

1935

Kenya.

No. 38221

SUBJECT

CO 533/461

Employment of Servants Legislation.

Previous

FM 186/31

Subsequent

1936.

C.I.
Employment
Servants.

I. *Government of Kenya*

Irs. Bill to Provide for the Control of the Employment of Servants together with copy of chapter 139, Laws of Kenya, amended to show effect of bill and a Comparative Table. Requests observations prior to submission to Executive Council

In the accompanying note I have ~~attempted~~ ^{endeavored} to summarize the previous history of the attempts to amend the employment of Natives Ordinance, the Native Registration Ordinance and the Resident Native Labourers Ordinance.

In the three new Bills now submitted there are departures from the existing policy, particularly in the case of the Resident Native Labourers Ordinance, which could perhaps best be dealt with in discussion, before they are sent to the Legal Advisers.

C. J. ...
3/17/44

I have had to keep these papers in order to read them through and endeavour to get familiar with the conditions holding in Kenya, as set out in the previous correspondence, which have little similarity to anything with which I am familiar. The Bills as now produced involve a consolidation of Kenya's various labour enactments and for that reason are sent together. The settlers are most interested in the one to deal with Resident Native Labour (38223), and the others have been dealt with from time to time in previous correspondence going back over the last eight years. In regard to the Employment of Natives Ordinance, which is the one dealt with in this paper, there is not really very much to say, since the amendments have been

discussed

C.I.

Employment
Servants.

I. Governor's Office

Trs. Bill to Provide for the Control of the Employment of Servants together with copy of chapter 139, Laws of Kenya, amended to show effect of Bill and a Comparative Table. Requests observations prior to submission to Executive Council.

In the accompanying note I have ~~outlined~~ ^{summarized} to summarize the previous history of the attempts to amend the Employment of Natives Ordinance, the Native Registration Ordinance and the Resident Native Labourers Ordinance.

In the three new Bills now submitted there are departures from the existing policy, particularly in the case of the Resident Native Labourers Ordinance, which could perhaps best be dealt with in discussion, before they are sent to the Legal Advisers.

C. J. ...
30/1/20

I have had to keep these papers in order to read them through and endeavour to get familiar with the conditions holding in Kenya, as set out in the previous correspondence, which have little similarity to anything with which I am familiar. The Bills as now produced involve a consolidation of Kenya's various labour enactments and for that reason are sent together. The settlers are most interested in the one to deal with resident native labour (38223), and the others have been dealt with from time to time in previous correspondence going back over the last eight years. In regard to the Employment of Natives Ordinance, which is the one dealt with in this paper, there is not really very much to say, since the amendments have been

d. discussed

discussed before and accepted. The others - especially the Squatters' Ordinance - may involve some criticism not only here but in Kenya. As, however, they have pointed out, there ought not to be much objection since the Commission which considered the Squatters' Ordinance included the representative of the natives, and we know quite well that Canon Burns is by no means averse from raising the interests of the natives.

For action I suggest the sending of a despatch to the Governor approving the introduction of the three Bills into Council, making such comments as may be thought fit from the various points which I have mentioned, and saying that the Secretary of State trusts that they will be carefully discussed in Council and amended, if the course of debate proves that amendment is desirable.

2-2-36

20/7/36

I have put up separate notes on the three papers 38221, 38222 & 38223 which may make it easier to follow the previous papers which means a messy dealing with more than one sheet.

Mr. J. Malley.

Mr. Crossmith has put up a useful abstract of the three subjects dealt with

in

in these papers and, as Mr. Flood says, he has added separate notes on each one. As regards this Bill I do not think that any further comment is necessary except that, as I have pointed out on the Registration Bill paper, I think that the penalties might well be scaled down.

Clause 43 provides for whipping of a juvenile offender. As the clause indicates, there are cases where punishment of the nature of discipline is required rather than anything else, and I would not object to the provision.

W.C.D.

24.7.36

In all the subjects of importance the so-called 'new' restrictions of the Secretary of State in his own qualities of authority as the joint holder of the question, plain show how sound his policy is, and in the present circumstances the Secretary of State is to be congratulated.

W.C.D.
5/8/36

T.O.

These papers have come to me in green during the leave period and I am afraid I have not been able to find the time to give all the Bills a very detailed examination. I have, however, examined the provisions which are new, and Mr. Cooper, District Magistrate Gold Coast, has been through the Bills and I attach a Note by him on the Employment of Servants Bill with which, subject to my marginal comments, I agree. I have added at the end of the Note a comment on clause 70.

