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1932

18236

KENYA

✓ C0533/426

LOCAL GOVERNMENT
(DISTRICT COUNCILS) (AMENDMENT)

ORDINANCE, 1932

No VI of 1932

18102/32

18102/32

3064/38

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LOCAL GOVERNMENT
(DISTRICT COUNCILS) (AMENDMENT)

ORDINANCE, 1932

No VI of 1932

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Treasurer

257

1st Chairman

252

2nd Chairman

25

306

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Member

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Library

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for 207

181

1 Gov. Kenya — 297 — 18/6/32 2

Two 2 authenticated copies of "the Local Government (District Councils) (Amendment) Ordinance, 1932" together with legal Report. (Prints to follow)

Spencer's
Library

2 Col. Selig 3 pps. — 25/7/32
Two 10 printed copies of the Ordinance

This seems a clumsy method to adopt to enable a Township to contribute towards the cost of maintenance of a hospital and it would seem preferable to proceed by way of amendment of the Townships Ordinance rather than to empower a District Council to levy a rate in a Township.

Apparently however it is considered that sections 15 and 32 of the Townships Ordinance 1930 cannot be applied to a joint undertaking only partially controlled by the Township - the legal report considers that this is not desirable and proposes difficulties in arranging for joint ownership.

As a Township is administered by the District Councils (with the advice of an advisory C.M.A.) it is unnecessary to provide for their consent of a Township C.M.A. should wish to be obtained.

? Subject to any legal objections
subject to any legal objections

H.S. Jones M.A.
25/7/32

To discretion.

~~Palala~~

25/7/02

Director
25/7/02

~~Relay to~~
3
M

Loloo - SSA - G/3 (1 Ann) - 20 July 1912

Colony and Protectorate of Kenya

GOVERNMENT NOTICE No. 715

His Excellency the Governor in Council has approved of the following Bill being introduced into the Legislative Council.

G. BERESFORD STOOKE,

Acting Clerk of the Legislative Council.

A Bill to Amend the Local Government (District Councils) Ordinance, 1928.

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

1. This Ordinance may be cited as "the Local Government (District Councils) (Amendment) (No. 2) Ordinance, 1932," and shall be read as one with the Local Government (District Councils) Ordinance, 1928, hereinafter referred to as "the Principal Ordinance."

Short title.
No. 21 of 1928

2. Section 20 of the Principal Ordinance is hereby repealed and the following substituted therefor:—

Repeal and replacement of section 20 of the Principal Ordinance.

20. (1) The first election of members of the Council (hereinafter referred to as "members") shall be held in the manner hereinafter prescribed as soon as may be after the voters' rolls in the district have been completed. The date of any such election shall be such date as may be notified in the Gazette by the Commissioner for Local Government.

Holding of first elections and term of office.

(2) Of the members so elected, one-third, or as near as may be, shall retire on the thirtieth day of April immediately following the date upon which the first election is held, and one-third, or as near as may be, shall retire on the thirtieth day of April next ensuing and the remaining one-third, or as near as may be, shall retire on the thirtieth day of April next again ensuing.

Provided, however, that, where the district is divided into wards, and each ward is represented by more than one member, an equal proportion (or as near as may be) of the number of members representing each ward shall retire on each succeeding thirtieth day of April.

(3) The order of retirement of members under this section shall be determined by lot.

Colony and Protectorate of Kenya

Governor's Notice No. 112

I, the Governor, do hereby give notice that the following Ordinance shall be laid before the Legislative Council on the 15th day of November 1932.

Section 21 of the Principal Ordinance which it is proposed to replace:—

Annual elections to be held. Term of office of councillors and members elected at such elections.

21. (1) After the first election of members as aforesaid there shall be, in each district, an annual election of members, to be held upon such date as may be notified in the Gazette by the Commissioner for Local Government, for the purpose of electing members to replace an equal number of members retiring from office.

