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MEMORANDUM: From the Governor of the East Africa Protectorate
to the Secretary of State for the Colonies.

(Received Colonial Office 10.10 p.m. 13th July, 1919.)

555. 9th July. Regret to report death of
Staff Sergeant J. D. Saunders Military Labour Blackwater
3rd July at Dar-el-Salaam next-of-kin notified Mrs A. J.
Barry, sister, Nairobi.

NORTHWT.

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WORTHINGTON.

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THE EASTERN TELEGRAPH COMPANY, LIMITED.

LONDON STATIONS:

ELECTRA HOUSE FINCHBURY PARKWAY E.C.	(8632) Wall 4 Lines	HOLBORN VIADUCT, E.C.	(1014) Holborn
11, OLD BROAD STREET E.C.	(2672) Wall	449 STRAND, W.C.	(2528) Strand
8, LEADENHALL STREET, E.C.	(851) Aven	41 & 35, PARLIAMENT STREET, S.W.	(2518) Gernard
29, MARK LANE, E.C.	(952) Aven	FOREIGN AUCTION HALL, PARLIAMENT GARDEN, W.C.	(1408) Avenue
26, MARK LANE, E.C.		THE PATENT OFFICE, MARY AXE, E.C.	(1408) Avenue
		6, GERMAN STREET, BOROUGHS	(1408) Avenue

ISSUED FROM
PARLIAMENT STREET, S.W.

03 JUL 1916

545

Handwritten notes and scribbles:

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Nairobi
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scribbles

REPLIES SHOULD BE ORDERED *Via Eastern*

Doubtful words should be officially repeated. See Rule Book.
No inquiry respecting this Telegram can be attended to without the production of this copy.

Waterloo Road, London, W.C.

EAST AFR. PROT
Circular
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P. J. J.

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on of Land by Aliens

1919

July

547

Previous Paper.

States only law on subject is ultimatum
of Immovable Property Restrictions on Order 17. In
copy of Crown Lands Order 12 of 1915.
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Without Prejudice
FIELD OFFICE, LONDON

Consent to be 24

Previous Paper.

No. 654

NAIROBI SEP 19
BRITISH EAST AFRICA

9 July, 1919.

548

My Lord

Finances

With reference to Your Lordship's Circular despatch of April 30th, respecting the acquisition of landed property by aliens, I have the honour to state that the only law on the subject in force in this Protectorate is the Alienation of Immovable Property Restriction Ordinance 1917, of which I enclose a copy. I understand however that it is not intended that this Ordinance should remain on the Statute Book after the conclusion of Peace.

2. There are various local restrictions on the acquisition and occupation of landed property by Asiatics, under which category Japanese are presumably included, as distinct from Aliens. I am not certain whether this aspect of the question comes within the scope of Your Lordship's enquiry. In case it does, I enclose also a copy of the Crown Lands Ordinance 1915 which gives the Governor certain powers of veto on transfers between parties belonging to different races.

I have the honour to be,
Your Lordship's
humble, obedient servant,

Edward Whalley

GOVERNOR.

RIGHT HONOURABLE
VISCOUNT MILNER, P.C., G.C.B., G.C.M.G., &c. &c.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W.

9th July, 1919.

540

My Lord,

With reference to Your Lordship's Circular Despatch of April 30th, respecting the acquisition of landed property by aliens, I have the honour to state that the only law in force in this Protectorate is the Alienation of immovable property Restriction Ordinance 1914, of which I enclose a copy. I understand that this Ordinance should remain on the Statute Book after the conclusion of peace.

2. There are certain local restrictions on acquisition and alienation of land by Asiatics, under the provisions of which, I understand, certain powers of the Government are reserved. I enclose a copy of the Ordinance of 1915 which gives the Governor certain powers of veto on transfers between parties belonging to different races.

I have the honour to be,

My Lord,

Your Lordship's most obedient,

Humble servant,

(Signed) EDWARD MONTAGU

Governor.

RIGHT HONOURABLE
VISCOUNT MILNER P.C., G.C.B., G.C.M.G.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W.

AN ORDINANCE

No. 12 of 1915.

An Ordinance to make further and better provision for Regulating the Leasing and other disposal of Crown Lands, and for other purposes.

[May 18th, 1915.]

BE it enacted by the Governor of the East Africa Protectorate with the advice and consent of the Legislative Council thereof:

(1) Title

This Ordinance

shall be called

the Land Ordinance

1915.

and shall

come into force

on the 1st day

of June 1915.

(2) Disposal

of Land

within

Townships

shall be

regulated

as follows:

(1) Govern

(2) Land

(3) Land

PART III.

DISPOSAL OF LAND WITHIN TOWNSHIPS.

- (1) Offer of Town Plots.
- (2) Division of Plots.

PART IV.

DISPOSAL OF AGRICULTURAL LAND.

- (1) Offer of land for agricultural purposes.
- (2) Lease in pursuance of certain licences granted before the commencement of this Ordinance to be granted under this Part.

RECORD OFFICE, LONDON

- (3) Term of lease and rent to be reserved.
- (4) Covenant as to occupation.
- (5) Covenants as to development.
- (6) Subdivision of farms.

PART V.

DISPOSAL OF LAND FOR SPECIAL PURPOSES.

- (1) Leases and licences for special purposes.
- (2) Licences for temporary occupation of small areas.

PART VI.

RESERVATION OF LAND FOR THE USE OF NATIVE TRIBES.

PART VII.

GENERAL PROVISIONS RELATING TO LEASES, LICENCES AND AGREEMENTS.

- (1) Implied covenants and conditions.
- (2) Rent, royalties and other payments.
- (3) Forfeiture for breach of covenants or conditions.

PART VIII.

TRANSFERS AND OTHER DEALINGS IN LAND.

PART IX.

RESERVATIONS.

- (1) Water.
- (2) Foreshore.
- (3) Minerals.
- (4) Roads, thoroughfares and open spaces.
- (5) Resumption of land for public purposes.
- (6) Reservation of lands in occupation.

PART X.

SURVEYS—SURVEY AND BOUNDARY MARKS.

PART XI.

REGISTRATION OF TRANSACTIONS RELATING TO CROWN LANDS.

- (1) Crown Lands Registry.
- (2) Registration of Crown conveyances, leases and licences.
- (3) Registration of transactions affecting Crown Lands.

PART XII.

MISCELLANEOUS.

- (1) Legal procedure, etc.
- (2) Prohibition and offences.
- (3) Compensation and arbitration.
- (4) Power to make rules.

3. (1) The Crown Lands Ordinance, 1902, is hereby repealed.

So far as consistent with this Ordinance such repeal shall not affect:—

(i) The past operation of the Ordinance hereby repealed.

(ii) Any agreement, lease or licence heretofore granted or agreed to be granted, under the said Ordinance hereby repealed.

(iii) Any estate, right, title, interest, power, duty, obligation, liability or burden of proof created or imposed by or acquired or exercisable under the said Ordinance repealed hereby in respect of or under, or in relation to such agreement, lease or licence.

(iv) Anything lawfully done or commenced or agreed or authorised to be done under or in pursuance of the said Ordinance repealed hereby in respect of or under or in relation to any such agreement, lease or licence.

(v) Any divisions, exchanges, proclamations, reservations, rules, grants, appointments, payments, surveys, surrenders, disabilities, acts, proceedings, matters and things lawfully made, had, done, created or authorised by under or in pursuance of the said Ordinance repealed hereby.

(6) All such matters and things mentioned in the foregoing sub-sections of sub-section (1) of this section are, so far as consistent with this Ordinance, hereby preserved and continued and declared to be of the same force and effect as if the said Ordinance were still in force or as if they were under this Ordinance as the same may require.

(7) Nothing contained, however, in the provisions of this Ordinance shall be construed to the contrary notwithstanding, on the coming into operation of this Ordinance, as affecting the provisions of the Crown Lands Ordinance, 1902, which are to be deemed to have been made under the provisions of section 10 of the said Ordinance.

(8) Any proceeding pending at the time of the coming into operation of this Ordinance may be heard in any court or before any arbitrator or other authority shall be proceeded with, heard and determined and the decision or award enforced as if the said Ordinance repealed by this Ordinance was still in force.

(9) Except where otherwise provided, all offences committed, and penalties, forfeitures and liabilities incurred before the commencement of this Ordinance or which may hereafter be committed or incurred in respect of any matter or thing under or against the said Ordinance repealed by this Ordinance may be used, punished, inquired into and enforced as if the said Ordinance were still in force.

(10) All fees chargeable under the said Ordinance repealed by this Ordinance shall, until other provision is made, continue to be payable for the like matters done under this Ordinance.

(11) Whenever in any Ordinance, Regulations, Rules, Proclamation or document any reference is made to the Crown Lands Ordinance, 1902, such reference shall be read and construed as if this Ordinance had been included in such reference.

4. The Crown Lands (Access to Roads) Ordinance, 1914, is hereby repealed.

(2) DEFINITIONS.

Definitions.

5. In this Ordinance and in all Rules hereunder and all conveyances, leases and licences and in all agreements, notices and documents relating to Crown Land, unless inconsistent with the context,

"Agricultural purpose" shall include grazing and stock raising.

"Crown Land" shall mean all public lands in the Protectorate which are for the time being subject to the control of His Majesty by virtue of any treaty, convention, or agreement, or by virtue of His Majesty's protectorate, and all lands which shall have been acquired by His Majesty for the public service or otherwise howsoever, and shall include all lands occupied by the native tribes of the Protectorate and all lands reserved for the use of the members of any native tribe.

"Director of Surveys" shall include a Deputy Director of Surveys and any officer of the Survey Department authorised by the Director of Surveys to perform the duty in relation to which the term is used.

"European" shall mean a person of European origin.

"Farm" shall mean an area leased for agricultural purposes.

"Government" shall mean the Government of the East Africa Protectorate.

"Licensed Surveyor" shall mean a surveyor licensed under rules issued under section 158 (1) (c) of this Ordinance.

"Live Stock" shall include horses, cattle, sheep, goats, swine, camels, mules, donkeys, ostriches and poultry.

"Ordinance repealed by this Ordinance" shall include Regulations repealed by an Ordinance repealed by this Ordinance.

"Purchaser," "Lessee" and "Licensee" shall include personal representatives, heirs and assigns.

"Prescribed" shall mean prescribed by this Ordinance or by any Rule or Regulations made thereunder.

"Principal Registrar" shall mean the Principal Registrar of Crown Lands.

"Race" shall mean persons of European, Asiatic or African origin as the case may be.

"Registrar" shall mean a Registrar of Crown Lands and shall include the Principal Registrar.