My comments on the other Bills will be found on the relevant papers. And I agree generally with what Sir C. Bottomley says about reducing the penalties.

W.C.B.

118

Secretary of State.

Sent on in accordance with Sir J. Maffey's minute of August 5th.

This Bill involves no serious political issue and I submit for approval of the introduction of the Bill subject to the comments on detail mentioned in the minutes and memoranda.

(Intld.) W.C.B.

25.8.36

*Original minute
at end of Mr. Hood's
memo. 18.*

*By Air Mail
17/10/36*

2 To Kenya Conf(2) (1 am) 17 Oct 36

11

These papers have come to me in green during the leave period and I am afraid I have not been able to find the time to give all the Bills a very detailed examination. I have, however, examined the provisions which are new, and Mr. Cooper, District Magistrate Gold Coast, has been through the Bills and I attach a Note by him on the Employment of Servants Bill with which, subject to my marginal comments, I agree. I have added at the end of the Note a comment on clause 70.

My comments on the other Bills will be found on the relevant papers. And I agree generally with what Sir C. Bottomley says about reducing the penalties.

(Sd/-)

Secretary of State.

Sent on in accordance with Sir J. Jefferys' minute of August 8th.

This Bill involves no serious political issue and I submit for approval of the introduction of the Bill subject to the comments on detail mentioned in the minutes and memoranda.

(Intld.) W.C.B.

25.8.36

Original minute at end of Mr. Hood's memo. 18.

24 Air Mail
12/10/36

2. To Kenya Conf (2) (1 and) 12 Oct 36

31/10/35

C.O.

Mr. Flood 7. /10/35.

Mr.

Mr.

Sir C. Parkinson.

Sir G. Tomlinson.

X Sir C. Bottomley. 9.00

Sir J. Shuckburgh.

Perm. U.S. of S. 9/10

Parly. U.S. of S.

Secretary of State. 10/10/35

DRAFT

NETYA

CONFIDENTIAL (2)

GOVERNOR

AIR MAIL

10002
1

Sir,

I have the honour to acknowledge the receipt of your confidential despatch No. 154 of the 29th of October, 1935, in which you forwarded a draft Bill for the control of the employment of servants.

2. As you point out in your despatch this Bill has had a long history and is obliged for the care which has been taken in the preparation of the preliminary table and the intermediate copy of the existing Ordinance with the alterations marked.

The Bill as now submitted is a consolidated enactment and replaces the existing Employment of Servants Ordinance Chapter 159 of the Laws of Kenya.

3. The title of the Ordinance to be replaced is the

FURTHER ACTION.

C. O.

Mr.

Mr.

Mr.

Sir C. Parkinson.

Sir G. Tomkinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Parlt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

DRAFT.

consideration of the Bill, though it is not possible to say what form such modification will have to take.

5. The offence of desertion will ^{defined} not be found in the Bill as it stands but ^{Ordinance now} in the 1928 Bill, a definition taken from a Form has not been inserted, defining desertion as absence without permission ^{beyond} ~~or~~ for a

period of seven whole consecutive days. I note that desertion ^{is} ~~was~~ made an offence under Section 32 of the Bill with the special proviso that a servant employed on a thirty days contract, or special contract, may commit the offence of desertion.

6. Section 19 of the Bill provides a penalty up to a fine of £150 or six months imprisonment for decoying away or harbouring a servant who has improperly ~~quit~~ quitted the service of his employer. I have no doubt that this ^{heavy} ~~was~~ ^{is} intended

FURTHER ACTION.

intended

C. O.

Mr.

Mr.

Mr.

Sir C. Parkinson.

Sir G. Tomkinson.

Sir C. Bottomley.

Sir J. Shackleton.

Peer, U.S. of S.

Party, U.S. of S.

Secretary of State.

DRAFT.

him to take up his employment, but sub-section 2, as re-drafted in your ^{letter} despatch, would appear to make it an offence to give any advance whatever, since such an advance would obviously be upon condition of entering employment. Further, sub-section 3 would seem to prevent any arrangement for giving an advance of any one month's wages at the commencement of employment and arranging for subsequent recovery by instalments, since in the first month it would be obvious that the servant would receive more than one month's wages in all.