(2) The members elected at every such annual election to fill the vacancies caused by the retirement of members owing to the expiration of their term of office shall continue in office until the date of the third annual election next ensuing.

Section 23 of the Principal Ordinance which it is proposed to replace:—

Casual vacancies.

23. (1) Whenever a vacancy is caused by the death of any elected member, or by an elected member retiring or vacating his seat (otherwise than by reason of the expiration of his term of office), the Clerk shall forthwith notify the Commissioner for Local Government of such vacancy, and an election shall be held, upon such date as may be notified in the Gazette by the Commissioner for Local Government, for the purpose of electing a member to replace the member so retiring or vacating his seat.

(2) The member elected to fill a vacancy under this section shall hold office for the remainder of the term for which the member who has retired or vacated his seat would have been entitled to remain in office.

Section 26 of the Principal Ordinance which it is proposed to amend:—

Notice of election.

26. (1) The Clerk or such other person as may have been appointed as returning officer under the last preceding section shall, not less than fourteen days prior to any election,

(4) Any member of any District Council elected prior to the first day of January, 1933, who would, under the Principal Ordinance, become due to retire on or after that date shall, notwithstanding the actual date of determination of the period for which he was elected, retire upon the thirtieth day of April in the year in which his retirement would, under the Principal Ordinance, have become due.

3. Section 21 of the Principal Ordinance is hereby repealed and the following substituted therefor

Repeal and replacement of section 21 of the Principal Ordinance.

21. (1) After the first election of members as aforesaid, an annual election shall be held upon the first day in March which is neither a Sunday nor a public holiday in each and every year for the purpose of electing members to replace those members whose terms of office expire upon the thirtieth day of April next ensuing.

Annual elections and terms of office.

(2) The members elected at every such annual election to fill the vacancies caused by the retirement of members owing to the expiration of their term of office, shall hold office for a period of three years.

4. Section 23 of the Principal Ordinance is hereby repealed and the following substituted therefor:—

Repeal and replacement of section 23 of the Principal Ordinance. Casual vacancies.

23. (1) Any vacancy caused by the death of an elected member or by an elected member vacating his seat for any reason other than the expiration of his term of office shall be deemed to be a casual vacancy.

(2) Whenever a casual vacancy shall occur an election shall as soon as possible be held for the purpose of filling such vacancy and the Councillor to be elected to fill such vacancy shall be elected in the manner provided for the election of candidates at the annual election. Any member elected to fill a casual vacancy under this section shall hold office for the remainder of the term for which the member whose place he has taken would have been entitled to remain in office.

5. Sub-section (1) of section 26 of the Principal Ordinance as amended by section 3 of the Local Government (District Councils) (Amendment) Ordinance, 1930, is hereby further amended by the deletion of the word "fourteen" in the third line of the sub-section, and the substitution thereof of the word "ten".

Amendment of section 26 (1) of the Principal Ordinance. No. 7 of 1930.

cause to be published in the Gazette and in one or more newspapers (if any) circulating in the district and to be posted at such conspicuous places as he shall think fit within the ward or wards in which the election is to be held, a notice of such election, and in such notice he shall specify the day and place on and at which he will receive the nomination of candidates for the seat or seats to be filled by election.

(2) The day so fixed shall be not less than ten nor more than fourteen days from the date of the publication of the notice.

Section 27 of the Principal Ordinance which it is proposed to amend:—

Nomination of candidates.

27. (1) On the day and at the place fixed under the last preceding section, the returning officer shall attend at eleven o'clock in the forenoon and for sixty minutes thereafter and shall receive the nomination of any duly qualified candidate for the seat or seats to be filled.

(2) Every candidate shall be proposed and seconded and shall be supported by not less than seven persons other than the proposer and seconder. The proposer and seconder and supporters shall be persons whose names appear on the appropriate voters' rolls for the district or ward, as the case may be, for which the candidate seeks election.

(3) Every nomination paper shall be in a form to be prescribed by rules under this Ordinance, and the signatures of the proposer and seconder and supporters shall be witnessed by a magistrate, justice of the peace or notary public.