"Registry" shall mean the Registry of Crown Land.

"Township" shall include a township within the meaning of the East Africa Townships Ordinance, 1909, or any Ordinance amending or substituted for the same, a Municipal area or an area reserved for a Township.

ADMINISTRATION.

(1) GOVERNOR.

6. The Governor, in addition to, but without limitation of any other right, power or authority vested in him under this Ordinance may

(i) Subject to the provisions of any Order in Council or to any general or special instructions of the Secretary of State, grant lease or otherwise alienate to His Majesty or behalf any Crown Lands for any purpose and on any terms and conditions as he may think fit.

(ii) Subject to special circumstances, and where other conditions contained in any lease, agreement or licence where, owing to special circumstances compliance therewith would be impossible or great hardship would be inflicted upon the purchaser, lessee, or licensee.

(iii) Extend, except as otherwise provided, the time to the purchaser, lessee or licensee for performing the conditions contained in any agreement, lease or licence liable to revocation for such period, and upon such terms and conditions, as he may think fit, and the period so extended, and the terms and conditions so imposed shall be deemed to be inserted in the agreement, lease or licence and shall be binding on the purchaser, lessee, or licensee, and all transferees, assignees, and other persons claiming through him;

(iv) Accept the surrender of any lease or licence under this Ordinance; and

(v) Accept the surrender of any certificate granted under the East Africa Land Regulations, 1897, or of any lease granted under the Crown Lands Ordinance, 1902, and grant a new lease or licence under this Ordinance in the place of the surrendered certificate or licence.

Provided that such surrenders shall have been made within such period as the Governor may by notice in the Gazette direct, such period to be not less than twelve months from the date on which this Ordinance shall come into operation. And provided that the provisions of this clause shall not apply to land granted under the East Africa Land Regulations 1897 or leased under the Crown Lands Ordinance 1902 respectively upon terms which differ from the ordinary terms in force at the time at which such land was granted or leased.

7. All conveyances, leases and licences of or for the occupation of Crown Lands and all proceedings, notices and documents under this Ordinance, made, taken, issued or drawn, shall save as therein otherwise provided be deemed to be made, taken, issued or drawn and subject to the provisions of this Ordinance and of all Rules for the time being in force under this Ordinance.

(2) LAND OFFICER.

8. The Governor shall appoint a Land Officer, who shall have charge of the administration of this Ordinance, and shall further appoint such Assistant Land Officers as the Governor may deem necessary to transmit the administration of the Ordinance and of any law regulating the sale, letting, disposal and occupation of Crown Land.

The Land Officer and Assistant Land Officers holding office at the coming into operation of this Ordinance shall be deemed to have been appointed under this Ordinance.

Special provisions of Governor.

Subject to directions of Secretary of State may alienate lands for any purpose and on any terms.

Special conditions may be provided.

Extend time to purchaser for performing conditions.

Accept the surrender of a lease or licence.

Accept the surrender of certificate or licence and grant a new lease or licence under this Ordinance.

All conveyances, notices, etc. relating to Crown Land deemed to be made, taken, issued, etc. under this Ordinance.

Land Officer to have charge of the administration of this Ordinance.

PART IV
DISPOSAL OF AGRICULTURAL LAND

(1) OPENING OF LAND FOR AGRICULTURAL PURPOSES.

25. The Land Officer may cause land available for leasing for agricultural purposes to be surveyed and divided into farms which shall not, except with the consent of the Governor, exceed 0.910 acres, or, except with the consent of the Governor, exceed 7.500 acres.

26. Deeds of farms shall, unless the Governor shall otherwise order in any particular case or cases, be sold by auction.

27. Where land available for leasing for agricultural purposes shall have been surveyed and divided into farms and it is proposed that leases thereof shall be sold by auction, the Land Officer shall give notice in the Gazette of the place and time which shall not be within three months of the date of the publication of such notice, at which leases in respect of such farms will be offered for sale by auction.

Such notice shall state—
(a) the situation of the farms and the approximate area of each farm and the time when and place where the plan of each farm may be seen;
(b) the upset price at which the lease of each farm will be sold;

(c) whether persons other than Europeans will be allowed to bid for the farms;
(d) any special conditions or conditions of sale to be inserted in any lease to be granted;
(e) the annual rent to be paid for each farm for the term of the lease, as hereinafter defined.

(f) the names, and the cost of the deeds to be prepared in respect of each farm.

28. The Land Officer may, at any time before the sale of any farm, withdraw the same from sale at any time before the sale.

29. (1) The terms of sales under this Part the terms and conditions of the sale and all persons bidding at the sale shall be bound by the terms and conditions so read.

(2) The highest bid for the lease of each farm together with the name of the purchaser shall be announced by the auctioneer before proceeding to offer the lease of the next farm and the purchaser shall thereupon pay one-tenth of the purchase money. In default of payment of the deposit the lease of the farm may be offered for sale immediately and any subsequent bid by the person who has made default may be ignored or refused.

29. (1) The purchaser shall, on or before the first day of the month next following the month in which the sale has been held or if such day be a Sunday or Public Holiday on the first day thereafter which is neither a Public Holiday or Sunday, notify the Land Officer in writing whether he desires to pay the balance of the purchase money forthwith or desires to pay the same by instalments as hereinafter provided.

(2) If the purchaser shall elect to pay the balance of the purchase money forthwith, he shall pay the same together with the rent and other payments as in the next succeeding section provided.

22. (1) The purchaser shall pay the purchase money together with the prescribed fees and the fees payable for the preparation and registration of the lease and the stamp duty in respect of the lease shall be paid to the Land Officer within seven days from the date of the sale, and if such payments being duly made the purchaser shall be entitled to the provisions of this Ordinance and if the conditions of the sale have been complied with, he shall be entitled to a lease of the plot, which shall be presented to him for execution as soon as practicable may be.

Provided that the balance of the purchase money shall not be payable within three months of the date of the sale and until the Land Officer is satisfied that the purchaser of the lease of the plot duly executed.

(2) The lease shall be operative on the 1st day of the month next following that in which the sale shall have been held and rent shall be payable from the commencement of the lease.

23. Subject to the proviso contained in section 22, the balance of the purchase money together with the fees and duty mentioned in the preceding section is to be paid to the Land Officer within seven days from the date of the sale, the Land Officer may, at his discretion, make by the purchaser be forfeited the deposit made by the purchaser and that the purchaser shall have no claim against the Government in respect of a lease of the plot.

24. (1) The Land Officer may, at his discretion, divide a town plot into parcels.

(2) In the case of a town plot which has been divided into parcels, the Land Officer may, at his discretion, apply to the Governor for the grant of a covenant in respect of any parcel.

(3) If the lessee of a town plot is desirous of surrendering the plot and assigning a portion thereof, an application shall be made to the Governor through the Land Officer to the surrender of the whole of the plot and to issue a lease of the plot in parcels. Such application shall be entertained unless the conditions (if any) in the lease have been complied with.

(4) If the Governor shall approve of a proposed division of a plot, he may authorise the Land Officer to accept the surrender of the original lease, and to grant leases of the plot in such parcels as he may have approved.

Such new leases shall be granted for a term equal to the unexpired period of the term of the original lease, and shall be granted on the same terms and conditions as the original lease subject only to such modifications as the Governor may approve in consequence of the reduced area of the parcels. Provided, however, that in no case shall the annual rent reserved on any parcel be less than 50 pence.

(5) All cost and expenses of and in connection with the surrender of the lease and the granting of the new leases shall be paid by the person making application under this section (2).

Agricultural land to be divided into farms

Leases to be sold by auction except when Governor shall otherwise order

Notice to be given

Area of each farm

Time when and place where the plan of each farm may be seen

Upset price at which the lease of each farm will be sold

Whether persons other than Europeans will be allowed to bid for the farms

Any special conditions or conditions of sale to be inserted in any lease to be granted

The annual rent to be paid for each farm for the term of the lease, as hereinafter defined

The names, and the cost of the deeds to be prepared in respect of each farm

Terms of sales under this Part

Terms and conditions of the sale and all persons bidding at the sale shall be bound by the terms and conditions so read

The highest bid for the lease of each farm together with the name of the purchaser shall be announced by the auctioneer before proceeding to offer the lease of the next farm

The purchaser shall thereupon pay one-tenth of the purchase money

In default of payment of the deposit the lease of the farm may be offered for sale immediately and any subsequent bid by the person who has made default may be ignored or refused

The purchaser shall, on or before the first day of the month next following the month in which the sale has been held or if such day be a Sunday or Public Holiday on the first day thereafter which is neither a Public Holiday or Sunday, notify the Land Officer in writing whether he desires to pay the balance of the purchase money forthwith or desires to pay the same by instalments as hereinafter provided

If the purchaser shall elect to pay the balance of the purchase money forthwith, he shall pay the same together with the rent and other payments as in the next succeeding section provided

Payment of balance of purchase money

CO.

ALLY WITH THE PERMISSION OF THE PUBLIC RECORD OFFICE, LONDON

(3) If the purchaser shall elect to pay the balance of the purchase money by instalments, such balance shall be paid by one or more yearly instalments commencing on the first day of January next following the date of the sale. There shall be included in the covenants of the lease a covenant expressing the amount of each instalment due and the date on which each such instalment is due. Unless each such instalment is paid on the date on which it falls due the amount of each such instalment shall be deemed to be added to the annual rent reserved by the lease and shall be payable and recoverable as rent.

Whenever the balance of the purchase money shall be payable by instalments, no assignment of the land leased or any part thereof shall be valid until the whole of the balance of the purchase money shall have been paid.

It is provided, however, that the lessee may at any time apply to the Land Officer of the balance of the purchase money and the Land Officer shall on the receipt of such balance endorse the lease accordingly.

The purchaser shall, on or before the first day of the month next following that in which the sale has been held, deposit with the Land Officer a sum of money in the first day of the month which is neither a Sunday nor a Public Holiday.

The sum deposited shall be applied to the payment of the survey fees, the fees for the preparation and registration of the lease and the stamp duty payable in respect of the lease, and the balance shall be available to pay the balance of the purchase money, such payments being made in accordance with the provisions of the Ordinance in force at the date of the execution of the lease, and the balance of the purchase money as soon as conveniently may be.

If the payments mentioned in the last preceding section are not made within the prescribed time, the Land Officer may order that the deposit made by the purchaser be forfeited to the Government and that the purchaser shall have no further claim to a lease of the farm.

The lease shall commence on the first day of the month next following that in which the sale has been held and rent shall be payable from the commencement of the lease.

(2) LEASES IN PURSUANCE OF CERTAIN LICENCES GRANTED BEFORE THE COMMENCEMENT OF THIS ORDINANCE.

