

EAST AFR. PROT.
2106¹⁵

C.O.
2100
13

Index
Bowring 835
1915
8 Dec
Last previous Paper
5/15

Order 31. 1915
Compulsory Service

Submits - Encloses report of select
Committee apppt. to consider its provisions.

More copies of this

Notes
Aug 21.6.16

Ans. 88 Cons 7.20.16
Ans to Gen 402 14 Jan 16 3 2.20.16

Mr. Bowring
Mr. G. Fiddes

A copy of the Native Followers
Recruit Ord. 1915 with Pr 115 &
50243
 annex on our Military Service Bill, &
 a copy of the Indian Army Act 1911 & 1
 the 2nd ord. 1912 referred to in
 para. 10 of the present ord.

Ch. 7 extends the Native Followers
Recruit Ord. 1915 to natives required for
 service as soldiers. In his talk of
 the 13th of Sep/15 (42222/15) the Genl.
 said that he was appointing a C.O.
 to consider steps to be taken to utilize
 the proposal to the utmost for military
 purposes & to place all classes
 on war footing & that, with
 promise

see Gen 19310
Next subsequent Paper.
H.C.
2770/16

possible unimportant exceptions,
whole community demanded their action.
In view of this last statement the
S. J. D. said that he would approve
legislative or administrative measures if recommended
by the Gov. There is nothing in these
papers to show that whole community
includes the natives. The Att. Gen.
in his Report merely says
it is considered that the duty of
regarding the Gov. should be
borne by the native population equally
with other races - & I think that
we shall have to let it rest with
the whites as doing their part should
not be very difficult & even then the
of the natives. I think that
it will probably be employed almost
equally as citizens.

Q. 8 - wide, but in the case of
business for instance, the rate of
work & the nature of the work
is not very so much from district to
district, that it is scarcely possible

to have definite element - well represented in
The official element - well represented in
Sanction D. J. - & send spy
of desps. send. to the W. O. &
Q. 9. saying that the order has
been sanctioned?

War Council
a further of
to the Gov.
to be seen
necessary

H. J. D.
2/17/16

I see no legal objection to this ~~order~~

Sec 7 It was no doubt considered unnecessary to refer to Sec 5 of the Native Inlanders Recruitment ~~order~~ (as to terms of service of pay) in this section as the following section of the present ~~order~~ will enable the Gov. in Council to prescribe the rates of pay & terms of service of natives selected for military service.

So far as the nation is concerned the result is practically the same under the enactment - the rate of pay & terms of service being prescribed by the Gov. under the N Inlanders Recruitment ~~order~~ & by the Gov. in Council under the present ~~order~~.

Sec 10 The provision for discipline appears to be sound - the intention no doubt being that Indians & natives selected for mil. service under this ~~order~~ shall be pressed into Indian & Native corps, and probably grouped with or attached to Indian troops or K.A.I. respectively, & therefore put under the same discipline as those forces.

N.A.

M. 26/1

24/1/16

I did not imagine that the Gov. contemplates including natives in this ~~order~~ for labouring service. If as I understand it they are to be employed almost entirely as carriers

It was not necessary to include them as
compulsory military service is already
provided for by the Recruitment Order 1948
There is plenty of precedent for that, but
none so far as the Empire is concerned for
enforcing military service on natives.

I should tell the Gov. that we did
not understand that it was intended
to extend compulsory military service
except to those who were represented
at the Karachi meeting, and that
we should be glad to be informed how
far it is intended to enforce it on
natives

14/11/48

2924

Spec. Gen. 100

75.12.28

Mr. Kirby.

Phase note minutes on draft
written by Mr. G. Fisher & Mr. [unclear]
Can you give me your opinion

- (1) whether under the Recruitment Ord.
could a native be compelled to serve
as a combatant?
(2) Can he so be compelled under this
Ord.?