(4) Every nomination paper subscribed and witnessed as aforesaid shall be delivered to the returning officer by the candidate or by his proposer or seconder at the time and at the place appointed, and any nomination paper which is not so delivered shall be rejected.

Section 29 of the Principal Ordinance which it is proposed to replace:—

Procedure for election of candidates.

29. (1) If at the expiration of the time appointed for the election the number of duly nominated candidates for any district or ward, as the case may be, does not exceed the number of members to be elected for such district or ward, the returning officer shall forthwith declare such candidate

6. (1) Sub-section (1) of section 27 of the Principal Ordinance is hereby amended by substituting the words "ten o'clock in the forenoon until one o'clock in the afternoon" for the words "eleven o'clock in the forenoon and for sixty minutes thereafter" in the third and fourth lines of the sub-section.

Amendment of section 27 of the Principal Ordinance.

(2) Sub-section (2) of section 27 of the Principal Ordinance is hereby amended by substituting the word "three" for the word "seven" in the second line thereof.

(3) Sub-section (3) of section 27 of the Principal Ordinance is hereby amended by the deletion of the words "and supporters" in the third line thereof.

7. Section 29 of the Principal Ordinance is hereby repealed and the following substituted therefor:—

Repeal and replacement of section 29 of the Principal Ordinance.

29. (1) If at the expiration of the time appointed for the election the number of any duly nominated candidates for any district or ward, as the case may be, does not

Procedure for election of candidates.

or candidates to be elected, and shall report such election to the Commissioner for Local Government who shall cause the election to be published in the Gazette.

(2) If the number of duly nominated candidates exceeds the number of members to be elected as aforesaid, the returning officer shall forthwith adjourn the election for the purpose of taking a poll, and shall report to the Commissioner for Local Government the names of the candidates as described in their nomination papers. Upon receipt of such report the Commissioner for Local Government shall cause to be published in the Gazette and in one or more newspapers (if any) circulating in the district, and to be posted at such conspicuous places as he shall think fit within the ward or wards in which a poll is to be taken, a notice specifying—

- (a) the ward or wards (if any) in which a poll will be taken;
- (b) the date on which the poll will be taken, which shall not be less than fourteen days from the date of the publication of the notice;
- (c) the names of the candidates as described in their respective nomination papers and the names of their proposers and seconders;
- (d) the places at which a poll will be taken and the portion of the district or ward, as the case may be, allotted to each polling station.

Section 30 of the Principal Ordinance which it is proposed to amend—

30. If after an election has been adjourned for the purpose of taking a poll, one of the candidates nominated shall die before the poll has commenced, the Commissioner for Local Government shall, upon being satisfied of the fact of such death, countermand notice of the poll, and in such case all the proceedings with reference to the election shall be commenced afresh.

Provided that no fresh nomination shall be necessary in the case of a candidate who stood nominated at the time of the countermand of the poll.

Death of candidate before the poll taken.

exceed the number of members to be elected for such district or ward, the returning officer shall forthwith declare such candidate or candidates to be elected, and shall publish the result of the election in the Gazette.

(2) If the number of duly nominated candidates exceeds the number of members to be elected as aforesaid, the returning officer shall forthwith adjourn the election for the purpose of taking a poll and shall publish immediately in the Gazette and in one or more newspapers circulating in the district and cause to be posted at such conspicuous places as he shall think fit within the ward or wards in which a poll is to be taken, a notice specifying—

- (a) the ward or wards in which the poll will be taken;
- (b) the date on which the poll will be taken, which shall not be less than fourteen days from the date of the publication of the notice;
- (c) the names of the candidates as described in their respective nomination papers and the names of their proposers and seconders;
- (d) the place or places at which a poll will be taken and the portion of the district or ward, as the case may be, allotted to each polling station.

(3) No election which is adjourned for the purpose of taking a poll shall be declared invalid for the reason that the poll was not held or completed before the thirtieth day of April in the year in which such election is held.