Where a person, who, a licence under the Rules under the Ordinance, 1927, dated February 28th, 1911, or January 13th, 1913, or May 6th, 1914, shall have been granted by the Governor, may surrender such licence and obtain a lease under this Part. Provided that such surrender shall have been made within such period as the Governor may by notice in the Gazette direct such period to be not less than twelve months from the date on which this Ordinance shall come into operation.

Every lease granted in pursuance of a licence under either of the Rules referred to in the last preceding section shall be granted under this Part for a term of 999 years from the date of the licence. Provided, however, that in the case of a lease issued in pursuance of a licence

100. The purchaser shall, on or before the first day of the month next following that in which the sale has been held, deposit with the Land Officer a sum of money in the first day of the month which is neither a Sunday nor a Public Holiday. The sum deposited shall be applied to the payment of the survey fees, the fees for the preparation and registration of the lease and the stamp duty payable in respect of the lease, and the balance shall be available to pay the balance of the purchase money, such payments being made in accordance with the provisions of the Ordinance in force at the date of the execution of the lease, and the balance of the purchase money as soon as conveniently may be.

If the payments mentioned in the last preceding section are not made within the prescribed time, the Land Officer may order that the deposit made by the purchaser be forfeited to the Government and that the purchaser shall have no further claim to a lease of the farm.

The lease shall commence on the first day of the month next following that in which the sale has been held and rent shall be payable from the commencement of the lease.

(2) LEASES IN PURSUANCE OF CERTAIN LICENCES GRANTED BEFORE THE COMMENCEMENT OF THIS ORDINANCE.

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Every lease granted in pursuance of a licence under either of the Rules referred to in the last preceding section shall be granted under this Part for a term of 999 years from the date of the licence. Provided, however, that in the case of a lease issued in pursuance of a licence

granted under the Rules dated February 28th, 1911, or the lease shall, if the licensee shall so elect, be treated at the rates prescribed by Rule 6 of the said Rules, in lieu of the rates prescribed in this Part.

(3) TERM OF LEASE AND RIGHT TO BE RESERVED.

34. Every lease under this Part shall, subject to the provisions of this Ordinance, be granted for a term of 999 years.

35. For the purposes of the rent to be reserved under a lease under this Part the term of the lease shall be divided into periods, the first period to expire on December 31st, 1945, the second period to expire on December 31st, 1975, the third period to expire on December 31st, 2005, and each period thereafter to expire on December 31st of every subsequent year following to the end of the term.

36. The annual rent payable under a lease under this Part shall be payable in advance on the first day of January of each year and shall be for the first period at the rate of 10 cent per acre or part of an acre, for the second period at the rate of 1 per cent on the unimproved value of the land in the year 1945, for the third period at the rate of 2 per cent on the unimproved value of the land in the year 1975, and for each subsequent period of thirty years at the rate of 3 per cent on the unimproved value of the land assessed as at the first day of January of the year 1975.

The Land Officer shall, at the expiration of the term of the lease, determine the value of the land for the purposes of determining the rent which shall be payable for the second or third period or for any subsequent period of such lease, and shall, at least following the period in which the valuation is made,

publish the value of the land under the provisions of this Ordinance, and shall, at the expiration of the term of the lease, determine the value of the land for the purposes of determining the rent which shall be payable for the second or third period or for any subsequent period of such lease, and shall, at least following the period in which the valuation is made,

(1) After such valuation provided that the preceding section shall have been made and before the expiration of the year in which such valuation was made the Land Officer shall cause a notice to be served upon the lessee setting forth the value of the land determined and the annual rent which in accordance with such valuation will be payable by him during the next following period, and calling upon the lessee to state in writing whether he objects to the valuation.

(2) If within one month of the date of the notice in the preceding section the lessee does not notify the Land Officer that he objects to the valuation, the rent shall be payable by the lessee with such valuation.

(3) If within one month of the date of the notice in the preceding section the lessee notifies the Land Officer in writing that he objects to the valuation, the question of the value of the land shall be referred to and determined by arbitration.

(4) COVENANT AS TO OCCUPATION.

39. There shall by virtue of this Ordinance be implied in every lease granted under this Part to a European a covenant that he shall not without the consent of the Governor in Council assign or allow a Non-European to be manager or otherwise to occupy or be in control of the land leased.

34. Every lease under this Part shall, subject to the provisions of this Ordinance, be granted for a term of 999 years.

35. For the purposes of the rent to be reserved under a lease under this Part the term of the lease shall be divided into periods, the first period to expire on December 31st, 1945, the second period to expire on December 31st, 1975, the third period to expire on December 31st, 2005, and each period thereafter to expire on December 31st of every subsequent year following to the end of the term.

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publish the value of the land under the provisions of this Ordinance, and shall, at the expiration of the term of the lease, determine the value of the land for the purposes of determining the rent which shall be payable for the second or third period or for any subsequent period of such lease, and shall, at least following the period in which the valuation is made,

(1) After such valuation provided that the preceding section shall have been made and before the expiration of the year in which such valuation was made the Land Officer shall cause a notice to be served upon the lessee setting forth the value of the land determined and the annual rent which in accordance with such valuation will be payable by him during the next following period, and calling upon the lessee to state in writing whether he objects to the valuation.

(2) If within one month of the date of the notice in the preceding section the lessee does not notify the Land Officer that he objects to the valuation, the rent shall be payable by the lessee with such valuation.

(3) If within one month of the date of the notice in the preceding section the lessee notifies the Land Officer in writing that he objects to the valuation, the question of the value of the land shall be referred to and determined by arbitration.

(4) COVENANT AS TO OCCUPATION.

39. There shall by virtue of this Ordinance be implied in every lease granted under this Part to a European a covenant that he shall not without the consent of the Governor in Council assign or allow a Non-European to be manager or otherwise to occupy or be in control of the land leased.

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(5) COVENANTS AS TO DEVELOPMENT.

The First Schedule to this Ordinance including the rules therein shall have effect as part of this Ordinance.

40. Except where expressly varied or excepted these shall, by virtue of this Ordinance, be implied in every lease under this Part.

(1) That he will within the first three years of the lease effect or place on the land leased improvements of the nature and to the value specified in the First Schedule hereto as the improvements to be effected within such time upon a farm of the like area;

(2) That he will at all times after the expiration of the third year of the lease have and maintain on the land leased improvements of the nature and to the value required under the last preceding covenant;

(3) That he will within the first five years of the lease effect or place on the land leased additional improvements of the nature and to the value specified in the said Schedule as the additional improvements to be effected within such time upon a farm of the like area;

(4) That he will at all times after the expiration of the fifth year of the lease have and maintain on the land leased additional improvements of the nature and to the value required under the last preceding covenant.

(6) SUBDIVISION OF FARMS.

42. In every lease under this Part there shall be implied a covenant by the lessee not to divide the land leased and assign any portion thereof, and not without the consent of the Governor or Council to divide the land leased and sub-let any portion thereof.

43. (1) If a lessee of land leased under this Part is desirous of dividing the land comprised in the lease and assigning any part thereof, application shall be made to the Governor or Council through the Land Officer to accept a sub-lease of the lease of such land and to issue leases of the same in parcels. Provided that no such application shall be succeeded unless the whole of the purchase price in respect of such lease shall have been paid.

(2) Every application under this section shall be accompanied by a sketch showing the proposed divisions and shall state whether the conditions of development expressed or implied in the original lease shall attach to one parcel only, and if so to which parcel, or to two or more parcels, and, if so, in what proportions.

(3) If the Governor-in-Council shall approve the proposed subdivision, he may authorise the Land Officer to accept the surrender of the original lease and to grant new leases of the land in such parcels as he may approve.

(4) Every such new lease shall be granted for a term equal to the unexpired period of the term of the surrendered lease, and shall be subject to the same covenants and conditions as the surrendered lease except that

(a) the covenants implied by virtue of section 41 may be varied, provided that the total development required under the combined new leases shall not be less than the development which was required under the original lease; and

(b) the rent reserved in each lease shall be at the rate prescribed in section 36 of this Ordinance, provided that for no period of the lease shall the annual rent reserved in respect of any parcel be less than five rupees.

(3) All costs and expenses of and in connection with the surrender of the lease and the granting of new leases shall be paid by the person making application under section 43.

45. Whenever any lease of an area of more than 200 acres shall have been granted and any leases shall be granted in parcels of parts of such land the rents reserved to the Governor-in-Council under section 36 in respect of leases of more than 200 acres may be exercised by the Governor-in-Council in respect of any such parcels in the same manner as if such parcels shall be 200 acres or less.

DISPOSAL OF LAND FOR SPECIAL PURPOSES.

(1) LEASES AND LICENCES FOR SPECIAL PURPOSES.

46. Every lease or licence for a lease or licence of land under this Ordinance shall be subject to the following provisions, namely:— (a) That the lessee or licensee shall not make a false statement or declaration in any application made to the Governor-in-Council in respect of the land to be leased or licensed hereunder.

47. Any person who contravenes any provision of this Ordinance or any rule made thereunder shall be liable to a fine not exceeding one hundred rupees or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

48. The Governor-in-Council may, subject to the conditions of this lease or licence and such other conditions as may be prescribed by rules made under this Ordinance, determine the terms and conditions of any lease or licence granted hereunder.

49. The Land Officer may, with the sanction of the Governor, cause a lease or licence under this Part to be sold by auction.

The provisions of sections 19 to 25 (both inclusive) of this Ordinance shall, so far as applicable, apply to every sale by auction under this Part.

50. Except where expressly varied or excepted here shall, by virtue of this Ordinance, be implied in every lease under this Part covenants by the lessee:

(a) Not to assign sublet or otherwise part with the possession of the land leased or any part thereof, without the previous consent of the Governor in writing;

(b) Not to use the land leased for any purpose other than the purpose or purposes specified in the lease.

(2) LICENCES FOR TEMPORARY OCCUPATION OF SMALL AREAS.

51. (1) Licences to occupy Crown land for temporary purposes and to erect thereon a building or other temporary erection may be granted by the Land Officer.

Applicant to pay all expenses of surrender and granting of new leases. Sublet, etc., not to affect rights of the Governor under section 39.

Not to be subject to the provisions of this Ordinance.

Licences for temporary purposes.

(4) COVENANTS AS TO DEVELOPMENT

The First Schedule with the rules and regulations thereon shall have effect as part of this Ordinance.

