his undertaking the national service for which he was called up or some such other service for which he is liable

*Clause 35* will enable the making of regulations generally for carrying out the provisions of the Ordinance and in particular, amongst other things, for establishing a force for civil defence and for establishing reception and habitation centres for persons called up under the Ordinance

*Clause 36* will enable the Director of Manpower to make rules for the administration and discipline of reception and habitation centres and for other matters connected therewith

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

Nairobi,  
7th December, 1950

K K O'CONNOR,  
Attorney General

## GOVERNMENT NOTICE NO 69

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

T V N FORTESCUE,  
*Acting Clerk to the Legislative Council*

**A BILL ENTITLED  
AN ORDINANCE TO AMEND THE EMPLOYMENT  
ORDINANCE**

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

Short title

Cap 109

Amendment of  
section 2 of  
the principal  
OrdinanceCap 127 of  
the 1926 Edition  
of the Laws

Cap 50

Amendment of  
section 20 of  
the principal  
Ordinance

1. This Ordinance may be cited as the Employment (Amendment) Ordinance, 1951, and shall be read and construed as one with the Employment Ordinance, hereinafter referred to as the principal Ordinance

2. Section 2 of the principal Ordinance is amended by substituting a semi-colon for the full stop after the definition of "to recruit" and by adding at the end thereof the following new definition—

"Voluntary Record of Employment" means—

- (a) a document in the form in the Schedule to this Ordinance containing particulars relating to the employment of the person to whom it relates, or
- (b) a certificate or a portion thereof issued under the Native Registration Ordinance (now repealed) which has been converted into a Voluntary Record of Employment by endorsement thereon by a registration officer pursuant to the provisions of section 6 of the Registration of Persons Ordinance of the words "Voluntary Record of Employment—to be filled in only at the request of the employee"

3. Section 20 of the principal Ordinance is amended in the following respects—

- (a) by substituting a colon for the full stop at the end of sub-section (2) and by adding the following proviso—

Provided that if an employer at the request of the employee enters on the employee's Voluntary Record of Employment particulars of the engagement and employment of the employee he shall not be required to hand to such employee one copy of the engagement employment return;

- (b) by substituting for the words "if the employee presents his copy of the contract to such employer complete such contract in such manner as may be prescribed and return it to the employee" which occur in sub-section (3) the words "if the employee presents his copy of the engagement employment return or his Voluntary Record of Employment to such employer, complete such return or such Voluntary Record of Employment, as the case may be, in such manner as may be prescribed and return it to the employee"

**Insertion of new  
section 20A in  
the principal  
Ordinance**

5 (i) whose certificate issued under the Native Registration Ordinance (now repealed) has been surrendered pursuant to sub-section (3) of section 6 of the Registration of Persons Ordinance, or

10 (ii) from whose aforesaid certificate there has been detached pursuant to sub-section (5) of section 6 of the Registration of Persons Ordinance, that portion which contains the particulars of his identity

Issue by Labour Commissioner of Voluntary Record of Employment upon request

Cap 127 of the 1926 Edition of the Laws

Cap 50

Cap 50

(2) Any person to whom no certificate under the Native Registration Ordinance (now repealed) has been issued, or whose certificate issued thereunder is lost or destroyed, may apply to the Labour Commissioner to issue to him a Voluntary Record of Employment, upon which shall be inscribed such particulars of his employment as may be recorded at the office of the Labour Commissioner.

5. The principal Ordinance is amended by adding thereto the following Schedule—

Addition of  
Schedule to  
the principal  
Ordinance

 $(Cap \ 10^4)$ 

### PARTICULARS OF EMPLOYMENT

[illegible]

## MEMORANDUM OF OBJECTS AND REASONS

This Bill, together with a Bill to amend the Registration of Persons Ordinance (Cap 50), will make the amendments to the existing law which are necessary to give effect to those of the recommendations of the Commissioner appointed to review the Registration of Persons Ordinance which relate to certificates issued under the Native Registration Ordinance. It will be recalled that the recommendation in this regard was that, instead of requiring records of employment to be surrendered, provision should be made for the retention or issue to employees of Voluntary Records of Employment to be filled in only at the employee's request.