8. Section 30 of the Principal Ordinance is hereby amended by substituting the words "returning officer" for the words "Commissioner for Local Government" in the third and fourth lines of the section. Amendment of section 30 of the Principal Ordinance.

Section 60 of the Principal Ordinance which it is proposed to amend:—

Council
to control
district roads.

60. The Council shall have the general control and care of all district roads, as herein defined, and of all bridges, ferries, fords, drifts, culverts, drains, and other accessories on any such road or used in connexion therewith, and the Council may make, construct, alter, repair, and, if necessary, temporarily close any such road or any such bridge, ferry, ford, drift, culvert, drain and other accessory, and the same shall be vested in trust to keep the same for the use and benefit of the inhabitants:

Provided that the Council shall not commence to construct or carry out any road work, the cost of which would exceed one thousand pounds, without the consent of the Standing Committee and the Council shall in every such case furnish such plans and specifications as may be required by the Commissioner for Local Government.

9. Section 60 of the Local Government (District Councils) Ordinance, 1928, as amended by the Local Government (District Councils) (Amendment) Ordinance, 1930, is hereby repealed and the following substituted therefor:—

Repeal and
replacement of
section 60 of
the Principal
Ordinance.

60. (1) The Council shall have the general control and care of all district roads, as herein defined, and of all bridges, ferries, fords, drifts, culverts, drains and other accessories on any such roads or used in connexion therewith, and the Council may make, construct, alter, repair, and, if necessary, temporarily close any such road or any such bridge, ferry, ford, drift, culvert, drain and other accessory, and the same shall be vested in the Council in trust to keep the same for the use and benefit of the inhabitants.

Council
to control
district roads.

(2) The Council may by order prescribe that any district road or part thereof shall be open to traffic of a particular kind or shall be closed to traffic of a particular kind or shall be closed to all traffic, and may order the suspension of any or all traffic on any district road for any specified period or may fix times during which any particular kind of traffic, which is authorized to use such road, may use it:

Provided that the Council shall display such road signs or warning notices or barriers as should suffice to convey to the public adequate intimation of the effect of any such order:

Provided further that the Council shall publish in a newspaper circulating in the district notice of any order closing a road to all traffic as soon as possible after such order has been made.

(3) Any person feeling himself aggrieved by any order made under sub-section (2) of this section may appeal against such order to the Governor, whose decision shall be final.

(4) The Council shall not commence to construct or carry out any road work the cost of which is estimated to exceed one thousand pounds without the consent of the Standing Committee and the Council shall in every case furnish such plans and specifications as may be required by the Commissioner for Local Government."

OBJECTS AND REASONS.

This Bill provides for the simplification of District Councils' election procedure, and has the support of all District Councils.

2. Clauses 2 and 3 provide for a fixed date as the election day (nomination day) for all District Councils and for a fixed date of annual retirement of members, as in England. At present Councils hold their elections on different dates between January and September, varying according to the dates of their establishment.

3. Clause 4 deletes the necessity for dates of by-elections to be fixed and published by the Commissioner for Local Government.

4. Clause 6 extends the time for receipt of nominations from one hour to three hours, and reduces the number of supporters required by a candidate from seven to three.

5. Clause 9, which has the support of the Central Roads and Traffic Board, is designed to give District Councils more effective powers of protection of their roads. The existing powers are —

- (a) Section 60 of the Local Government (District Councils) Ordinance, 1928, empowers a Council temporarily to close a road (for repairs). A similar power is conferred by section 35 (1) of the Traffic Ordinance, 1928.
- (b) A Council may apply for a Governor's Order under section 3 of the Roads Protection Ordinance, 1924, closing a road to all traffic or reserving a road for certain kinds of traffic only.

In practice, it often happens that by the time an order under the Roads Protection Ordinance is obtained the damage is done.