A.S. 12-12

Mr. Steel's Mail

- (1) The term "follower" is not defined in the
Recruitment Order 22 of 1915, but the
order refers (in sec 2 & 4) to "carriers and
other followers" and "carriers or other followers"
and the term "followers" is therefore to
be construed on the ejusdem generis
principle. Apart from this the Army
Act could be referred to for the ordinary
meaning of "followers", and sec. 176 of
the Act shows the distinction between
persons ordinarily subject to military
law or soldiers and followers
accompanying them from on
active service.

Under the Recruitment Order (as amended)
therefore a native cannot be
compelled to serve as a soldier.

- (2) Under the Compulsory Service Ord. 31 of 1915
a native can be so compelled, and
the Ord. (sec 7) applies the machinery

of the recruitment order for this purpose

You will observe that both advances
are limited to the duration of the
present war

JSA

2/2/16

C. O.
2100
13

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WEST AFRICA PROTECTORATE.
No. 835.

GOVERNMENT HOUSE,
NAIROBI,
BRITISH EAST AFRICA.

December 8th, 1915.

SIR,

Ordinances
Speech made by C.S.
Report of Special Committee
Memorandum by Attorney Genl.
Comparative Table

In continuation of my telegram of to-day's date I have the honour to transmit herewith two authenticated and six printed copies of "The Compulsory Service Ordinance, 1915", together with copies of the speech made by the Chief Secretary when introducing the Bill, the Report of the select Committee appointed to consider its provisions, and a memorandum with comparative table by the Attorney General.

2. The Bill was introduced in the legislative Council on the 1st instant and referred to a Committee consisting of the Chief Secretary, the Attorney General, the General Manager of the Uganda Railway, and the

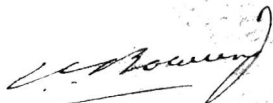
THE RIGHT HONOURABLE
ANDREW DONALD LAW, P.C., K.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S. W.

the unofficial Member Mr. A. A. Y. Sim. On the following day it was read a third time, and received my Assent on the 7th instant. It will appear in the Official Gazette published to-day.

I have the honour to be,

Sir,

Your humble, obedient servant,



GOVERNOR'S Deputy

ENCLOSURE *022*In Despatch No. 833 of Dec 8th 1918

Your Excellency,

I beg leave to introduce and move the first reading of a bill intituled an Ordinance to provide for Compulsory Military and other service.

The title of this bill is self explanatory in so far as Military service is concerned. The "other" service quoted may be described as being of the nature of "civil services" and is provided for in Clause 14(1) of the Bill.

Before dealing in detail with the provisions of the bill it will be as well for me to review briefly the circumstances which have caused Your Excellency to issue instructions for the framing of the measure.

The mass meeting held in Nairobi on September 7th to which reference has already been made in this Hon. Council, was the first indication that a feeling was abroad that the resources of the Protectorate should be organised on a war footing. The resolution which was carried at that meeting without one dissentient voice asked for the application of the principle of universal service to all citizens. This resolution was subsequently endorsed at large and representative public meetings held at Kiambu, Nakuru, Lumbwa and Eldoret while the Mombasa citizens assured Your Excellency of their unqualified support in any measures which Your Excellency might consider necessary for the further prosecution of the war.

It was probably the latest appeal for local volunteers which had appeared in the Press and in the Official Gazette of September 1st which caused the community to ask that they might be organised on a war footing. It was realised that without organisation the requirements of the military authorities could not be fulfilled except at the cost of so seriously interfering with the economic condition of the country that the results would be so far reaching as to cause a set back to its progress which might take many years to adjust itself.

At the time of the first of these meetings i.e. the Nairobi meeting of September 7th Your Excellency had already given orders for the preparation of a Registration of Persons Ordinance as being an essential preliminary to any organisation of the Community on a war footing.

This Government and the Community generally found themselves in complete accord as to the object to be attained.