*Clause 3* of the Bill will amend section 20 of the Employment Ordinance (Cap 109) (herein referred to as the principal Ordinance) so as to exempt an employer who, at the request of an employee, enters particulars of employment on the latter's Voluntary Record of Employment, from handing to the employee a copy of the engagement employment return which sub-section (2) of the section requires him to complete. This clause also makes provision for the employer, on the termination of a contract of employment, to enter on the Voluntary Record of Employment such particulars as may be prescribed, if he is requested to do so by the employee.

*Clause 4* will insert a new section in the principal Ordinance which will provide for the issue by the Labour Commissioner, upon application, of a Voluntary Record of Employment to any person whose certificate under the Native Registration Ordinance was surrendered pursuant to sub-section (3) of section 6 of the Registration of Persons Ordinance, or from whose certificate there has been detached, pursuant to sub-section (5) of section 6, the portion containing particulars of identity, or who was never in possession of, or has lost such a certificate. The clause also expressly provides that particulars of employment shall be filled in on a Voluntary Record of Employment only at the request of the employee.

*Clause 2* of the Bill will insert a definition of "Voluntary Record of Employment" in section 2 of the principal Ordinance, and *clause 5* will add a Schedule containing the form of the Voluntary Record of Employment as defined in section 2.

If the provisions of this Bill become law some additional expenditure of public moneys will be incurred but it is not possible to estimate the amount of such expenditure.

Nairobi,  
23rd November, 1950

K K O'CONNOR,  
*Attorney General*

## GOVERNMENT NOTICE No 70

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

T V N FORTESCUE  
*Acting Clerk to the Legislative Council*

**A BILL ENTITLED  
AN ORDINANCE TO AMEND THE KENYA REGIMENT  
(TERRITORIAL FORCE) ORDINANCE**

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

1. This Ordinance may be cited as the Kenya Regiment (Territorial Force) (Amendment) Ordinance, 1951, and shall be read and construed as one with the Kenya Regiment (Territorial Force) Ordinance hereinafter referred to as the principal Ordinance Short title  
Cap 89
2. Section 2 of the principal Ordinance is amended by deleting the definition of "Special Reserve" Amendment of section 2 of the principal Ordinance
3. Section 13 of the principal Ordinance is amended by substituting for the words "Regiment, the Reserve and the Special Reserve" wherever these words occur in the section the words "Regiment and the Reserve" Amendment of section 13 of the principal Ordinance
4. Section 21 of the principal Ordinance is amended in the following respects— Amendment of section 21 of the principal Ordinance
  - (a) by substituting for the words "The allowance payable to such members" in sub section (1) the words "The allowance payable to officers and members",
  - (b) by substituting a comma for the full stop at the end of sub-section (6) and by adding the words "and may in addition to the penalty provided under sub-section (4) or sub section (5) of this section order the offender to make good any loss or deficiency resulting from his offence"
5. Section 25 of the principal Ordinance is amended by substituting for the words "as to the provisions therein contained respecting the discipline, apply to officers of the permanent staff (if not otherwise subject thereto) at all times and to members, the Reserve and the Special Reserve" the words "as to the provisions therein contained respecting discipline and the procedure and evidence at courts martial, apply to officers and the permanent staff (if not otherwise subject thereto) at all times and to members and the Reserve" Amendment of section 25 of the principal Ordinance
6. Section 26 of the principal Ordinance is amended by substituting for the words "the Regiment, Reserve or Special Reserve" the words "Regiment or the Reserve" Amendment of section 26 of the principal Ordinance
7. There shall be inserted next after section 30 of the principal Ordinance the following new section— Insertion of new section 30A in the principal Ordinance