6. No expenditure of public funds is involved if this Bill becomes law.

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In practice, it often happens that by the time an order under the Roads Protection Ordinance is obtained the damage is done.

6. No expenditure of public funds is involved if this Bill becomes law.

Section 20 of the Principal Ordinance which it is proposed to replace :—

Holding of
first elections,
and term of
office.

20. (1) The first election of members of the Council (hereinafter referred to as "members") of any district constituted by or under the provisions of this Ordinance shall be held in the manner hereinafter prescribed as soon as may be after the preparation of the voters' rolls in such district. The date of any such election shall be such date as may be notified in the Gazette by the Commissioner for Local Government.

(2) The members so elected shall be elected for a term of three years :

Provided that of the members so elected one-third, or as near as may be, shall retire at the expiration of twelve months from the date of such first election, and one-third, or as near as may be, shall retire at the expiration of twenty-four months from the date of such election :

Provided, further, that the members so retiring shall be chosen by ballot, and any such member shall be eligible for re-election.

Holding of
first elections,
and term of
office.

Section 20 of the Principal Ordinance which it is proposed to replace :—

20. (1) The first election of members of the Council (hereinafter referred to as "members") of any district constituted by or under the provisions of this Ordinance shall be held in the manner hereinafter prescribed as soon as may be after the preparation of the voters' rolls in such district. The date of any such election shall be such date as may be notified in the Gazette by the Commissioner for Local Government.

(2) The members so elected shall be elected for a term of three years :

Provided that of the members so elected one-third, or as near as may be, shall retire at the expiration of twelve months from the date of such first election, and one-third or as near as may be, shall retire at the expiration of twenty four months from the date of such election :

Provided, further, that the members so retiring shall be chosen by ballot, and any such member shall be eligible for re-election.



**THE
OFFICIAL GAZETTE
OF THE
COLONY AND PROTECTORATE
OF
KENYA**

Published under the Authority of His Excellency the Governor of the
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TABLE OF CONTENTS

	PAGE
Govt. Notice No. 715—For introduction into Legislative Council—A Bill to Amend the Local Government (District Councils) Ordinance, 1928	1253
716—For introduction into Legislative Council—A Bill relating to the Protection of the Sinal Bag Industry	1263
717—For introduction into Legislative Council—A Bill to Amend the Frost Protection Ordinance, 1928	1267
718—For introduction into Legislative Council—A Bill to Amend the Chattels Transfer Ordinance, 1930	1271
719—For introduction into Legislative Council—A Bill to Amend the Local Government (Municipalities) Ordinance, 1928	1275
720—For introduction into Legislative Council—A Bill to Regulate Trading in Unwrought Precious Metals	1277
721—For introduction into Legislative Council—A Bill to Amend the Customs Tariff Ordinance, 1930	1287
722—Arrivals, Appointments, etc.	1289
Proclamation No. 84—The Public Holidays Ordinance	1290
85—The Diseases of Animals Ordinance	1290
Govt. Notice No. 723—The Local Government (District Councils) Ordinance, 1928—Naivasha District Council	1291
724—The Civil Servants (Proportionate Pensions) Ordinance, 1928—Notification	1291
725—The Carriage of Goods by Motor (Control) Ordinance, 1931	1292
726—Instruments registered under the Chattels Transfer Ordinance	1292
727—The Trade Marks Ordinance—Trade Marks renewed	1292
728—The Bankruptcy Ordinance—Appointment of Deputy Official Receiver	1292
General Notices Nos. 1485-1513	

SUPPLEMENT

KENYA PROCLAMATIONS, RULES AND REGULATIONS



29
THE SECRETARIAT,
NAIROBI,
KENYA.

WHEN REPLYING
PLEASE QUOTE
NOS./C. L.S. 1/15a/40.
AND DATE

RECEIVED
18 JUL 1932
OFFICE

25 June, 1932.

The Colonial Secretary of the Colony and Protectorate of Kenya presents his compliments to the Under Secretary of States for the Colonies, and with reference to Kenya despatch No. 297 of the 18th June, 1932, has the honour to transmit herewith ten printed copies of Ordinance No. VI of 1932 entitled "An Ordinance to amend the Local Government (District Councils) Ordinance, 1928".