The Registration Ordinance became law on September 14th and Your Excellency lost no time in considering the best means of giving effect to the wishes of the Community with regard to the organisation of its resources. On the very day that the Ordinance was passed a special Committee, known as the Governor's War Council, was brought into being. This Council consisted originally of representatives of the Civil Service the Military Authorities and the General Public who consented to act thereon at the invitation of Your Excellency. This body has since been strengthened by the addition to it of 3 members elected by the European Communities themselves and representing the rural highland settled areas of the Protectorate.

The next step was the formation in each District of local organising Committees. Instructions on this subject were issued to the District Commissioners on September 20th and the Committees were duly formed in consultation with the local residents.

In the meantime the requirements of the Military Authorities had been expressed in terms of definite numbers. 300 men were required. The local position was serious and threatened to become more so. Additional arms and ammunition were known to have reached the enemy, whose activity on our side of the border and whose raids on the railway line had considerably increased. There was no indication of reinforcements being sent from overseas and the situation in the European and Eastern theatres of war so far as it could be assessed locally held out no prospects of such reinforcements becoming available in the near future.

The task with which the Local Committees were faced was thus by no means an easy one. They were required to organise their districts on a war footing while at the same time men were flocking in to join the local forces.

I should like to take this opportunity of congratulating those committees on the success which has so far crowned their efforts. By local cooperation amongst the settlers themselves the affairs of those who have volunteered for active service are being looked after by those remaining behind while the demands of the military authorities have been more than satisfied, for 320 local residents including Government Officials have joined the forces since the Registration

Ordinance was passed.

It might reasonably be asked why, if such be the case, especially now that reinforcements have been arranged for, is it considered necessary to proceed with the matter of compulsory military and other service.

I would state at once that there is no present intention of taking advantage of the provisions of the Ordinance in so far as they relate to military service. If the bill is passed in its present form, the Government will be in Your Excellency's hands to require men of military age to join the forces but still, direct or indirect, as a matter of gravity as to render such a step the clearest for the safety of the Protectorate, a contingency which though it may not appear remote is still within the realm of possibility, and which is bound to further demand that the military authorities in the case of very heavy casualties in the East Africa Mounted Rifles or other local forces it is hoped and believed that there will be no occasion for Your Excellency to avail yourself of these powers.

Further from the records compiled by the local authorities it is now clear that in spite of the large numbers of men who have fallen, an appreciable if not considerable number will remain who could be spared if necessary without very seriously affecting the economic position. Should such a serious state of affairs as I have referred to as being always possible arise it would be these men and their names have already been tabulated who would first be called on.

But one very important provision of the bill will come into force as soon as it is passed and that is the provision relating to "civil servants". In order to secure to those who

have

have joined or who may join the local forces that protection by law which is at present afforded them by local arrangement, provision has been inserted in the bill whereby no one who has undertaken to perform work or supervision for or on behalf of anyone who is serving in the military forces will be permitted himself to enlist or otherwise to leave his present employment without the consent of the District Committee or of his employer as the case may be. Already cases have occurred where the arrangements made by the local committees have been interfered with by such persons leaving their Districts, and it is considered necessary to provide by legislation that such arrangements shall be continued on as permanent a basis as possible and shall not depend on the whim of individuals.

In short the safeguarding of the interests of those at front is deemed to be a very important item in the organisation of the community on a war footing.

The reasons for introducing this bill at the present stage are therefore briefly as follows: (1) An emergency might still arise which would necessitate a further call on the Community for men for the fighting line & the necessary information is to hand as to how a certain number of additional men could be provided without undue general inconvenience and (2) it is undesirable to lose any time in safeguarding the interests of those who have already joined or may do so in future either voluntarily or by exercise of the powers reserved to Your Excellency under the bill.

I will now turn to the provisions of the bill which I should like to say has been prepared by the Attorney General on lines suggested by the War Council.

Clause 15 restricts the application of the Ordinance to British subjects and British protected subjects. No obligations are imposed on subjects of Foreign Powers or natives of Protectorates of Foreign Powers. The provision may thus be considered as affecting only those coming under the former's category.