40. The First Schedule to this Ordinance including the rules therein shall have effect as part of this Ordinance.

41. Except where expressly provided or excepted these shall, by virtue of this Ordinance, be implied in every lease under this Part concerning the lessee:

- (1) That he will within the first three years of the lease effect or place on the land leased improvements of the nature and to the value specified in the First Schedule hereto as the improvements to be effected within such time upon a farm of the like area;
- (2) That he will at all times after the expiration of the third year of the lease have and maintain on the land leased improvements of the nature and to the value required under the last preceding covenant;
- (3) That he will within the first five years of the lease effect or place on the land leased additional improvements of the nature and to the value specified in the said Schedule as the additional improvements to be effected within such time upon a farm of the like area;
- (4) That he will at all times after the expiration of the fifth year of the lease have and maintain on the land leased additional improvements of the nature and to the value required under this section.

(5) DIVISION OF FARMS

Subsidiary provisions relating to the division of farms prohibited.

42. In every lease under this Part there shall, by virtue of this Ordinance, be implied a covenant by the lessee not to divide the land leased and assign any portion thereof, and not without the consent of the Governor-in-Council to divide the land leased and let any portion thereof.

Where the land is divided into two or more parcels, the Governor-in-Council may accept, surrender or grant a lease under this Part.

43. (1) If a lessee of land leased under this Part is desirous of dividing the land leased in the lease, he shall apply to the Governor-in-Council through the Land Officer to accept, surrender or grant a lease under this Part. Provided that no such application shall be entertained unless the whole of the purchase price in respect of such lease shall have been paid.

(2) Every application under this section shall be accompanied by a sketch showing the proposed subdivisions and shall state whether the proposed subdivisions are for the purpose of development and maintenance of the land, and if so, what conditions expressed or implied by the original lease shall attach to one parcel only, and if so, to which parcel, or to two or more parcels, and, if so, in what proportions.

(3) If the Governor-in-Council shall approve the proposed subdivision, he may authorise the Land Officer to accept the surrender of the original lease and to grant new leases of the land in such parcels as he may approve.

(4) Every such new lease shall be granted for a term equal to the unexpired period of the term of the surrendered lease, and shall be subject to the same covenants and conditions as the surrendered lease except that:

- (a) the covenants implied by virtue of section 41 may be varied, provided that the total development required under the combined new leases shall not be less than the development which was required under the original lease; and

(b) the rent reserved in each lease shall be at the rate prescribed in section 36 of this Ordinance, provided that for no period of the lease shall the annual rent reserved in respect of any parcel be less than five rupees.

Applicant to pay all expenses of surrender and granting of new lease.

(3) All costs and expenses of and in connection with the surrender of the lease and the granting of new leases shall be paid by the person making application under section 43.

45. Whenever any lease of an area of more than 200 acres shall have been surrendered and new leases shall be granted in parcels of such land and the rents reserved to the Governor-in-Council under section 39 in respect of leases of more than 200 acres may be exercised by the Governor-in-Council in respect of any such parcel whether or not the area of such parcel shall be 200 acres or more or less.

DISPOSAL OF LAND FOR SPECIAL PURPOSES

(1) LICENCES AND LEASES FOR SPECIAL PURPOSES

46. Licences to occupy Crown land for special purposes shall be granted by the Governor-in-Council on such terms and conditions as he may think fit, and the Governor-in-Council may make a false statement in any application for such licence, and any person who makes a false statement in any such application shall be liable to a fine of five hundred rupees, and all moneys paid by him in respect of the licence shall be forfeited to the Government. (2) Licences to occupy Crown land for special purposes shall be granted by the Governor-in-Council on such terms and conditions as he may think fit, and the Governor-in-Council may make a false statement in any application for such licence, and any person who makes a false statement in any such application shall be liable to a fine of five hundred rupees, and all moneys paid by him in respect of the licence shall be forfeited to the Government.

48. The Land Officer may, with the approval of the Governor, cause a lease or licence under this Part to be sold by auction.

49. The provisions of sections 19 to 33 (both inclusive) of this Ordinance shall, so far as applicable, apply to every sale by auction under this Part.

50. Except where expressly varied or excepted these shall, by virtue of this Ordinance, be implied in every lease under this Part concerning the lessee:

- (a) Not to assign, sublet or otherwise part with the possession of the land leased or any part thereof, without the previous consent of the Governor in writing;
- (b) Not to use the land leased for any purpose other than the purpose or purposes specified in the lease.

(2) LICENCES FOR TEMPORARY OCCUPATION OF SMALL AREAS

51. (1) Licences to occupy Crown land for temporary purposes and to erect thereon a hut or other temporary erection may be granted by the Land Officer.

Licence to occupy Crown land for temporary purposes.

Licence not to be allowed for more than 10 years. Licence to be re-issued.

(3) A licence under this section shall not permit the occupation of more than 10 acres of land.

(3) Unless it is expressly provided otherwise, a licence under this section shall continue for one year and thence forward until the expiration of any period of years to quit: provided that such notice to quit may be served upon the licensee at any time after the expiration of nine months from the date of the licence.

Rent payable under licence

(4) The rent payable under any licence under this section shall be payable monthly or at such other period as the licensee shall provide.

Transfer of licence

(5) The benefit of a licence under this section may, with the consent of the Land Officer, be transferred by the licensee, and such transfer and the consent thereto shall be endorsed on the licence.

Removal of building under licence

(6) The consent of any Crown Land Officer under this section may be given and the building erected by him during an occupation of land at any time before the licence expires.

Notice shall determine the rent payable in respect of the lease of such plot

(7) If the rent payable under a licence under this section is unpaid for a period of three months, or if the licensee or transferee of the licence fails to comply with the conditions of the licence, the Land Officer may, after giving notice to the licensee or transferee, cause the building to be removed from the land occupied by the licensee or transferee, and the land to be re-occupied by him or by any other person.

5. For public buildings
6. For trading centres.

7. For any other public purpose that he may think fit, whether similar to any of those mentioned above or not.

Without paying compensation except for buildings and structures erected in the area.

Where it appears to the Governor-in-Council that the power given under this section is being exercised in a manner which is not in the public interest, the Governor-in-Council may, after consulting the Land Officer, and after giving notice to the licensee, cause the building to be removed from the land occupied by the licensee, and the land to be re-occupied by him or by any other person.

The Governor may make rules enforceable by the licensee, and may, in any such rule, require the licensee to pay a sum of money not exceeding three hundred rupees for the removal of any building or structure from the land.

PROVISIONS RELATIVE TO LICENCES AND APPLICABLE TO THE LANDS OF THE GOVERNMENT.

1. Where the Governor-in-Council has decided that the land to be leased is of such a nature as to require special provisions to be made in connection with the lease, the Governor-in-Council may, after consulting the Land Officer, make such special provisions as he may think fit.

2. Where the Governor-in-Council has decided that the land to be leased is of such a nature as to require special provisions to be made in connection with the lease, the Governor-in-Council may, after consulting the Land Officer, make such special provisions as he may think fit.

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9. Where the Governor-in-Council has decided that the land to be leased is of such a nature as to require special provisions to be made in connection with the lease, the Governor-in-Council may, after consulting the Land Officer, make such special provisions as he may think fit.

10. Where the Governor-in-Council has decided that the land to be leased is of such a nature as to require special provisions to be made in connection with the lease, the Governor-in-Council may, after consulting the Land Officer, make such special provisions as he may think fit.

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12. Where the Governor-in-Council has decided that the land to be leased is of such a nature as to require special provisions to be made in connection with the lease, the Governor-in-Council may, after consulting the Land Officer, make such special provisions as he may think fit.

13. Where the Governor-in-Council has decided that the land to be leased is of such a nature as to require special provisions to be made in connection with the lease, the Governor-in-Council may, after consulting the Land Officer, make such special provisions as he may think fit.

Rules and Regulations

Buildings on leased Crown Lands

Consent of the Council may be given by the Governor-in-Council in the Gazette for any land which may be required for any of the following purposes:—

- 1. For public reserves, aqueducts, canals or water-courses.
- 2. For quays, wharves or landing places.
- 3. For railways or tramways, and buildings and works in connection therewith.

and the lessee not agreeing as to the purchase price of such buildings the same shall be determined by arbitration.
62. (1) Every covenant or condition whether expressed or implied in a lease or licence under this Ordinance which is binding on a lessee or licensee shall, unless otherwise expressly provided in the lease or licence, be binding upon all persons claiming an interest in the land subject of the lease or licence and whose title is derived through or under the lessee or licensee.

(2) Any minor who becomes a lessee or licensee under this Ordinance shall be in the same position with respect to his liability and obligations under or in respect of his lease or licence as though he were of full age.

(2) RENT, ROYALTIES, AND OTHER PAYMENTS.

63. The rent, royalties, and payments reserved under any lease or licence shall be a debt to the Crown and shall be paid by the lessee or licensee at the office of the Land Officer or at such other place as may be prescribed.

(1) If the rent or other payment or instalment payable under a lease or licence under this Ordinance or any other law is not paid by the lessee or licensee within a space of 30 days after the same has become due and the Land Officer shall have served a notice upon the person in default demanding payment, the person in default shall pay for such notice a fee of 10 rupees and such fee shall be recoverable by the Land Officer by action in the Court of Magistrate competent jurisdiction.

(2) If the rent or other principal instalment, royalty or other payment payable under any lease or licence under this Ordinance is not paid by the lessee or licensee within a space of 30 days after the same has become due and the same shall have been served upon the lessee or licensee by a notice in accordance with the provisions of section 62, the Land Officer shall at any time thereafter and exceeding 14 days after the date of the service of such notice shall cause to be served under sub-section (1) there of a notice in addition by way of penalty a sum equivalent to 10 per centum of the sum due.

64. If any rent, principal instalment, royalty or other payment payable under any agreement lease or licence under this Ordinance or under any other law is not paid by the lessee or licensee within a space of 30 days after the same has become due and the same shall have been served upon the lessee or licensee by a notice in accordance with the provisions of section 62, the Land Officer shall at any time thereafter and exceeding 14 days after the date of the service of such notice shall cause to be served under sub-section (1) there of a notice in addition by way of penalty a sum equivalent to 10 per centum of the sum due.

FORFEITURE FOR BREACH OF COVENANT OR CONDITION.

66. If the lessee or licensee of any land leased or licensed to a lessee under this Ordinance shall at any time be in breach of any covenant or condition of the lease or licence, whether expressed or implied by virtue of this Ordinance the Land Officer may serve a notice upon the lessee specifying the rent or royalties in arrears or the covenant of which a breach has been committed, and at any time after one month from the service of the notice may commence an action in the High Court for the

Covenants and conditions binding on persons claiming under lease or licence
Obligations of minors

Debt
Rent, royalties, and payments reserved under any lease or licence shall be a debt to the Crown and shall be paid by the lessee or licensee at the office of the Land Officer or at such other place as may be prescribed.