9. Subject to these observations, I ^{approve} propose the introduction of the Bill.

As you will realise, in view of its past history, it has required a careful and detailed examination, and the fact that I have so little on which to comment is

evidence

FURTHER ACTION.

evidence of the care which has been
exercised in ^{its} ~~this~~ preparation.

I have, etc.

(Signed) J. BRADY GORE.

M. W. FLOOD

Sir J. Bottomley

S. S. S.

3 days

The 3 of us asked for drafts in lines while you were away and I thought I had better let you see them in due time.

I submit this accordingly what I think covers all that is required. I had to review all the points regarding the time and scale of contribution.

Yours faithfully

8.10

such discussions have been made and are being carried out, except that in the draft about Resident Native Labourers I have tried to refer to what might be an ambiguity; we are not altering the status of these men. Nor are we including with them any people whose residence on European land has any an origin other than labour source.

Best of 10.10.26

M. W. Flood

I have made a few other amendments.
A good day

10.10.26

Mr. Robert Gray

Note by the Cooper

1c

KENYA --- EMPLOYMENT --- SENYA CH.

See 17186/31

No. 1A. 3

The present Bill is based on the one which was approved subject to certain amendments in 1931.

These amendments have now been incorporated.

For some reason two sections have been omitted.

One is the proviso to clause 14 (a) providing that employment shall be from month to month unless otherwise agreed.

It would seem desirable to insert this when a servant is paid monthly it is generally assumed by both parties that the employment is from month to month without express renewal at the end of each month.

As the Bill stands a servant could leave at the end of each month without warning to his master and similarly a servant after several years of service might suddenly find his employment terminated.

The same is to be applied to all concerned.

The other clause omitted (Clause 31 of 1928 Bill) limited the amount of leave which could be given.

Mr. Eastwood described it as "grottesco but unobjectionable". No reason is given for this omission but I do not think it is any less.

See the explanation in para 15 of this despatch. I think it can be left out as desired.

17186/31
No. 1A. 3
with him

It is not clear why the proviso has been omitted. It is a desirable provision. It is not clear why it has been omitted. It is not clear why it has been omitted.

17186/31

No. 1A.

with

I agree
with

On the Bill as it now stand I would draw attention to the following points.

Servant the definition in Cl. 2 is wholly new.

The present law defines a Servant as a native (defined as a Native of Africa and of European or Asiatic origin) employed in a certain specified occupation and those of a like nature. The occupations are roughly those of domestic service, labourers and artificers.

The new definition defines a servant as being

- (a) An Arab, African-born Baloche, Comoro Islanders, Madagascar, Somali, Native (i.e. a member of an indigenous African community)
- (b) employed by any person for any consideration

This definition can be criticised on two grounds

1. The discrimination of the different classes as to whom the Ordinance applies can hardly be permanent or exhaustive. For instance there may well be other African-born Indians beside Baloche employed. To my own knowledge there are a number of inhabitants of Seychelles employed in home as artisans. As the definition stands, two men might work side by side as carpenters one being within the Ordinance and the other out side it. This seems discriminatory.

This follows the latest Kenya definition based on Govt. O. of 1954.

Ord. No 55/1954

could they be included in Kenya under the Ordinance? I think not. No. 55/1954.

2. The definition includes ...

I do not know the exact conditions ... but it is possible that ... of education ... clerks, street-keepers, etc. They will all come within the definition though the Ordinance ... containing not mentioned to apply to them.

It is true that the Government can exclude any class of persons in the Gazette. This seems to give him a very arbitrary power which might practically nullify the Ordinance. Should it not be Government in Council by Rule and might he not have power to include or well as exclude individual objects (this word).

Here again the African would be subject to the law while the Indian or European alongside him would not.

I suggest that the best plan would be to define "Servant" as one performing certain types of work and make the Ordinance applicable to all without discrimination.

From ... of Gold Coast. Cap 101. Definition of "labourer" and "Servant".

an object of this ... I think the penalty is meant only for a European ... master employer. But see further note.

Cl. 19. The penalty for harboring a servant who has unlawfully quitted his service seems excessive. The servant will probably go to a tribal relative who must by native custom shelter him. This is a very different thing from receiving away servant.

Section 42e. 43(3) Penal Ordinance ... this comment.

Cl. 43. Warrant to arrest deserter. I suggest that the complaint should be on oath. In the case of a criminal offence it has to be on oath and a 'falsely' in what is really interference with a civil right.

