

EAST AFR. PROT.

C. O.  
15569

FIG. 20 APR 14

15569

State Registry

1914

28 Apr

at previous Paper.

Re. Col. Kobale's Order, 1913.

Order appears to comply with conditions required for extending the Col. Kobale's Act 1893 to the East.

General Dept.

H. J. S.

29/IV/14

Mr. Thompson

Mr. Macnaghten

I now return the copy of the Order with 8222 showing Mr. Reiley's amendments in red ink (keeping a copy) and instruct the Governor to assent to it in that form.

J. S. 29/IV/14

Tell the Gov. to recommit the order & take heed that if the order as amended is enacted in the form directed, S.S. will be prepared to advise with that C.P. Act.

at subsequent Paper.

26050

431

C. O. PRINCIPAL PROBATE REGISTRY  
15569  
SOMERSET HOUSE, LONDON, W.C.  
APR 14 1914

28 April 1914

SIR,

I am directed by the Senior Registrar, in reply to your letter of the  
22 April 1914 <sup>your</sup> 9222/14 to say that he  
considers that the copy ordinance  
inclosed (as amended) which it is  
proposed to pass in the East Africa  
Protectorate appears to him to  
comply with the conditions required  
for extending the Colonial Probate  
Act (1892) to the Protectorate

I am, SIR,

Your obedient Servant

W. H. A. R. [Signature]

Under Secretary of State  
Colonial Office  
London

SW

NO.

1914.

EAST AFRICA PROTECTORATE

IN THE FOURTH YEAR OF THE REIGN OF

HIS MAJESTY KING GEORGE V.

IR. HENRY CONWAY B. M. FIELD, K.C.M.G.,

Governor.

AN ORDINANCE TO PROVIDE FOR THE RECOGNITION IN THE PROTECTORATE OF PROBATE AND LETTERS OF ADMINISTRATION GRANTED IN THE UNITED KINGDOM OR IN A BRITISH POSSESSION OR PROTECTORATE OR IN A BRITISH COURT IN A FOREIGN COUNTRY.

1914.

Enacted by the Governor of the East Africa Protectorate with the advice and consent of the Legislative Council thereof :-

1. This Ordinance may be cited as "The British and Colonial Probates Ordinance 1913."

2. ~~(1) This Ordinance shall apply to the United Kingdom and to British Courts in Foreign Countries.~~

(2) The Governor may, on being satisfied that the Legislature of any British Possession or Protectorate has made, or is about to make, adequate provision for the recognition in that Possession or Protectorate of Probates and Letters of Administration granted by the High Court of this Protectorate, direct by order

order published in the Gazette that this Ordinance shall apply to that Possession or Protectorate, and, in the event of such provision not being made within a reasonable time or if made, being so altered that it would not authorise the making of an order as aforesaid, the Governor may, by order published in the Gazette, revoke any such order.

3. Where a Court of Probate in the United Kingdom, or in a British Possession or Protectorate, or a British Court in a Foreign Country, has granted Probate or Letters of Administration in respect of the estate of a deceased person, the Probate or Letters of Administration on being produced to, and a copy thereof deposited with the High Court, shall be sealed with the seal of the Court, and shall thereupon be of the like force and effect, and have the same operation in the Protectorate as if granted by the High Court of the Protectorate.

4. The High Court shall before sealing a Probate or Letters of Administration under this Ordinance be satisfied:

(1) That Probate duty has been paid in respect of so much (if any) of the estate as is liable to probate duty in the Protectorate;

(2) In the case of Letters of Administration that security has been given in a sum sufficient in amount to cover the property (if any) in the Protectorate to which the Letters of Administration relate;

and

and may require such evidence (if any) as it thinks fit as to the domicile of the deceased person.

require for pay- debts.

5. The Court may also, if it thinks fit, on the application of any creditor, require before sealing that adequate security be given for the payment of debts due from the estate to creditors residing in the Protectorate

is a copy sealed in original

6. For the purposes of this Ordinance a duplicate of any Probate or Letters of Administration sealed with the Seal of the Court granting the same or a copy thereof certified as correct by or under the authority of the Court granting the same, shall have the same effect as the original.

make

7. The High Court may, with the approval of the Governor, make rules under this ordinance for regulating the procedure and practice, including fees and costs in the High Court, on and incidental to an application for sealing a Probate or Letters of Administration under this ordinance.

Subject to any exceptions or modifications made by such Rules, and until such Rules are made and published the fees and probate duty (by rules of Court shall apply and be payable as if the person who applies for sealing under this Ordinance were a person applying for Probate or Letters of Administration.

8. In this Ordinance :

"Court of Probate" means any Court or authority by whatever name designated having jurisdiction in matters of Probate, and in Scotland means the Sheriff's Court of the County of Edinburgh.

"Probate and Letters of Administration" include

confirmation

*Handwritten notes:*  
The Ordinance shall extend to authorize the...  
...of a probate...  
...of a...  
...of the...  
...shall apply...

confirmation in Scotland, and any instrument having in a British Possession the same effect which under English law is given to Probate and Letters of Administration respectively.

"Probate duty" includes any duty payable on the value of the estate and effects for which Probate and Letters of Administration is or are granted.

"British Court in a Foreign Country" means any British Court having jurisdiction out of His Majesty's dominions in pursuance of an Order in Council, whether made under any Act or otherwise.

*British Possession includes any part of a British Possession having a separate Legislature which possesses powers to make the provision required by section two of this Ordinance in respect of the said part.*

Passed in the Legislative Council the nineteenth day of December, in the year of Our Lord one thousand nine hundred and thirteen.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council and found by me to be a true and correct printed copy of the said Bill.