Notice of default
If the rent or other payment or instalment payable under a lease or licence under this Ordinance or any other law is not paid by the lessee or licensee within a space of 30 days after the same has become due and the Land Officer shall have served a notice upon the person in default demanding payment, the person in default shall pay for such notice a fee of 10 rupees and such fee shall be recoverable by the Land Officer by action in the Court of Magistrate competent jurisdiction.

Land Officer
If any rent, principal instalment, royalty or other payment payable under any agreement lease or licence under this Ordinance or under any other law is not paid by the lessee or licensee within a space of 30 days after the same has become due and the same shall have been served upon the lessee or licensee by a notice in accordance with the provisions of section 62, the Land Officer shall at any time thereafter and exceeding 14 days after the date of the service of such notice shall cause to be served under sub-section (1) there of a notice in addition by way of penalty a sum equivalent to 10 per centum of the sum due.

Forfeiture
If the lessee or licensee of any land leased or licensed to a lessee under this Ordinance shall at any time be in breach of any covenant or condition of the lease or licence, whether expressed or implied by virtue of this Ordinance the Land Officer may serve a notice upon the lessee specifying the rent or royalties in arrears or the covenant of which a breach has been committed, and at any time after one month from the service of the notice may commence an action in the High Court for the

recovery of the premises and on proof of the facts, the High Court shall, subject to the provisions of this Ordinance, have jurisdiction to grant relief upon such terms as may appear just, declare the lease forfeited, and the Land Officer may re-enter upon the land.

In exercising the power of granting relief against forfeiture under this section the Court shall be guided by the principles of English law and the doctrines of equity.

67. (1) Save where otherwise provided in this Ordinance, if the rent or any part thereof payable under a licence issued under this Ordinance shall at any time be unpaid for a space of 30 days after the same has become due or if the licensee shall fail to comply with, or shall commit any breach of, the conditions, whether express or implied, of his licence the Land Officer may cause an application to be made to a Magistrate of a Subordinate Court of the First Class within whose local jurisdiction the land the subject of the licence is situate, to declare the licence forfeited.

(2) Upon receipt of such application together with a statement specifying the rent in arrears, the condition which has not been complied with or of which a breach has been committed the Magistrate shall cause to be served on the licensee a copy of such statement together with a notice of the date, not being less than 14 days from the date of such notice, when the application will be heard.

(3) If upon the date fixed for the hearing of the application of the licensee or his agent or attorney shall appear and shall satisfy the Magistrate that he has complied with or has agreed to comply with the conditions of his licence, the Magistrate shall not grant relief against forfeiture and the rent due to him may again be demanded.

68. The provisions of this Ordinance shall operate to extinguish any debt or claim for any rent, royalty or other payment payable under any lease or licence under this Ordinance or any other law if the lessee or licensee has not paid the same within a space of 30 days after the same has become due and the same shall have been served upon the lessee or licensee by a notice in accordance with the provisions of section 62, the Land Officer shall at any time thereafter and exceeding 14 days after the date of the service of such notice shall cause to be served under sub-section (1) there of a notice in addition by way of penalty a sum equivalent to 10 per centum of the sum due.

PART VII.

TRANSFER OF AND DEALINGS IN LAND.

70. This Part shall apply to all lands, sold, leased or otherwise disposed of under the Crown Lands Ordinance, 1912, or under the East Africa Lands Regulations, 1912.

71. Whenever any land to which this Part applies is sold, transferred, mortgaged, assigned, leased or sub-leased whether by or under the orders of a Court of law or otherwise howsoever, the person or persons or any one of them to whom such land is sold, transferred, mortgaged, assigned, leased or sub-leased is, in respect of a mortgage, mortgaged, assigned, leased or sub-leased then it shall be

70. This Part shall apply to all lands, sold, leased or otherwise disposed of under the Crown Lands Ordinance, 1912, or under the East Africa Lands Regulations, 1912.

71. Whenever any land to which this Part applies is sold, transferred, mortgaged, assigned, leased or sub-leased whether by or under the orders of a Court of law or otherwise howsoever, the person or persons or any one of them to whom such land is sold, transferred, mortgaged, assigned, leased or sub-leased is, in respect of a mortgage, mortgaged, assigned, leased or sub-leased then it shall be

land to which this Part applies
mortgaged, assigned, leased or sub-leased then it shall be

and the lessee not agreeing as to the purchase price of such buildings the same shall be determined by arbitration.

Covenants and conditions binding on persons claiming under lease or license.

62. (1) Every covenant or condition whether expressed or implied in a lease or licence under this Ordinance which is binding on a lessee or licensee, shall, unless otherwise expressly provided in the lease or licence, be binding upon all persons claiming an interest in the land subject of the lease or licence and whose title is derived through or under the lessee or licensee.

Obligations of minors.

(2) Any minor who becomes a lessee or licensee under this Ordinance shall be in the same position with respect to his liability and obligations under or in respect of his lease or licence as though he were of full age.

(2) RENT, ROYALTIES AND OTHER PAYMENTS.

Cost.

63. The rent, royalties, and payments reserved under any lease or licence shall be a debt to the Crown and shall be paid by the lessee or licensee at the office of the Land Officer or at such other place as may be prescribed.

Fee for a notice of default or for a notice of demand.

64. (1) If the rent or other payment demanded, or any instalment payable under this Ordinance or under any Ordinance repealed by this Ordinance shall at any time be unpaid for a space of 30 days, then the same being due, and the Land Officer shall have served a notice upon the person in default demanding payment, the person in default shall pay for such notice a fee of 100 rupees and such fee shall be recoverable by the Land Officer by action in his own name in any Court of competent jurisdiction.

(2) As to the rent or principal instalment, royalty or other payment payable under any agreement, lease or licence under this Ordinance or under any Ordinance repealed by this Ordinance shall at any time be unpaid for a space of 30 days after the same has become due, the person shall have been served with a notice under sub-section (1) shall have been served with a notice under sub-section (1) shall at any time be unpaid for a space of 30 days after the same has become due, and a notice shall have been served under sub-section (1) shall, in addition to the penalty payable under sub-section (1) shall, in addition to the penalty a sum equivalent to 10 per centum of the sum due.

(3) If any rent, principal instalment, royalty or other payment payable under any agreement lease or licence under this Ordinance or under any Ordinance repealed by this Ordinance shall be in arrear, the Land Officer, without prejudice to his right to recover in any other way, may sue for the same, together with any fee payable under this Ordinance, may be payable under the provisions of this Ordinance or in any Court of competent jurisdiction.

FORFEITURE FOR BREACH OF COVENANT OR CONDITION.

Forfeiture of lease if rent unpaid.

65. If the rent or royalties or any part thereof reserved on a lease under this Ordinance shall at any time be unpaid for a space of 30 days after the same has become due, or if there shall be any breach of a covenant or condition, whether express or implied by virtue of this Ordinance the Land Officer may serve a notice upon the lessee specifying the rent or royalties in arrear or the covenant of which a breach has been committed, and at any time after the expiration of the notice may commence an action in the High Court for the

recovery of the premises, and on proof of the facts, the High Court shall, subject to relief upon such terms as may appear just, declare the lease forfeited, and the Land Officer may re-enter upon the land.

In exercising the power of granting relief against forfeiture under this section the Court shall be guided by the principles of English law and the doctrines of equity.

67. (1) Save where other provision is made in this Ordinance, if the rent or any part thereof payable under a licence issued under this Ordinance shall at any time be unpaid for a space of 30 days after the same has become due or if the licensee shall fail to comply with, or shall commit any breach of, the conditions, whether express or implied, of his licence the Land Officer may cause an application to be made to a Magistrate of a Subordinate Court of the First Class within whose local jurisdiction the land the subject of the licence is situate, to declare the licence forfeited.

(2) Upon receipt of such application together with a statement specifying the rent in arrear, the conditions which has not been complied with or of which a breach has been committed the Magistrate shall cause to be served on the licensee a copy of such statement together with a notice of the date, not being less than fourteen days from the date of such notice, when the application will be heard.

(3) If upon the date fixed for the hearing of the application it is proved to the satisfaction of the Magistrate that the licensee has complied with the conditions of his licence, he shall grant to him any relief which he may deem fit to grant.

(4) The Magistrate shall operate to extinguish any debt or liability of any rent, royalty or other payment payable under a lease or licence under this Ordinance or under any Ordinance repealed by this Ordinance, and shall operate as a waiver of the breach of any covenant or condition annexed to any lease or licence of or respecting Crown Land whether the said lease or licence be under this Ordinance or under any Ordinance relating to the disposal of Crown Land.

PART VIII

TRANSFER OF AND DEALINGS IN LAND.

70. This Part shall apply to all lands, sold or leased or otherwise disposed of under this Ordinance and

All lands sold or otherwise disposed of under the Crown Lands Ordinance, 1902, of the East Africa Lands Regulations, 1902.

71. Whenever any land to which this Part applies is sold, transferred, mortgaged, assigned, leased or sub-leased whether by or under the orders of a Court of law or otherwise howsoever, the person or persons or any one of them to whom such land is sold, transferred, mortgaged, assigned, leased or sub-leased is or are of a different race to the person by whom such land is sold, transferred, mortgaged, assigned, leased or sub-leased then it shall be

the duty of the purchaser, transferee, mortgagee, assignee, lessee or sub-lessee to notify the Land Officer in writing of the transaction within one month of the completion thereof and to furnish the Land Officer in the form and manner prescribed with full particulars of the nature of the transaction of the land affected and as to the parties to the transaction or interested therein.

72. Any person who being required by the provisions of the last preceding section to give the notice aforesaid and to furnish the particulars required, shall, if he shall without lawful excuse fail to give the notice and furnish the particulars within the time prescribed, be liable to a fine not exceeding 1,500 rupees, or if he shall in furnishing the particulars aforesaid make any statement which he knows to be false or if he wilfully withholds any information which he is required to furnish, be liable to a fine not exceeding 8,000 rupees and to imprisonment of either description for a term not exceeding one year. Provided, however, that no proceedings shall be taken under this section except with the consent of the Governor-in-Council.

73. (1) It shall be lawful for the Governor-in-Council to veto any sale, transfer, mortgage, assignment, lease or sub-lease to which the provisions of section 71 of this Ordinance apply.

(2) Provided that the sale, transfer, mortgage, assignment, lease or sub-lease has not previously been given and provided further that whenever notice of such sale, transfer, mortgage, assignment, lease or sub-lease has been given and the requisite particulars furnished as in this Part provided the right of veto shall not be exercised except within three months of the receipt by the Land Officer of the notice and particulars of the transaction.