No. VI.

10
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., O.B.,
Governor.

Assented to in His Majesty's
name this *26th* day of May, 1932.

J. BYRNE.

Governor.

**AN ORDINANCE TO AMEND THE LOCAL
GOVERNMENT (DISTRICT COUNCILS)
ORDINANCE, 1928**

11

No. VI of 1932.

**An Ordinance to Amend the Local Government
(District Councils) Ordinance, 1928.**

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

1. This Ordinance may be cited as "the Local Government (District Councils) (Amendment) Ordinance, 1932," and shall be read as one with the Local Government (District Councils) Ordinance, 1928, hereinafter referred to as "the Principal Ordinance." Short title
No. 21 of 1928.

2. Section 101 of the Principal Ordinance (as repealed and replaced by section 4 of the Local Government (District Councils) (Amendment) Ordinance, 1931), is hereby amended by the addition thereto of the following sub-section to be numbered (4):— Amendment of
section 101 of
the Principal
Ordinance.

"(4) Notwithstanding anything contained in sub-section (1) of section 4 of this Ordinance, the term "District" in this section may, on the application of a District Council and with the approval of the Governor, be given prior to the first imposition of the rate, include any township under the Townships Ordinance, 1930, whose area is surrounded or bordered by the area of jurisdiction of such District Council, and it shall be competent for the Governor to appoint, as members of the said District Council for the purpose of the administration of any such township, and for this purpose only, one or more persons, as he shall deem fit, as representatives of such township." No. 63 of 1930.

Passed in the Legislative Council the fifth 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.

KENYA.

No. 297



GOVERNMENT HOUSE,
NAIROBI,
KENYA.

18th June, 1932.

Sir,

I have the honour to transmit two authenticated
----- copies of Ordinance No. VI of 1932 entitled an Ordinance
to amend the Local Government (District Councils) Ordinance,
1928, which passed its third reading in Legislative Council
on the 5th May and to which I assented on the 26th May, 1932,
----- together with the Legal Report thereon in duplicate prepared
by the Attorney General.

Ten printed copies of the Ordinance are being sent
under separate cover.

2. You will observe from the Legal Report that the
object of the Ordinance is to allow a District Council and
Township to associate in the maintenance of a Hospital and
to levy a rate for this purpose within the Township. I
trust that His Majesty will not be advised to exercise his
power of disallowance in respect of this measure.

I have the honour to be,

Sir,

Your most obedient, humble servant,

BRIGADIER-GENERAL.
G O V E R N O R .

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.

Copy sent to J. J. G. 20/6/32

LEGAL REPORT.

THE LOCAL GOVERNMENT (DISTRICT COUNCILS) (AMENDMENT)
BILL, 1932.

This Bill gives effect to a proposal received from the Trans Nzoi District Council that it should take over and manage the present Nursing Home at Kitale, on much the same lines as the Eldoret Hospital was recently taken over by the Eldoret Municipal Board and the Uasin Gishu District Council. Kitale is, however, not a Municipality, but a Grade A Township under the Townships Ordinance, 1930. There is no legal power to levy a tax for a hospital under the above Ordinance and it would not seem to be desirable that such a power should be granted. Township Committees are not corporate bodies, and difficulties would therefore arise as to the question of joint ownership.

*jointly
possessably*

2. This Bill amends the District Councils Ordinance so as to empower the Governor to enlarge the area of a District Council, on the application of such Council, for the purpose of a hospital tax. The Council could then be enabled to collect the tax in both the township area and the district. Provision is made for the appointment by the Governor to the District Council of persons to represent the township area for the purposes of the administration of the hospital and that purpose only.

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

Nairobi,

5th May, 1932.

ACTING ATTORNEY GENERAL.