

18206

1932

CO 533/425  
KENYA

18206

SUCCESSION ACT (AMENDMENT) ORDINANCE,  
1932

No. XL of 1932

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Answers to  
Lithany

Fr. Kenya — 257 — 8/6/32.  
No. 2 authenticated & 12 printed copies  
of 'the Succession Act (Amendment) Ordinance,  
1932', together with legal report.

Retrospective legislation seems necessary  
in this case.

The only other point I have to mention  
is that this Act was applied by the  
E. A. O. C. 1897, section 11 (e)(iii) &  
which gives the S. G. S. power to modify,  
by order, any provision of the Indian  
Acts, an order of the S. G. S. to be  
published as he may direct (section 11 (e)(iv))  
seems necessary to modify the Act.  
quest.

? subject to any legal advice  
S. G. S. non dis allowance

H. E. Pinnis Mar  
30/8/32

See Act 28  
para (1).

The B. i. C. of 1897 was repealed by the B. i. C. 1902  
which kept alive the Indian legislation  
applied by the earlier B. i. C. <sup>where</sup> ~~other~~ other  
provision is not made by Bulmer. The  
local legislative had from that date  
full power to replace any applied Indian  
Acts.

I have no observations to make in  
respect of the Bulmer submitted.

G. S.  
S. L. Abraham

Noted  
date 8/1/32

Kelly to reply

2  
*[Signature]*

To Gov. Hqs (1 answer) E/3

6 Jul 1932

KENYA.

NO. 257



GOVERNMENT HOUSE,  
NAIROBI,  
KENYA.

8 June, 1932.

RECEIVED  
27 JUN 1932  
COL. OFFICE

Sir,

I have the honour to forward herewith two authenticated and twelve printed copies of an Ordinance intituled "the Succession Act (Amendment) Ordinance, 1932," which duly passed its third reading in the Legislative Council on the 6th May, 1932, and to which I assented in His Majesty's name on the 26th May, 1932.

A copy of the Legal Report by the Acting Attorney General is also enclosed.

I have the honour to be,

Sir,

Your most obedient, humble servant,

Brigadier-General,  
GOVERNOR.

Amund 495 E/3 6 JUL 1932

THE RIGHT HONOURABLE

MAJOR SIR PHILIP CUNLIFFE-LISTER, P.C., G.B.E., M.C., M.P.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET,

LONDON, S.W. 1

LEGAL REPORT.

THE SUCCESSION ACT (AMENDMENT) BILL, 1932.

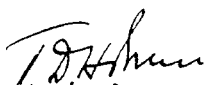
This Bill has been introduced into the Council in order to rectify an unfortunate state of affairs which has only been recently discovered. The Indian Succession Act, 1865, was applied to this Colony in the year 1897, and Section 105 thereof deals with bequests to religious or charitable uses. One of the formalities required, if a bequest to religious or charitable uses is to be valid, is that a will must be deposited within six months from its execution in some place provided by law for the safe custody of the wills of living persons. There is no such place in the Colony, and never has been. In spite of the fact that 35 years have passed since the Indian Succession Act was applied here, the fact that this formality was necessary seems never to have been realised, and, needless to say, the formality has never been complied with in the case of bequests to religious or charitable uses. The omission to comply with this formality would, in all probability, render all bequests to religious or charitable uses void, and it is mainly in order to validate all such bequests since 1897, and to do away for the future with the necessity for this formality that this amending Bill has been introduced into Legislative Council.

This Bill repeals the whole section, which contains yet another formality, that is, that a will or bequest to religious or charitable uses must be executed not less than twelve months before the testator's death. By repealing the whole of this Section we shall only be bringing ourselves into line with the law as it at present stands in England, where no formalities in the making of a will involving a bequest to religious

or charitable uses are required.

The Bill provides that no bequest to religious or charitable uses shall be deemed to have been or to be void or invalid in any way by reason of any non-compliance with the provisions of Section 105 of the Indian Succession Act at any time heretofore during the application to the Colony of that Act.

In my opinion, His Excellency the Governor may properly assent to this Bill in the name and on behalf of His Majesty.

  
ACTING ATTORNEY GENERAL.

Nairobi,  
6th May, 1932.

No. XII.

1932



Colony and Protectorate of Kenya.

IN THE TWENTY-THIRD YEAR OF THE REIGN OF  
HIS MAJESTY KING GEORGE V.  
JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.,  
*Governor.*

Assented to in His Majesty's  
name this 26<sup>th</sup> day of May, 1932.

J. BYRNE.

*Governor.*

AN ORDINANCE TO AMEND THE INDIAN  
SUCCESSION ACT, 1865, AS APPLIED TO  
THE COLONY

No. XII of 1932.

**An Ordinance to Amend the Indian Succession Act, 1865, as applied to the Colony.**

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

1. This Ordinance may be cited as "the Succession Act (Amendment) Ordinance, 1932," and shall be read as one with the Indian Succession Act, 1865, as applied to the Colony (hereinafter referred to as "the Principal Act").

Short title.

2. Section 105 of the Principal Act is hereby repealed.

Repeal of section 105 of the Principal Act.

3. This Ordinance shall be deemed to have come into operation and to have had force and effect as from the 7th day of July, 1897, and no bequest to religious or charitable uses shall be deemed to have been or to be void or invalid in any way by reason of any non-compliance with the provisions of section 105 of the Principal Act at any time heretofore during the application to the Colony of the Principal Act.

Commencement of Ordinance and validation of bequests to religious or charitable uses.

Passed in the Legislative Council the sixth day of May in the year of Our Lord one thousand nine hundred and thirty-two.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council and is presented for authentication and assent as a true and correct copy of the said Bill.

**H. E. BADER**

*Acting Clerk of the Legislative Council*