(3) Whenever the Governor-in-Council shall exercise the right of veto in respect of any sale, transfer, mortgage, assignment, lease or sub-lease, notice that such right has been exercised shall be published in the "Gazette," and from the date of such publication the sale, transfer, mortgage, assignment, lease or sub-lease, in respect of which such veto has been exercised shall be null and void.

(4) The Principal Registrar shall cancel or cause to be cancelled the registration of every document evidencing any transaction to which any transaction in respect of which the Governor-in-Council has exercised this section.

74. The Governor may make rules and regulations for share farms, subject to such conditions as may be prescribed, from the obligations under section 71 to notify such leases and the particulars thereof.

PART IX. RESERVATIONS.

(1) WATER.

Reservation
of water.

75. A conveyance, lease or licence under this Ordinance shall not unless otherwise expressly provided therein confer any right to the water of any spring, river, lake, or stream, other than to such water as may be required for domestic purposes upon the land sold, leased or occupied under the licence.

(2) FORESHORE.

76. A conveyance, lease, or licence under this Ordinance shall not unless otherwise expressly provided therein confer any right to the foreshore.

(3) MINERALS.

77. (1) Except as hereinafter in any conveyance, lease or licence otherwise expressly provided, a conveyance, lease or licence under this Ordinance shall not confer any right to any gold, silver, copper, tin, or metals, ores, mineral products or substances containing metals or any gems or precious stones, or coal or mineral oils in under or upon any Crown Lands.

(2) There is hereby reserved to the Crown the right to enter upon any land granted, sold, leased or occupied under a licence under this Ordinance and to search for, work and remove any gold, silver, copper, tin, and metals, ores, minerals, mineral products and substances containing metals, and gems and precious stones, coal and mineral oils in under or upon any such lands, provided that the Governor-in-Council may make rules providing for compensation to be payable or relief to be given to the purchaser, transferee, lessee or occupier in the licence of such land in any damage done to buildings, roads, or other structures and for any interference with the rights of such person.

(3) The right reserved to the Crown under this Ordinance shall not be affected by the provisions of the Crown Lands Ordinance 1902, or any Ordinance in force in the territories mentioned in the second Schedule to this Ordinance, or by any rules made by the Governor-in-Council in the exercise of the powers of the said Ordinance.

Provided, however, that a lease of Crown Land shall not be made or granted for building purposes, and shall not exercise the rights by this section conferred except with the consent of the Land Officer first obtained and in accordance with such conditions as the Land Officer may impose with the purpose of preventing damage to the surface of the land leased or occupied.

(4) The right reserved to the Crown to enter upon any Crown land sold or leased and to remove therefrom any of the minerals mentioned in the second Schedule or any mineral products or substances mentioned in the second Schedule, shall not be exercised against the interest of the purchaser or lessee, except such mineral as is required for a public purpose.

Provided that the right of quarry made in the exercise of such right shall be fenced or secured by and at the expense of the Government.

(5) A purchaser or lessee of Crown land under this Ordinance may, subject to the provisions of this subsection, without the payment of a royalty remove any of the minerals mentioned in the third Schedule hereto or any mineral which may hereafter be added to such Schedule by a Proclamation made by the Governor in the "Gazette," which may be found upon the land sold or leased provided that such minerals shall be removed in such quantities only as may be required for use on such land and shall be used for the purposes of the farm on such land only. Provided, however, that the right conferred by this sub-section shall not apply to any such minerals

Reservation
of minerals
and precious
stones.

within any area included within any claim under the mining laws or which is the subject of a lease granted for the mining or working of such mineral.

78. A right reserved to the Crown under the preceding section may be exercised by any person or persons authorised by the Governor or by or under any Ordinance or law relating to mines or minerals.

(4) ROADS, THOROUGHFARES AND OUTSPANS.

79. All proclaimed or reserved roads thoroughfares and outspans being or existing on any land sold or leased under this Ordinance or under the Crown Lands Ordinance, 1902, or the East Africa Land Regulations, 1897, shall remain free and uninterrupted unless the same be closed or altered by the order of the Governor or by competent authority.

80. (a) Every purchaser, holder, lessee or licensee of Crown Lands under this Ordinance, the Crown Lands Ordinance, 1902, or the East Africa Land Regulations, 1897, shall, if there is no direct road from the land to any public road, be entitled to require the Government to construct a road to connect the land with such public road.

(b) In the case of any such road, the Government may, if it thinks fit, require the person requiring such road to pay to the Government, or to the person or persons to whom the land is sold or leased, such sum as may be determined by the Government as being reasonable compensation for the land to be used for the purpose of such road.

(c) In the case of any such road, if there is any dispute as to the amount of compensation to be paid under sub-section (b), the matter shall be referred to the Land Officer whose decision thereon shall be final and binding on all parties.

81. (a) The person requiring a road of access to any land to be sold or leased under this Ordinance shall, if there is no direct road from the land to any public road, be entitled to require the Government to construct a road to connect the land with such public road.

(b) In the case of any such road, the Government may, if it thinks fit, require the person requiring such road to pay to the Government, or to the person or persons to whom the land is sold or leased, such sum as may be determined by the Government as being reasonable compensation for the land to be used for the purpose of such road.

(c) In the case of any such road, if there is any dispute as to the amount of compensation to be paid under sub-section (b), the matter shall be referred to the Land Officer whose decision thereon shall be final and binding on all parties.

82. After the site, route, and marking of a road of access has been determined by the Government, the person requiring such road and the purchaser, holder, lessee or licensee, as the case may be, of the land which such road is to traverse or in the cases provided by section 80 (b) and (c) by the decision of the Land Officer, it shall be lawful for the person requiring such road forthwith to use the same as a road of access and to enter upon the land which such road is to traverse with all necessary

Delegation of rights reserved to Crown.

Saving of public road, etc.

Right of access to public roads.

Right of access to public roads.

Right of access to public roads.

Right of access to public roads.

Right of access to public roads.

Right of access to public roads.

workmen, tools and materials and to construct such road. Provided that as little damage or inconvenience as may be possible shall be caused by such entry and construction to the purchaser, holder, lessee or licensee of the land traversed. And provided that the purchaser, holder, lessee or licensee of the land to be traversed by such road shall, if an agreement be made with the person requiring such road as to its cost, have the option of constructing such road himself at the cost of the person requiring such road.

83. The width of a road of access constructed under the provisions of this Ordinance shall not exceed twenty feet.

84. The person requiring a road of access shall maintain such road in a good and efficient state of repair.

85. The person requiring a road of access shall not be required to fence such road when constructed.

86. The Government may, if it thinks fit, require the person requiring a road of access to pay to the Government, or to the person or persons to whom the land is sold or leased, such sum as may be determined by the Government as being reasonable compensation for the land to be used for the purpose of such road.

(b) In the case of any such road, the Government may, if it thinks fit, require the person requiring such road to pay to the Government, or to the person or persons to whom the land is sold or leased, such sum as may be determined by the Government as being reasonable compensation for the land to be used for the purpose of such road.

(c) In the case of any such road, if there is any dispute as to the amount of compensation to be paid under sub-section (b), the matter shall be referred to the Land Officer whose decision thereon shall be final and binding on all parties.

87. After the site, route, and marking of a road of access has been determined by the Government, the person requiring such road and the purchaser, holder, lessee or licensee, as the case may be, of the land which such road is to traverse or in the cases provided by section 80 (b) and (c) by the decision of the Land Officer, it shall be lawful for the person requiring such road forthwith to use the same as a road of access and to enter upon the land which such road is to traverse with all necessary

workmen, tools and materials and to construct such road. Provided that as little damage or inconvenience as may be possible shall be caused by such entry and construction to the purchaser, holder, lessee or licensee of the land traversed. And provided that the purchaser, holder, lessee or licensee of the land to be traversed by such road shall, if an agreement be made with the person requiring such road as to its cost, have the option of constructing such road himself at the cost of the person requiring such road.

88. The Governor-in-Council may at any time enter upon any land sold, leased or occupied under this Ordinance and there do any work which he may consider necessary for maintaining or improving the flow of water in any river or stream on such land, and may construct and maintain dams or divert any river or stream without paying compensation except for buildings and crops destroyed or damaged.

89. When any land sold or leased under this Ordinance exceeds 200 acres or when land is occupied under a licence the Governor-in-Council may at any time enter and resume any lands for roads, railways, tramways, canals, water channels, trigonometrical stations and outspans, without making compensation for the land but compensation shall be payable for buildings and crops destroyed or damaged.

90. The Governor-in-Council may, if it thinks fit, require the person requiring a road of access to pay to the Government, or to the person or persons to whom the land is sold or leased, such sum as may be determined by the Government as being reasonable compensation for the land to be used for the purpose of such road.

(b) In the case of any such road, the Government may, if it thinks fit, require the person requiring such road to pay to the Government, or to the person or persons to whom the land is sold or leased, such sum as may be determined by the Government as being reasonable compensation for the land to be used for the purpose of such road.

(c) In the case of any such road, if there is any dispute as to the amount of compensation to be paid under sub-section (b), the matter shall be referred to the Land Officer whose decision thereon shall be final and binding on all parties.

91. After the site, route, and marking of a road of access has been determined by the Government, the person requiring such road and the purchaser, holder, lessee or licensee, as the case may be, of the land which such road is to traverse or in the cases provided by section 80 (b) and (c) by the decision of the Land Officer, it shall be lawful for the person requiring such road forthwith to use the same as a road of access and to enter upon the land which such road is to traverse with all necessary

Right of access to public roads.

Right of access to public roads.

Right of access to public roads.

Right of access to public roads.

Right of access to public roads.

Right of access to public roads.

Right of access to public roads.

Right of access to public roads.

PART X.

SURVEYS—SURVEY MARKS AND BOUNDARY MARKS.

94. (1) All surveys of Crown Lands for the purposes of any sale, lease or licence under this Ordinance or under any Ordinance repealed by this Ordinance shall be conducted under the direction of the Director of Surveys.

Surveys for purposes of sale or lease by the Governor

(2) Whenever after the date of the coming into operation of this Ordinance any land sold or leased by the Crown whether before or after such date shall be subdivided by the purchaser or lessee, the land so subdivided shall, for the purposes of such subdivision, be surveyed by a Government or Licensed Surveyor, and no document which purports to convey or assign a portion of land sold as aforesaid or to assign the interests of a lessee of a portion of land leased as aforesaid shall be registered or accepted for registration under this Ordinance except there be attached thereto a plan approved and signed by the Director of Surveys for the purposes of such document.