It is suggested that it is ^{often} inconvenient for the employer to go before a magistrate as it may involve travelling a distance. My own view is that if he wishes to set this exceptional procedure in motion he should be prepared to take a little trouble in the matter.

1. 13. Should not the Magistrate have power to make the employer pay the cost of proceedings in

Sec of '32. I can imagine a situation where the servant recovered wages and then had to hand them over to the Government for subsistence while waiting for the case to be tried.

Paid Penalties

I agree that the question of ~~advising~~ there is an absence. In any event it is a question of fact in which I am not qualified to comment.

I would point out however that the abolition of paid sanctions though well-intentioned towards the servant may not have the effect intended.

In the Gold Coast all such provisions were repealed in 1934 and it was provided that in any complaint by a servant a civil summons could issue.

July 1934
Cap. 107 amended
13/34

The result is that if an employer withholds wages and does not re-engage - the servant can sue for the wages. There are no provisions for doing so at the end of the month he has to enforce by direct legislation execution. This is a slow method compared with the costly procedure and the labourers being usually very ignorant are at a great disadvantage.

Further as there is no penalty the employer is more the worse off for debt withholding wages (except a small sum for costs).

I think therefore that before paid provisions are abolished the care should be taken that there is some equivalent procedure for protecting the labourer servant.

Gay Cooper
1.9.36

Clause 10 (See for this clause was 38 291/36)

In passing the Bill the Government should be satisfied by saying that this case is a small amount acceptable employment which has many but it seems clear that it is not likely to curtail the employer's power because he can make wages in advance if he wishes to employ, which is made an offence by s. 5(2). This s. 5 requires amendment accordingly. (L.D.) Dec 18.8.

Yes:
S

By mail
~~12/18/36~~ ~~to the Hon. Mr. (Lawrence)~~ 12 OCT 1936

Employment of Natives

Examination of the red-inked copy shows that the amendments now proposed are mainly in the direction of consolidation and incorporation of various things which have been already agreed upon. As Mr. Grossmith points out, the Governor's advice given in 1930 has been accepted in regard to the clauses on which comments were made, but it is somewhat difficult to follow comparisons with the Ordinance submitted in 1928 (15346/28) because the course of procedure now adopted has been to revise and consolidate the whole thing. Clause 31 of the amending Bill in 1928 provided that it was unlawful for the employer to give leave to servants under unwritten contracts, and it was explained that this was put in in order to prevent employers engaging natives when things were slack and then giving them indefinite leave on the understanding that they would come up for labour when sent for. In 1931 the comment upon it was that it was "grotesque but seems unobjectionable". It has now been dropped and there does not seem to be anything in the Ordinance dealing with the question of leave. Since Kenya has dropped it I do not think that we need comment upon its omission.

The provision to which Mr. Grossmith refers, which was embodied in clause 5 of the 1928 Bill, was that in the absence of any agreement all servants should be under a month-to-month contract determinable upon one month's notice or the payment of one month's wages. It was represented that without this provision servants might go away without giving any notice whatever,

** on the last copy of the contract*

which practice it was desired to stop. It is now, however, considered that the Ordinance as it stands works quite satisfactorily and that amendment would be disadvantageous.

Task work is provided for by the new Sections 17 and 18 which were found in the 1928 Bill. The limit of eight hours a day for task work has been introduced instead of nine hours in accordance with the Secretary of State's directions.

Another matter on which there may be some difficulty is the employment of "juveniles". The provisions now in the Bill are Sections 28 and 29. These reproduce those of the 1928 Bill with amendments as directed, and certificates are required from the District Officer and powers of supervision are conferred upon any Inspector of labour as well as the District Officer.

Sections 40 and 41 relate to labour forwarding agents which are defined in the definition clause of the Ordinance. These clauses may have to undergo some modification as a result of the recent Committee on Recruitment but I do not think they will and, in any case, it is too early yet to say what form the recruiting convention, if ratified, will take.

The provisions as regards complaint by employers which were proposed in 1928 have been adopted, with the amendment suggested that the Court may order compensation to the servant

if the complaint was not well founded.