Clause 1 Cites the "short title" of the Ordinance. The War Council had advised that "National" should be substituted for "Compulsory" but your Excellency was unable to accept this suggestion after learning the opinion of the Attorney General that the expression "national" was not suitable to a British Protectorate and that the term "national service" would moreover have a different meaning in connection with the measure than that generally accepted in England..

Clause 2 authorises the Governor to form such military Corps as he thinks fit and Clause 9 brings any existing embodied or embodied volunteer Corps or Unit within the scope of the Ordinance. Clause 3 imposes the obligation for military service on all male persons between the ages of 18 and 45.

Clause 4 provides for the formation of a War Council and of District Committees. When the Bill becomes law, I shall ask Your Excellency ~~to~~ formally to reappoint the existing War Council and District Commissioners Organising Committees under this Clause.

Clause 5 prescribes the duties of the War Council which will be to provide from the various Districts such number of males of European or Asiatic Origin for military service as the Governor may direct having due regard to the necessities of civil life and to the circumstances of each case.

Sub-Section (3) of this Clause indicates the procedure to be adopted in the case of persons so selected.

217
21

Clause 6 similarly prescribes the duties of the District Committees which are to study the economic conditions prevailing in their Districts and furnish the War Council with lists of persons who in their opinion could be released for military service. It is on the information thus accessible to it that the War Council will be placed in the position of being able to select the men required.

By this system the onus of recommending individuals for military service will rest on the local committee while the actual selection will be made by the War Council. Both these bodies are to be guided by the necessities of civil life and the circumstances of each case.

Clause 7 extends the recently enacted Native Followers Recruitment Ordinance to natives required for military service as soldiers. Neither the War Council nor the District Committees will therefore be concerned with natives so enrolled.

Clause 8 provides for the prescription of rates of pay and terms of service for persons selected for military service.

Clause 10 is a disciplinary clause.

Clause 11 gives the Governor powers to disband any Corps formed or brought under the provisions of the Ordinance.

Clause 12 and the Schedule deal with the form of oath to be taken by all persons enrolled in a corps formed under the Ordinance.

Clause 13 saves the powers of the Governor to sanction the formation of corps under the provisions

of the 1915 Volunteer Ordinance but provides that until such corps are embodied or enrolled members of them shall be liable for military service under the Ordinance.

Clause 14 is the portion of the bill relating to "civil services" to which I have already referred and which will come into active operation as soon as the bill becomes law.

Sub-Section (2) of this Clause provides for special certificates to be issued by District Committee to persons who for economic reasons are restrained from joining any military unit. It is considered that certificates of this nature will be valued by persons who though anxious and eager so to join are prevented from doing so in the interests of the maintenance of civil industry.

Clause 16. authorises the Governor to make Rules for carrying out the purposes of the Ordinance.

Clause 17 is the penalty clause.

And Clause 18 limits the operation of the Ordinance to the duration of the present war.

I now move that a bill intituled an Ordinance to make provision for Compulsory military and other service be read a first time.

INCLOSURE No. 3.

In Reply, No. 83501 Dec. 8th 1915

P.

Report of the Special Committee of the Legislative Council of the East Africa Protectorate appointed on December 3rd, 1915, to consider the provisions of a Bill intituled "An Ordinance to provide for compulsory military and other service".

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1. The Committee consisted of:-

The Chief Secretary to the Government
(Chairman)

The Attorney General

The General Manager, Uganda Railway

The Hon'ble W.A.M. Sim.

2. The only amendment of importance which the Special Committee recommend for consideration by the Council is with regard to Clause 14(1). It is recommended that the words in line 54 "No male person of European or Asiatic origin" be deleted, and the words "No person" substituted therefor. It appears to the Special Committee that cases may occur in which

men

men are released or selected for active service because women undertake to perform work or supervision on their behalf and it would be a distinct hardship if the interests of such men were to suffer because the District Committee had no control over their substitutes.