(SD.) L. P. EVANS,

Clerk of the Legislative Council.

Presented for authentication and assent as a correctly and faithfully printed copy of the Bill as passed by the Legislative Council.

(SD.) J. C. MORRIS,

Chief Secretary.

(SD.) H. A. YOUNG,

Acting Attorney General.

Assented to in His Majesty's name this day of 1914.

Governor:

confirmation in Scotland, and any instrument having in a British Possession the same effect which under English laws is given to Probate and Letters of Administration respectively.

"Probate duty" includes any duty payable as the value of the estate and effects for which Probate and Letters of Administration is or are granted.

"British Court in a Foreign Country" means any British court having Jurisdiction out of His Majesty's Commissions in pursuance of an Order in Council, whether made under any Act or otherwise.

"British Possession" includes any part of a British Possession having a separate legislative or local government power to make the provision required by section 10 of this Ordinance in respect of that part.

Passed in the Legislative Council the nineteenth day of September, in the year of Our Lord one thousand nine hundred and thirteen

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council and found by me to be a true and correct printed copy of the said Bill.

(SD.) W.D. EVANS,

Clerk of the Legislative Council.

Presented for authentication and assent as a correctly and faithfully printed copy of the Bill as passed by the Legislative Council.

(SD.) J.M. HARRING,

Chief Secretary.

(SD.) H.A. YOUNG,

Acting Attorney General.

Assented to in His Majesty's name this day of 1914.

Governor.

In Despatch No. 127 of 25 2 1914

1914.

No.



East Africa Protectorate. 8222

C O

8222

IN THE FOURTH YEAR OF THE REIGN OF  
HIS MAJESTY KING GEORGE V  
SIR HENRY CONWAY BELFIELD, K.C.M.G.,  
Governor.

An Ordinance to provide for the Recognition in the Protectorate of Probate and Letters of Administration granted in the United Kingdom or in a British Possession or Protectorate or in a British Court in a Foreign Country.

1914.

Enacted by the Governor of the East Africa Protectorate with the consent of the Legislative Council thereof.

This Ordinance may be cited as "The British Probate and Letters of Administration Ordinance, 1914."

(1) This Ordinance shall apply to the United Kingdom and to British Courts in Foreign Countries.

(2) The Governor may, on being satisfied that the Legislature of any British Possession or Protectorate has made, or is about to make, adequate provision for the recognition in that Possession or Protectorate of Probates and Letters of Administration granted by the High Court of the Protectorate, direct by order published in the Gazette that this Ordinance shall apply to that Possession or Protectorate, and in the event of such provision not being made within a reasonable time, or if made being so altered that it would not authorise the making of an order as aforesaid, the Governor may, by order published in the Gazette, revoke any such order.

Where a Copy of Probate in the United Kingdom, or in a British Possession or Protectorate, or a British Court in a Foreign Country, has granted Probate or Letters of Administration in respect of the estate of a deceased person, the Probate or Letters of Administration on being produced to and a copy thereof deposited with the High Court, shall be sealed with the seal of the High Court, and shall have the same effect and validity as if granted in the Protectorate as if granted by the High Court of the Protectorate.

The High Court shall before sealing a Probate or Letters of Administration under this Ordinance be satisfied

Sealing of Probate and Letters of Administration granted in the United Kingdom or the Colonies or Protectorates or by British Courts elsewhere.

Courts before sealing to require payment of the validity of this Ordinance be given.

(3) That Probate duty has been paid in respect of so much (if any) of the estate as is liable to such duty in the Protectorate.

(4) In the case of Letters of Administration that security has been given in a sum sufficient in amount to cover the property (if any) in the Protectorate to which the Letters of Administration relate.

They require such evidence of any as it thinks fit as to the demands of the deceased person.

The Court may also, if it thinks fit, on the application of any creditor, before sealing that adequate security be given for the payment of debts due from the estate to creditors residing in the Protectorate.

Courts may require security for payment of debts.

For the purposes of this Ordinance a duplicate of any Probate or Letters of Administration sealed with the Seal of the Court granting the same, if duly certified as correct by or under the authority of the Court granting the same, shall have the same effect as the original.

Duplicates may be used in lieu of original.



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5/19

DRAFT. East Africa Post  
No. 1434

6 May 14

For Sir H.C. Bellfield K.C.M.G.

Sir

MINUTE  
Mr. Smith  
Mr. Thompson  
Mr. Macnaghten  
Mr. G. Biddle  
Mr. H. J. J. J.  
Mr. J. Anderson.  
Mr. Emmott.  
Mr. Harcourt.

I have the honor to ack.  
the receipt of your despatch No 127  
of the 5th of February last transmitted  
for my assent copies of an Ordinance  
to provide for the recognition in  
the Colonies of Probate and Letters  
of Administration granted in the United  
Kingdom or in a British Possession or  
Protectorate or in a British Court in a  
foreign country.

I return a copy

copy of the document  
sent  
to the  
proper  
authorities

of the Ordinance with amendments in  
red ink indicating the form in which  
I am advised it should be enacted in  
order to comply with the condition under  
which the Colonial Probates Act 1892  
could be extended to the Protectorate.

I have to request that you will  
recommit the Ordinance to the  
Legislative Council and to state that  
if it is enacted in the amended  
form shown in the copy enclosed  
I shall be prepared to advise  
His Majesty that I am prepared  
to issue an Order in Council  
applying the provisions of the  
Colonial Probates Act 1892 to the  
East African Protectorate.