A plan approved by the Director of Surveys in accordance with the provisions of this Ordinance

(3) Every Surveyor executing a survey for the purpose of a subdivision of land sold or leased by the Crown shall send to the Director of Surveys a plan showing field notes and computations together with a certificate of accuracy of the survey. All such certificates shall be signed by the Surveyor and shall be countersigned by the Director of Surveys.

(4) The Surveyor, from time to time, upon any Crown land or private land whatever, may erect stations for the purpose of surveying and may for that purpose be authorised to make, and may cause to be made, trigonometrical stations, survey posts, marks, or monuments for the purpose of inspecting any such station, or of altering, repairing, or re-erecting any trigonometrical station, or any such post, mark, or monument.

(5) The Surveyor may do all things necessary for the erection, repair or alteration of any such station, post, mark, or monument, and may, for that purpose, be authorised to enter upon any land, and may, for that purpose, be authorised to enter upon any land, and may, for that purpose, be authorised to enter upon any land.

Compensation shall be paid by the Government to the owner of any land or to any person entitled to the possession of any land in respect of any survey carried on for the purposes of this Ordinance, or for the purpose of any boundary, or shall wilfully deface, obliterate, mutilate, break, or destroy any such station, mark, post, block, or stone, every person so offending shall be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding two months, or to both.

97. If any person shall wilfully obstruct or hinder any authorised surveyor or any servant or assistant of his in the execution of his duty in

Penalty for obstructing Surveyors

Provided always that in the event of a larger portion than a per cent. of the total area of any land sold or leased under this Ordinance being taken for any other purpose or purposes there shall be paid to the purchaser or lessee, as the case may be, compensation for the land taken in excess of such proportion, such compensation shall not exceed the value of land taken in excess of the said proportion.

Compensation for land taken for the purpose of original sale of lease 200 acres or less.

95. When any land sold or leased under this Ordinance is taken for any other purpose or purposes, the Government may at any time hereafter cause upon such land to be made any roads, railways, tramways, canals and outfalls paying compensation for the same.

Governor in Council may after licence land sold or leased under this Ordinance.

96. The Governor in Council may at any time hereafter cause any land sold or leased under this Ordinance to be taken for any other purpose or purposes, and may at any time hereafter cause any land sold or leased under this Ordinance to be taken for any other purpose or purposes, and may at any time hereafter cause any land sold or leased under this Ordinance to be taken for any other purpose or purposes.

97. The Governor in Council may at any time hereafter cause any land sold or leased under this Ordinance to be taken for any other purpose or purposes, and may at any time hereafter cause any land sold or leased under this Ordinance to be taken for any other purpose or purposes.

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100. The Governor in Council may at any time hereafter cause any land sold or leased under this Ordinance to be taken for any other purpose or purposes, and may at any time hereafter cause any land sold or leased under this Ordinance to be taken for any other purpose or purposes.

101. The Governor in Council may at any time hereafter cause any land sold or leased under this Ordinance to be taken for any other purpose or purposes, and may at any time hereafter cause any land sold or leased under this Ordinance to be taken for any other purpose or purposes.

102. The Governor in Council may at any time hereafter cause any land sold or leased under this Ordinance to be taken for any other purpose or purposes, and may at any time hereafter cause any land sold or leased under this Ordinance to be taken for any other purpose or purposes.

103. The Governor in Council may at any time hereafter cause any land sold or leased under this Ordinance to be taken for any other purpose or purposes, and may at any time hereafter cause any land sold or leased under this Ordinance to be taken for any other purpose or purposes.

104. The Governor in Council may at any time hereafter cause any land sold or leased under this Ordinance to be taken for any other purpose or purposes, and may at any time hereafter cause any land sold or leased under this Ordinance to be taken for any other purpose or purposes.

105. The Governor in Council may at any time hereafter cause any land sold or leased under this Ordinance to be taken for any other purpose or purposes, and may at any time hereafter cause any land sold or leased under this Ordinance to be taken for any other purpose or purposes.

106. The Governor in Council may at any time hereafter cause any land sold or leased under this Ordinance to be taken for any other purpose or purposes, and may at any time hereafter cause any land sold or leased under this Ordinance to be taken for any other purpose or purposes.

RESERVATION OF LANDS IN OCCUPATION OF NATIVES.

93. (1) The Governor may grant leases of areas of land containing native villages or settlements without specially excluding such villages or settlements, but land in the actual occupation of natives at the date of the lease shall, so long as it is actually occupied by them, be deemed to be excluded from the lease.

(2) Any land within an area leased which has been in the occupation of natives shall, on ceasing to be occupied, pass to the lessee.

Provided that the Provincial Commissioner for the time being of the Province in which such land is situated shall certify that the natives have ceased to occupy such land of their own will or record and without any distress on the part of the lessee.

(3) Any doubts that may arise as to whether any land is or is not included in any native settlement or village, or in lands allotted for that purpose, shall be decided by the Provincial Commissioner.

(4) Either the lessee of the land or the natives, if dissatisfied with the decision of the Provincial Commissioner, may appeal to the Governor.

or about ascertaining or marking out any boundary or survey lines or in or about the fixing, placing, restoring, repairing, or setting up any trigonometrical station, boundary or survey mark, ranging-peg, post, block, or stake for the purposes aforesaid, or shall in any way resist such surveyor or other person as aforesaid, every such person shall be liable to a fine not exceeding five hundred rupees, or to imprisonment of either description not exceeding one month or to both.

Boundary marks to be shown on plan.

98. (1) All permanent marks erected or placed for the purpose of denoting the boundaries of land sold or leased or the subject of a licence under this Ordinance shall be shown on the plan to be attached to the conveyance, lease or licence, or on the plan or map referred to in the conveyance, lease or licence.

(2) It shall be the duty of every purchaser, lessee or licensee to ascertain within 60 days of the receipt of his conveyance, lease or licence with a plan attached, that the boundary marks shown on the plan are in place as shown on the plan.

(3) If a purchaser, lessee or licensee shall within 60 days of the receipt of his conveyance, lease or licence with a plan attached notify the Land Officer in writing that he is unable to find the boundary marks shown on the plan, and shall deposit with the Land Officer a sum not exceeding Rs. 100 or such smaller sum as may be sufficient to cover the cost of the enquiry, the Land Officer shall send a surveyor who shall enquire into the matter.

(4) If as a result of the enquiry the Director of Surveys shall find that the boundary marks as shown on the plan he shall cause boundary marks to be erected or placed in accordance with the plan, and a new plan to be prepared, as the case may require, and in such case the sum deposited shall be refunded to the purchaser, lessee or licensee.

(5) If as a result of the enquiry the Director of Surveys shall find that the boundary marks are in place as shown on the plan, the sum deposited or such portion thereof as shall be sufficient to cover the cost of such enquiry shall be retained by the Government.

(6) Whenever the Director of Surveys shall under sub-section (4) of this section cause a new and correct plan to be prepared, such plan shall be attached to the conveyance, lease or licence, and it shall be the duty of the purchaser, lessee or licensee to produce the conveyance, lease or licence for the purpose, and such plan shall for all purposes be deemed to be the plan referred to in the body of the conveyance, lease or licence.

Obligation to maintain boundary marks.

99. Every purchaser, lessee or licensee of Crown Land shall maintain the marks erected for the purpose of denoting the boundaries of land sold or leased to him or occupied by him. Every purchaser, lessee or licensee who shall fail to maintain such marks shall be liable to a fine not exceeding seventy-five rupees in respect of every such default, and shall also be liable to pay the expenses of and in connection with the re-marking of the same. Provided that where one mark is common to the land of two or more persons whether purchasers, lessees or licensees, such mark shall be severally liable to the aforesaid fine, but the expenses of and in connection with re-marking shall be divided between them.

A site for trigonometrical station deemed so to be reserved.

100. The land on which any trigonometrical station is situated which shall comprise all land within 20 feet of the centre mark of such station, together with a right of way to and from the same, shall, for the purposes of

survey, and notwithstanding any alienation thereof, be deemed to be Crown land and to have been and to be excepted out of such alienation.

PART XL
REGISTRATION OF TRANSACTIONS RELATING TO CROWN LANDS

(1) CROWN LANDS REGISTRY.

101. In this Part the expressions "and registered under this Part" shall mean land in respect of which the conveyance, lease or licence from the Crown or Government is required by the provisions of this Part to be registered in the Crown Lands Registration Office.

102. Nothing in this Part shall apply to or affect any lease or licence granted under the Mining Ordinance, 1912, or under any Ordinance repealed by such Ordinance, by any transfer of, or other transactions in relation to, any such lease or licence or any right thereunder.

103. (1) There shall be established under the authority of the Land Officer at Nairobi and at such other places as the Governor in Council may prescribe an office to be known as the Crown Lands Registration Office.

(2) The Governor shall appoint an officer to be known as the Principal Registrar of Crown Lands, with such assistants and clerks as may from time to time be required, and such other officers as may be required.

(3) The Land Officer shall on the coming into operation of this Ordinance deliver to the Principal Registrar for registration as hereinafter directed the original duplicate or counterpart of every subsisting conveyance, lease or licence of or in respect to Crown Land made or granted by or on behalf of His Majesty or the Government before such date.

Every conveyance, lease or licence of or in respect to Crown Land made or granted by or on behalf of His Majesty or the Government after the commencement of this Ordinance shall be in duplicate and the duplicates shall be delivered by the Land Officer to the Principal Registrar who shall on receiving from the purchaser, lessee or licensee the prescribed fee register the same in the manner hereinbefore directed, and shall thereupon deliver one of such duplicates to the Land Officer for use with an memorandum of registration endorsed thereon.

104. The Principal Registrar shall keep a register of the "Register of Crown Lands" and shall bind up therein every document delivered to him under section 103 and also a duplicate of every conveyance, lease or licence delivered to him under section 103, and each conveyance, lease or licence shall constitute a separate folium of such register and the Principal Registrar shall cause to be registered therein the particulars of every document, dealing and other matters by this Ordinance required to be registered or entered in the register affecting the land included under each conveyance, lease or licence.

105. The Principal Registrar shall as soon as conveniently may be after the receipt from the Land Officer of any document under section 104 cause search to be made in the registers kept under the East Africa Registration Regulations, 1901, for any registered transaction relating to the land the subject of such document and make abstracts of every such registered transaction subsisting or appearing to be subsisting at such date and enter such abstracts in the folium of the register of Crown Lands in which the aforesaid document is registered.