Further the Special Committee consider that the obligations imposed on Europeans and Asiatics by this clause could properly be extended to the case of natives and they are of opinion that the District Committees can be relied on to see that no undue hardship occurs through such extension of the principle of civil service.

3. The Special Committee desire to suggest a few terminological alterations which will be duly moved when the Council is in Committee.

Nairobi,

3rd December, 1915.

sd. C. C. BOWRING.

Chairman.

633. Sec 5th 1915
= No 17
25

THE COMPULSORY SERVICE ORDINANCE, 1915.

STATEMENT OF OBJECTS AND REASONS.

The Bill providing for Compulsory Service was introduced as a result of various public meetings held in the Protectorate in September last at which resolutions were passed favouring some form of "National" service in view of the position in which the Protectorate then found itself.

2. The Secretary of State has on the understanding that the community as a whole desires such legislation approved the enactment of legislation providing for compulsory national service, vide his cable of the 15th October, 1915.

47/30/15

3. The Bill forms the natural sequel to the Registration of Persons Ordinance, 1915, which was passed by the Legislative Council on the 13th September last.

50257

4. The Bill was prepared at the request of the War Council which was appointed by the Governor after the enactment of the Registration of Persons Ordinance, 1915, to advise him on certain matters referred to it and its provisions have been discussed and approved by such Council.

5. The principle of compulsory military service is recognised and the Bill gives the Governor power to form military corps and require that persons shall be selected for military service. Machinery for selection is created by the creation of District Committees and a War Council.

It shall be the duty of the district committees to make lists of such persons of European and Asiatic origin as in their opinion can be spared having due regard to the necessities of Civil life and the circumstances of each case and it will be the duty of the War Council when required by the Governor to provide any given number of persons for Military service to select from such lists the persons to serve still keeping in view the necessities of civil life and the circumstances of each case.

50213/15

6. There is provision in the bill for the recruitment of Natives for Military service under the machinery provided by the Native Followers Recruitment Ordinance, 1915. It is considered that the duty of defending the Protectorate should be borne by the native population equally with other races.

7. There are necessary provisions in the Bill with corps which have been formed since the outbreak of war. Those on active service are deemed to be embodied under the Bill and those not embodied but formed local volunteer defence forces are saved but members of such forces are liable to be selected under the Bill for service in a corps formed under its provisions.

8. Discipline is provided for by the application of the Army Act to Europeans, the Indian Army Act to Asiatics and the King's African Rifles Ordinance, 1912, to Natives.

9. Power is reserved to the Governor at any time to disband a corps formed under the Bill.

10. Great stress has been laid by the War Council

and the public on the necessity for providing some legislation whereby a person who has undertaken supervision or work for a man who has left his firm or occupation or active service should be obliged to carry out his obligations. The bill provides that such a person shall not enlist or accept military service or abandon such work or supervision without the District Committee's sanction. An appeal to the Council may be made by any person dissatisfied with the District Committee's decision. There is, however, a proviso to the effect that an employee may leave his employer's service with his employer's consent without any application to the District Committee.

11. The bill also provides that a person who is not allowed sanction to enlist or accept military service on the ground that his services are necessary for the maintenance of civil industry may be given a certificate.

12. The bill exempts foreign subjects and foreign protected persons from its provisions.

13. I am of opinion that the Secretary of State should be informed by cable that the bill has been passed and that His Excellency the Governor proposes to assent to it. From the Secretary of State's cable of the 14th October last it appears that he approves the principle of compulsory service and in view of such approval I am of opinion that assent may be given to the bill without first sending it home especially as the necessity for bringing the provisions of section 14 into force as specifically as possible is urgent.

4-713

14. comparative table is annexed.

Nairobi,

December 7th, 1948.

SECRET GENERAL.

Pro 8
Dec 8th 1915
25

THE COMPULSORY SERVICE ORDINANCE, 1915.