The offence of desertion is slightly altered. It was not defined in the original Ordinance but a definition has been inserted in this one to make desertion mean absence by a servant without lawful excuse for a period exceeding seven whole consecutive days. This was in the former Bill and the point of it is that it is added as an offence by the servant under Section 52 with the proviso that a servant employed on a thirty days' contract or a special contract may be guilty of desertion. The last proviso is simply to make matters clear. The existing Ordinance provides for penalty if the servant shall without lawful cause depart from his employer's service with intent not to return thereto. This is rather unsatisfactory as it would probably be difficult to prove intent, and the present form of desertion which allows absence up to seven days is no doubt better.

The clause providing for penalty on the employer is stiffened. The penalty is increased to £30 from £10 and the clause about withholding wages is now altered to read "if he without reasonable cause fails to pay any wages due to such servant". This is more drastic and offers less chance of escape to a dishonest employer.

Since they prepared the Bill they have come to the conclusion, as the result of a judgment of the Court, that Section 70 needs to be remodelled as provided in 38221/36. The Court in Kenya decided that payments in kind to servants

were illegal. Section 70 prohibited an employer from advancing to the servant wages whether in money or kind exceeding in the aggregate one month's wages, and also forbade the giving of an advance of wages on condition of entering into employment. These two conditions are now retained, but a clause is added to make it clear that all wages must be paid in cash in full except the provision of a blanket, jersey, and water-bottle under Section 34, and clothing under Section 70. This seems all right and is intended to make the rights of the employee clearer.

An important alteration is found in Section 70(e) which gives a Medical Officer power to order such food as he may think necessary. The existing clause is the same but with a proviso that the cost of such food shall not exceed the normal cost of rations. The modification is obviously to the advantage of the servant.

This is in 38-221/26
No 2
It does not touch
salaries, but it
gives us a 20%
allowance

The seller was
abolished provision
when I was in
1917.

It seems to be clear that the penalties are reserved for
employer who leaves away and a dis- another means Labour
force. No value will be able to pay 1931

However we had better comment on the new clause
as a large number of employers are likely to
and that it is necessary to be clear that the provisions apply
in such cases.

The definition of 'blanket' is given
in the Bill. It is a blanket, jersey, or water-bottle
which is provided for the use of the servant. Compare the
definition in the Bill with the definition in the
Regulation. Section 2, 3, 4, 5.

If a definition like that in the Bill were
were adopted it might apply to some European and that
it would be necessary to be clear that the provisions
apply to the provisions of the Bill. The provisions
should be brought to the attention of the Board.
(see section)

I agree that it is full of all
gradations of non-European and
native people who are not least
the distinctions between them
we must get thoroughly entangled
L. S. 20/8

Secretary of State.
But on the accordance with
Sir J. Haggis's estimate of August 3rd
This Bill
This Bill is in order to
serious political issue and
subject for approval of the
introduction of the Bill will not
6

Section 19.
The Bill provides for a penalty (§ 15)
in respect of 'hauling'. This was £5
Bill amended this (§ 17) to £150
in 1931.

to the comments on details
mentioned in the minutes
and memoranda.

W.H.S.

25.8.36

NOTE.

The proposals to amend the legislation bearing on the relations of employers and native servants date back to July 1928 when Sir E. Gigg submitted three draft Bills to amend:-

- (a) the Employment of Natives Ordinance
- (b) the Native Registration Ordinance, and
- (c) the Resident Native Labourers Ordinance.

A Memorandum stating the objections to the Bills was prepared and sent to the Governor. A copy of this is to be found behind No. 5 on 15546/28.

In July 1930 ^{The Secretary of State (Mr. Birnie)} ~~Sir E. Gigg~~ sent to the Secretary of State a Memorandum dealing seriatim with the several matters in respect of which criticism or objection had been made. On the 25th September 1930 the Governor was informed that the Secretary of State agreed to the Bills with the alterations suggested, but he was unable to accept in its entirety the Bill to amend the Resident Native Labourers Ordinance.

On the 20th April 1931 the Governor ^{Sir E. Gigg} said that he proposed to introduce at the next session of the Legislative Council, the Bills to amend the Employment of Natives Ordinance and the Native Registration Ordinance. The Governor did not propose to introduce the Bill to amend the Resident Labourers Ordinance pending further consideration of it by his advisers.