30A (1) Any person who—

  - (a) buys, exchanges, takes in pawn, detains or receives from any person, on any pretence whatsoever, or
  - (b) solicits or entices any person to sell, exchange pawn or give away, or
  - (c) assists or acts for any person in selling, exchanging, pawning or making away with

any of the following property, that is to say, any animals, moneys, arms, ammunition, equipment, instruments, regimental necessities or clothing issued for the use of

Purchasing regimental necessities, etc  
Penalty



officers or members or any decoration of any officer or member or any furniture, bedding blankets sheets utensils or stores in regimental charge or any provisions or forage issued for the use of an officer or member or his horse or of any horse employed in His Majesty's Service shall, unless he proves—

(i) that he acted in ignorance of the same being such property as aforesaid, or

(ii) that the same was sold by order or with the consent of some competent military authority, or

(iii) that the same was the personal property of an officer who had retired or of a member who had been discharged, or of the legal personal representatives of an officer or member who had died,

be guilty of an offence against this Ordinance which shall be cognizable to the police and shall be liable to a fine not exceeding one thousand shillings together with treble the value of any property of which such offender has become possessed by means of his offence or to imprisonment for a term not exceeding six months or to both such fine and imprisonment

(2) Where any such property as is mentioned in sub-section (1) of this section is found in the possession or keeping of any person, such person may be taken or summoned before a subordinate court of the first class and if such court has reasonable ground to believe that the property so found was stolen or was bought, exchanged, taken in pawn, obtained or received in contravention of this section, then if such person does not satisfy the court that he came by the property lawfully and without any contravention of this Ordinance, he shall be liable to the same penalties as are prescribed in sub-section (1) of this section

(3) For the purposes of this section property shall be deemed to be in the possession or keeping of a person if he knowingly has it in the actual possession or keeping of any other person, or in any house, building, lodging, apartment field or place, open or enclosed, whether occupied by himself or not, and whether the same is so had for his own use or benefit or for the use or benefit of another

Amendment of  
section 36 of  
the principal  
Ordinance

8. Section 36 of the principal Ordinance is amended in the following respects—

(a) by deleting the words “and Special Reserve” which occur in paragraph (12), and

(b) by substituting for the words “Regiment the Reserve and the Special Reserve” which occur in paragraph (14) the words “Regiment and the Reserve”

#### MEMORANDUM OF OBJECTS AND REASONS

It has recently been brought to notice that the provisions of section 25 of the Kenya Regiment (Territorial Force) Ordinance (Chapter 89 of the 1948 Edition), hereinafter referred to as the principal Ordinance, leave it open to considerable doubt whether the provisions of the Army Act relating to the procedure and evidence at courts martial apply to personnel of the Regiment. The principal object of this Bill is therefore, to amend section 25 so as to place it beyond doubt that those provisions do apply. This will be accomplished by clause 5 of the Bill.

The opportunity has also been taken to make certain other amendments which are considered necessary.

As the result of the deletion by Ordinance No 42 of 1949 of section 8 of the principal Ordinance by which the Governor was empowered to establish a Special Reserve, it is desirable to delete from the principal Ordinance all references to the Special Reserve. *Clauses* 2, 3, 5, 6 and 8 will accomplish this.

*Clause* 4 will amend section 21 of the principal Ordinance in two respects, namely—

- (a) to make it clear that the allowance for maintenance of uniforms is to be payable not only to members of the Regiment but also to officers, and
- (b) to enable the court, in addition to the penalty provided for offences against sub-sections (4) and (5) of the section, to order the offender to make good any loss resulting from his offence. This will bring the provisions into line with those of section 30 of the principal Ordinance.

*Clause* 7 of the Bill will insert a new section 30A on the lines of section 156 of the Army Act which makes it an offence to purchase, exchange, take in pawn, detain or receive from soldiers regimental necessaries, etc.

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

Nairobi,  
10th November, 1950

K. K. O'CONNOR,  
*Attorney General*