COMPARATIVE TABLE.

Section.	Remarks.
1.	Short title.
2.	Power given to the Governor to form military corps.
3.	Liability for military service placed on every male between 18 and 45.
4.	Power given to the Governor to form a War Council and District Committees.
5.	Duty of the War Council to select names of males of European or Asiatic origin for military service when requested by the Governor to provide such number as he may direct. Such males to be given notice and directions by the District Committee.
6.	Duties of the District Committee to keep the War Council informed of the conditions prevailing in the districts and

the War Council a list of males who may be released for military service having due regard to the necessities of civil life and the circumstances of each case.

7.

Provision for the selection of natives for military service.

8.

Rates of pay and terms of service to be fixed by the Governor.

9.

Existing Volunteer corps embodied or mobilized to be deemed to be corps formed under this Ordinance and the members to be deemed to have been selected for service under this Ordinance.

10.

Provides for the discipline of corps formed under the Ordinance by applying the Army Act to Europeans the Indian Army Act to Asiatics and the King's African Rifles Ordinance, 1912, to Natives.

11.

Power to disband corps formed under the Ordinance.

12.

Oath of allegiance to be taken by persons enrolled in any corps formed under the Ordinance.

13.

Saving of power to form volunteer corps for local defence under the Volunteer Ordinance.

(1) No person who has undertaken to perform work or supervision for or on behalf of a person serving in any corps formed in the Protectorate to enlist or accept military service or to abandon such work or supervision without the sanction of the District Committee. Provided that an employee may leave his employment with his employer's consent.

(2) District Committees have power to give certificates to persons who are refused permission to enlist or accept military service.

15.

Saving regarding foreign subjects and foreign protected persons.

16.

Power to make rules.

17.

Offences.

18.

Duration of the Ordinance.

30 J. W. G. H. T.

ATTORNEY GENERAL.

7/12/15.

Gov. 2106/15/16 E.A.P.

253

7 Feb, 1916



Jul

Sir,

I have the honor to acknowledge

the receipt of your despatch
No. 835 of the 8th of Dec.,
transmitting copies of the
Compulsory Service
Ordinance No. 31 of
1915, together
with copies of the speech
made by the Chief Secretary
when introducing the Bill,
the report of the Select
Committee, and a memoran-
dum of the Attorney General.

and 27359

DRAFT.

E.A.P.
No. 88

Gov. Sir H. Belfield

MINUTE.

- Mr. Cooke 29/1/16
- Mr. Bostanley 31/1/16
- Mr. Read 31
- Mr.

~~Sir G. Piddon~~

Sir H. Just.

X Sir J. Anderson 1-2

X Mr. Steel-Maitland 3,2

Mr. Bonar Law 4

See minute of Mr. R. King attached
to the present copy of the Ordinance
for comment 17512

(2) I observe that

Section 7 of this ordinance
provides that "notices may
at the discretion of the Governor
be selected for military

I note that Sir J. Anderson
states that the 1915 Ordinance (Native
Areas) limited the number of
troops. The present Ordinance, as it
stands, merely makes the provision
for the permanent staff
may for the practical working
of the Ordinance, & I am hoping to give
a reply soon.

It goes beyond the 1915 Ordinance to provide
for the selection of men for military service under the procedure
provided

provided by the Native
Followers Recruitment
Ordinance, 1915."

I did
not understand, however,

that it was intended to
apply ~~extend~~ compulsory

military service except

to those classes of the

population who were

represented at the mass

meeting held at Nairobi

on the 7th of September;

and I should be glad

to be informed, ^{by you} how far

it is intended to enforce

such service on natives.

(2) H. M. will not be allowed

to exercise his power of

disallowance in respect of

the Bill, but the provisions

as regards natives should

not be brought into effect

pending special authorization from me.

When I read you in my letter
of the 18th of October that I should
be prepared to approve of legislation
as to compulsory service if recom-
mended by you,