A telegram was sent to the Governor on the 19th May 1931 stating that the Secretary of State had decided that the Bill to amend the Native Registration Ordinance should not be proceeded with as the whole principle of the

Ordinance

No 1
16258/30

No 2

No 1
17186/31

No 3
17186/31

13

Ordinance would need reconsideration in the light of the Native Policy Memorandum. It was pointed out that the Bill was discriminatory and that there was the strongest dislike for the existing system of legislation on the part of the natives as shown by their evidence before the Select Committee on East Africa and in representations to the Secretary of State.

The Secretary of State wished the Governor to proceed with the Bill to amend the Employment of Natives Ordinance including the amendments proposed by the Governor, but it was to be made clear when the Bill was introduced that it was an interim measure and that the whole question of penal sanctions for breach of labour contracts was under review. Further amendment was desired so as to ensure not only that wherever a penalty was provided there should be the option of a fine but also that the penalties should be reduced.

Notes
17/10/30

The Governor replied on the 30th July 1931 that he desired to hold up the Employment of Natives Ordinance until such time as it would be possible to introduce all three Bills. It was felt that all these measures would be bound to create considerable local controversy and as they were closely inter-related, it would be wise to deal with them as a whole.

Penal Sanctions

As regards the Employment of Natives Bill, it is necessary to state that a circular despatch was sent to the various African Dependencies on the 6th August 1930 in which Lord Passfield expressed his general desire that any "penal sanctions" applicable to labour agreements should be eliminated or reduced to an absolute minimum, and that the relations of employer and employed should be left to be governed by the ordinary law of contract. The replies to

that

16

that circular showed that while the elimination of these penal sanctions was generally recognised as an ideal to be kept constantly in view, the G.A.G. of most of the Dependencies in Tropical Africa were of the opinion that for some time to come it would be inexpedient to discard them. Lord Passfield fully appreciated the force of the various practical considerations adduced in support of this view. Nevertheless he felt that it was desirable to examine the question whether the object which these penal sanctions were designed to serve could not be achieved by some other means, more in accordance with civilized usage. Lord Passfield accordingly arranged for a Committee to examine the question of these penal sanctions and a copy of the Committee's recommendations was sent to the African Colonies in the Secretary of State's circular despatch of the 7th January 1932. The Governor of Kenya replied on the 5th September 1932 that he had received copies of despatches on the question of penal sanctions from the Governments of Nyasaland, Northern Rhodesia and Uganda, and while appreciating the ideal at which the Colonial Labour Conference aimed, he entirely agreed with those Governments that the abolition of penal sanctions would be premature and impracticable. Sir Philip Cunliffe-Lister accepted the Governor's views and those of the other East African Governments in regard to the abolition of penal sanctions and stated that he did not wish to press the matter.

As regards the Native Registration Ordinance, the Governor, in a despatch dated the 5th November 1931 reported that he was not convinced that the objections to native registration were based on any sound reasoning. He stated two main causes of its dislike - racial discrimination and

Amal
Sunderam

Nov 8
17/1/1932

the administration of the system - and argued that he did not believe the system could be revised so as to render it unobjectionable to those who objected to it in its existing form.

No 12
17/17/1931

In a despatch dated the 10th May 1928 the Governor was informed that the Secretary of State found himself in general agreement with the arguments adduced in favour of requiring every native to possess some documentary evidence of his legal identity, and in so far as the Native Registration Ordinance served this end it conduced not only to convenience of administration but to the education of the native. It was stated that the charge of racial discrimination which had been brought against the present system could well be met by reference to the fact that the vast majority of Africans in Kenya are debarred by their illiteracy from establishing their identity by such means of documentary proof as are readily available in the case of the European and the Indian communities. It was considered however that exemption from registration should be more elastic, and that the Native Exemption Ordinance should be suitably amended with this object in view. (Other amendments were suggested to which I have drawn attention below in connection with the new Bills now submitted). A Bill to amend the Native Exemption Ordinance was subsequently approved by the Secretary of State.

No 5
15/11/28

The Governor now submits for the Secretary of State's consideration fresh drafts of the three labour Bills:-

Employment of Servants Ordinance. (3822/35)

The Governor says that in his despatch No. 328 of the 12th November 1928 Mr. Amery made certain comments on the proposed amendments to Clauses 5, 11, 16, 23, 24.