Intervenor

to apply for

leave to

intervene

under the

law relating

to the

proceedings

in the

High Court

at Nairobi

in the

case of

the

Government

vs.

the

Principal

Registrar

of

Crown

Lands

at

Nairobi

in

the

case

of

the

Government

vs.

the

Principal

Registrar

of

Crown

Lands

at

Nairobi

(b) REGISTRATION OF TRANSACTIONS AFFECTING CROWN LANDS.

108. All transactions entered into after the commencement of this Ordinance, affecting, or conferring or purporting to confer, declare, limit or extinguish any right, title, or interest, whether vested or contingent, to, in or over, land registered under this Part (other than a letting for one year only or for any term not exceeding one year) and all mutations of title by succession or otherwise shall be registered under this Part.

109. No evidence shall be receivable in any Civil Court

(1) of the sale, lease or other transfer *inter vivos* effected after the commencement of this Ordinance of land registered under this Part, unless such sale lease or other transfer is effected by an instrument in writing and such instrument has been registered under this Part.

(2) of a lien mortgage or charge (other than such as may arise or be created in favour of the Crown or the Government under or by virtue of any Ordinance or other enactment) or or upon such land created after the commencement of this Ordinance unless the mortgage or charge is created by an instrument in writing, and the instrument has been registered under this Part.

(3) of a sale or other transfer *inter vivos* effected after the commencement of this Ordinance of a registered lien mortgage or charge unless such other transfer is effected by an instrument in writing and such instrument has been registered under this Part.

Provided, however, that the provisions of this section shall apply to all instruments in writing and all documents of title provided that such instruments and documents of title shall have been registered under this Part. On the discharge of such lien mortgage or charge a memorandum of such discharge shall be registered in the registry. Every memorandum shall be transmitted to the registry in duplicate and shall be in such form and there shall be paid on the registration thereof such fee as may be prescribed.

110. Every document executed after the commencement of this Ordinance and every will of a person dying after the commencement of this Ordinance, creating, declaring, assigning, limiting or extinguishing any right, title, or interest to or in or over land registered under this Part, shall, unless registered under this Part, be deemed void against all parties claiming an adverse interest thereto on valuable consideration by virtue of any subsequent document which has been duly registered.

Provided that:

(1) Fraud or collusion in obtaining such last mentioned document, or in securing such prior registration, shall defeat the priority of the person claiming thereunder.

(2) Priority shall not be lost merely in consequence of the person claiming under the registration having been affected with actual or constructive notice of the document first executed, except in the case of actual fraud.

(3) Nothing herein contained shall be deemed to give any greater effect or different construction to any document registered in pursuance thereof, save the priority hereby conferred on it.

(4) Such priority shall not be effected by the subsequent registration of any document executed before the document first registered.

Transfers of land and mortgages of land to be registered.

Transfers lease mortgages to be effected by registered instrument in writing.

Document to be registered. Effect of non-registration.

Proviso.

(b) Every will of a testator dying after the commencement of this Ordinance shall, so far as regards any land registered under this Part to be effected thereby, take effect as against other documents affecting the same land from the date of its registration. Provided that every such will shall take effect from the date of the death of the testator if registered:

(i) In the case of a person dying within the Protectorate, within three months next after such death.

(ii) In the case of a person dying elsewhere than in the Protectorate, within the twelve months next after such death.

111. Nothing in the last two preceding sections shall apply to:

(a) any composition deed.

(b) any document relating to shares in a joint stock Company, notwithstanding that the assets of such Company consist in whole or in part of land registered under this Part; or

(c) any debenture issued by a company and not created by or in relation to any land registered under this Part; or

(d) any document relating to a lease for a term exceeding one year.

(e) any document relating to a lease for a term exceeding one year.

(f) any document relating to a lease for a term exceeding one year.

(g) any document relating to a lease for a term exceeding one year.

(h) any document relating to a lease for a term exceeding one year.

(i) any document relating to a lease for a term exceeding one year.

(j) any document relating to a lease for a term exceeding one year.

(k) any document relating to a lease for a term exceeding one year.

(l) any document relating to a lease for a term exceeding one year.

(m) any document relating to a lease for a term exceeding one year.

(n) any document relating to a lease for a term exceeding one year.

(o) any document relating to a lease for a term exceeding one year.

(p) any document relating to a lease for a term exceeding one year.

(q) any document relating to a lease for a term exceeding one year.

(r) any document relating to a lease for a term exceeding one year.

(s) any document relating to a lease for a term exceeding one year.

(t) any document relating to a lease for a term exceeding one year.

(u) any document relating to a lease for a term exceeding one year.

(v) any document relating to a lease for a term exceeding one year.

(w) any document relating to a lease for a term exceeding one year.

(x) any document relating to a lease for a term exceeding one year.

Documents exempt from provisions of sections 108 and 110

Obtain documents executed before the commencement of this Ordinance to be registered in the Registry

Production of documents for registration

113. (1) Any person desirous of registering a document registrable under this Part shall personally or by his agent produce or send the same together with a duplicate or correct copy thereof and of any plan or map and the prescribed fee for registration at or to the Registrar.

(2) Upon receipt of such document and duplicate or copy and the aforesaid fee a registrar shall forthwith enter the document as aforesaid according to the order of its receipt in a book to be kept in the prescribed form and which shall be called the Day Book and he shall thereafter, subject to the provisions of this Part, register the document in the manner hereafter provided.

(3) Upon such registration the Registrar shall issue as hereinafter provided a certificate to be kept by the person at the time of its entry in the Day Book.

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(3) If he is not satisfied he shall refuse to register the document, and shall return the same unregistered, together with a statement of his reasons in writing, and shall record his refusal in the day book.

119. (1) A document other than a judgment decreed in order of a Court in which there is attached a map or plan which is not signed by a Government or Licensed Surveyor, and countersigned by the Director of Surveys, shall not be admitted for registration.

Plans submitted for registration to be signed by Government Surveyor or countersigned by the Director of Surveys

120. (1) A Registrar shall consider the application of any person for registration of a document or plan or map, and shall not register the same unless he is satisfied that the same are in conformity with the provisions of this Part.

121. No document which does not state the particulars required by the preceding section shall be admitted to registration except with the sanction of the Principal Registrar, upon the necessary particulars being supplied by affidavit by the person producing the document for registration, and on such other terms as the Principal Registrar may think expedient.

122. (1) If a Registrar is satisfied upon an enquiry that a fraud has been or is about to be committed on any person, he shall give notice to such person of the intended registration in order to prevent the same being effected to his prejudice.

(2) If the Registrar is satisfied upon enquiry that a fraud has been or is about to be committed, he shall not register the document, and the registration shall take effect from the time of the entry in the day book.

(3) If such property consists of an undivided share in immovable property, the proportion which the same bears to the entire property shall be stated, and a description of such property shall be given as required by sub-section (1).

(4) If the Registrar is satisfied upon an enquiry that a fraud has been or is about to be committed, he shall not register the document, and the registration shall take effect from the time of the entry in the day book.

Registration of documents in relation to preceding section

one to be appointed by the Land Officer and one by the other party to the arbitration and an umpire to be appointed by such arbitrators.

(1) If either party shall fail to appoint an arbitrator within twenty days after being requested in writing to do so by the other party, then the arbitrator appointed by the other party shall alone conduct the arbitration and his decision shall be final and binding on both parties.

(2) If the said arbitrators shall fail to agree upon the matter referred to them within sixty days of the same having been so referred, then the matter so referred shall be decided by an umpire to be appointed by the said arbitrators, or in the event of such arbitrators being unable to agree as to the umpire, to be appointed by the Judges of the High Court, whose decision shall be final and binding between the parties.

(3) The best and most suitable manner in the manner prescribed by the Arbitration Ordinance, 1913, and be subject to such last-mentioned Ordinance, in the manner as if referred to arbitration, and the award of such arbitration shall be final and binding on the parties.

or for computing the fees of licensed surveyors, or for fees for any document or thing issued or done under the authority of this Ordinance or under any rule thereunder.

ii. Providing for the mode by which any land for allotment shall be surveyed and boundaries adjusted and marked and maintained.

iii. For prescribing the form of and the condition and mode of applying for land or for licences and leases to be issued under this Ordinance.

iv. For providing for all proceedings, forms of leases, licences, and other instruments, and for the execution of all other matters and things arising under and not inconsistent with this Ordinance and not herein provided for.

v. For the care, management and protection in every manner of all unoccupied Crown lands.

vi. For prescribing the fees and charges which shall be levied in respect of any act, matter or thing to be done by a registrar or the registry and generally for the better carrying out of the purposes of Part XI.

vii. For prescribing or regulating any matter or thing in relation to any sale, lease, licence or agreement under the Crown Lands Ordinance, 1902, or the East Africa Land Regulations, 1897, or anything done or to

be done under the said Ordinance or Regulations which might lawfully have been prescribed or regulated by rules under the said Ordinance or Regulations.

(2) Any rules under this Ordinance may provide for their enforcement by penalties not exceeding in any case seven hundred and fifty shillings.

(3) All rules under this Ordinance shall be signed by the Governor and upon being published in the "Gazette" shall, as to its disallowance by His Majesty, be valid in law, as if the same were enacted in this Ordinance, and shall be judicially noted; and all such rules shall be laid before the Legislative Council within fourteen days after the making thereof, if the Council be then sitting, and if the Council be not then sitting, as soon as conveniently may be after the commencement of its next session of the Council.

FIRST SCHEDULE

Nature and value of improvements to be effected and maintained on land for agricultural purposes.

Minimum value of improvements within five years of the date of the improvement.	Nature of improvement.	Value of additional improvement to be effected within five years of the date of the improvement.	Nature of additional improvements.
Five acres or more.	Permanent.	Five acres or more.	Permanent.
Two acres or more.	Permanent and or Non-permanent.	Two acres or more.	Permanent and or Non-permanent.
One acre or more.	Permanent and or Non-permanent.	One acre or more.	Permanent and or Non-permanent.
Less than one acre.	Permanent and or Non-permanent.	Less than one acre.	Permanent and or Non-permanent.

RULES.

1. For the purposes of this Schedule the term "Permanent Improvement" shall mean:

- Fences of all descriptions.
- Fences.
- Water courses.
- Planting trees or live hedges.
- Walls.
- Wells.
- Drainage land or reclamation of swamps.
- Excavating.
- Bridges.
- Clearing of land for agricultural purposes.
- Laying out and cultivating gardens and nurseries.
- Water boring.
- Water races.
- Sheep or cattle dips.
- Bankments or protective works of any kind.
- Planting of long lived crops.
- Water tanks.
- Irrigation works.
- Fixed machinery.
- Reservoirs.
- Dams of a permanent nature.