25-28, 29, 31 and 32 of the Bill which was prepared in 1928. The comments were sent to the Governor in a Memorandum and were answered in a Memorandum from the Governor. The Governor's advice was accepted in all cases. The following provides the reference to the amendments questioned:-

See No. 2
16254/30

<u>1928 Bill.</u>	<u>Present Bill.</u>
Clause 5	Not reproduced.
Clause 11	Clause 52(5)
Clause 16	Clause 75(4)
Clause 23 (Form of labour agents permit)	Deleted from Schedule.
Clause 24	Clause 18
Clauses 25-28	Clause 2d(1), (2) and (5)
Clause 29	Clause 40
Clause 31 (Leave)	Not reproduced.
Clause 32	Clause 45(1), (2) and (3).

My only comment on this is that in spite of the Secretary of State's acceptance of the following proviso to what is now Clause 14(b) it is not reproduced in the present Bill:- "Provided that all servants other than unskilled labourers shall in the absence of any agreement to the contrary be deemed to be under a contract to their respective employers from month to month determinable by either party upon payment of one month's wages". The reason why it is not reproduced in the present Ordinance is explained in paragraph 15 of the despatch. It is not clear however why the provisions as regards leave (Clause 31 of the 1928 Bill) are not reproduced.

Not necessary
add to
Clause 14
Clause 14

No 1
38221/25

Clause 7(1) and (2). Foreign Contract of Service.

In view of the Secretary of State's decision regarding penal sanctions for breaches of labour contracts mentioned above, I do not comment on this Clause. The amendments introduced into this Bill which have not been the subject of previous correspondence are dealt with in the despatch and do not I think call for comment.

Native Registration Ordinance. (38222/35)

It has been explained above that the principle of native registration has been accepted by the Secretary of State. Apart from the question of enlarging the category of exempt natives, the Governor was asked to amend those sections of the Ordinance, notably Section 6, which compel the native employee to ask for particulars of his employment to be entered on his certificate and place an invariable obligation, under penalty, upon the employer to enter such particulars. It was desired that the Ordinance should be amended so as to make the entry of particulars of employment obligatory upon the employer only at the voluntary request of the employee. Section 4(2) of the new draft Bill does not provide for this.

The Governor was also asked to amend the Ordinance so as to substitute for the present obligation to carry the "Kipandi" upon his person, a requirement that a registered native shall produce his certificate to an authorised person within a period of 24 to 48 hours after production has been demanded. It is the Governor's considered opinion that the amendment proposed would nullify the value of the Ordinance (see paragraph 15 of the despatch).

It was also suggested to the Governor that the "Kipandi" should be amended by printing the various headings

passed

No. 12 / 1727/35

No. 1

38222/35

headings in Swahili as well as English. The Governor will make provision for this in the rules to be made in the Ordinance.

Other amendments have been introduced into the Bill. They are described in detail in the despatch.

The Resident Native Labourers Ordinance. *3/2/35*

See No. 38113/35
The working of the ^{Resident} Native Labourers Ordinance 1925 has been examined by a strong representative Committee and their conclusions are well set out in the report accompanying the Governor's despatch.

The chief points of difference between the draft Bill and the Resident Native Labourers Ordinance 1925 are set out on pages 6-8 of the report and rather more fully in the Memorandum accompanying the despatch.

The Governor points out that Clauses 21 and 22 introduce an entirely new principle, that of local option to which reference is made below. "Otherwise the Bill is largely a consolidated re-enactment of the Resident Native Labourers Ordinance 1925, with certain provisions designed to secure more effective means of control of the occupier, the squatter and his cattle than were inherent in that Ordinance, which in fact, experience has shown to be so unsatisfactory as to be unworkable, with the result that it has been mainly honoured in the breach".

Clause 5(7) Empowers a magistrate for any good and sufficient reason to order the removal of a native or Somali or a squatter and/or his stock from any farm, forest area, railway land or unalienated Crown land and provides that the magistrate shall assess the costs of such removal and determine by whom such costs shall be paid. A somewhat similar amendment was proposed in 1930

and

See No. 2
16258/30

and the view taken then was that it would be against the liberty of the subject that the Government should have the power to direct the removal of natives from a farm in cases other than those in which the natives have been duly charged before a Court of Law and found guilty of stock theft or produce theft.

Clauses 7, 8, 9. Apply certain provisions of the Native Registration Ordinance to occupiers and squatters. This in effect turns squatters into servants. The Bill removes any claim that squatters may have to the status of tenants, and in this conforms to the recommendations of the Kenya Land Commission.

Clauses 21 and 22. Introduce the entirely new principle of local option, i.e. subject to the provisions of Section 2 and 23 of the Ordinance a local authority may, in respect of any farm or group of farms within the area of its jurisdiction -

- (a) Prohibit the engagement of squatters.
- (b) Limit the number of squatters to be engaged.
- (c) Prohibit or limit the keeping of stock by squatters.
- (d) Prescribe the days in which a squatter shall work for wages, such number of days in no case to be less than 180.

The introduction of the new principle is mainly due to the very definite difference of opinion, both non-official and official, as to the desirability or otherwise of having squatters and as to the method of legislating for their employment.

The planters in the main desire to have the squatter and his cattle, i.e. his labour and the manure produced by the cattle. The stockholders generally are

opposed

opposed to the Squatter; they do not need his labour,
and fear the illicit movement of cattle. This is
described fully in pages 4 and 5 of the Committee's
report.

NOTE.

The proposals to amend the legislation bearing on the relations of employers and native servants date back to July 1928 when Sir E. Grigg submitted three draft Bills to amend:-

- (a) the Employment of Natives Ordinance
- (b) the Native Registration Ordinance, and
- (c) the Resident Native Labourers Ordinance.

A Memorandum stating the objections to the Bills was prepared and sent to the Governor. A copy of this is to be found behind No. 5 on 15346/25.

No 1
16256/30

In July 1930 ^{*The Acting Governor (Mr. ...)*} ~~Sir J. ...~~ sent to the Secretary of State a Memorandum dealing seriatim with the several matters in respect of which criticism or objection had been made. On the 25th September 1930 the Governor was informed that the Secretary of State agreed to the Bills with the alterations suggested, but he was unable to accept in its entirety the Bill to amend the Resident Native Labourers Ordinance.

No 1
17156/31

On the 20th April 1931 the Governor said that he proposed to introduce at the next session of the Legislative Council, the Bills to amend the Employment of Natives Ordinance and the Native Registration Ordinance. The Governor did not propose to introduce the Bill to amend the Resident Labourers Ordinance pending further consideration of it by his advisers.

No 3
17156/31

A telegram was sent to the Governor on the 19th May 1931 stating that the Secretary of State had decided that the Bill to amend the Native Registration Ordinance should not be proceeded with as the whole principle of the

Ordinance would need reconsideration in the light of the Native Policy Memorandum. It was pointed out that the Bill was discriminatory and that there was the strongest dislike for the existing system of legislation on the part of the natives as shown by their evidence before the Select Committee on East Africa and in representations to the Secretary of State.

The Secretary of State wished the Governor to proceed with the Bill to amend the Employment of Natives Ordinance including the amendments proposed by the Governor, but it was to be made clear when the Bill was introduced that it was an interim measure and that the whole question of penal sanctions for breach of labour contracts was under review. Further amendment was desired so as to ensure not only that wherever a penalty was provided there should be the option of a fine but also that the penalties should be reduced.

Now
17/8/51

The Governor replied on the 20th July 1951 that he desired to hold up the Employment of Natives Ordinance until such time as it would be possible to introduce all three Bills. It was felt that all these measures would be bound to create considerable local controversy and as they were closely inter-related, it would be wise to deal with them as a whole.

As regards the Employment of Natives Bill, it is necessary to state that a circular despatch was sent to the various African Dependencies on the 6th August 1950 in which Lord Passfield expressed his general desire that any "penal sanctions" applicable to labour agreements should be eliminated or reduced to an absolute minimum, and that the relations of employer and employed should be left to be governed by the ordinary law of contract. The replies to

that

that circular showed that while the elimination of these penal sanctions was generally recognised as an ideal to be kept constantly in view, the O.A.Gs. of most of the Dependencies in Tropical Africa were of the opinion that for some time to come it would be inexpedient to discard them. Lord Passfield fully appreciated the force of the various practical considerations adduced in support of this view. Nevertheless he felt that it was desirable to examine the question whether the object which these penal sanctions were designed to serve could not be achieved by some other means, more in accordance with civilized usage. Lord Passfield accordingly arranged for a Committee to examine the question of these penal sanctions and a copy of the Committee's recommendations was sent to the African Colonies in the Secretary of State's circular despatch of the 7th January 1933. The Governor of Kenya replied on the 5th September 1933 that he had received copies of despatches on the question of penal sanctions from the Governments of Nyasaland, Northern Rhodesia and Uganda, and while appreciating the ideal at which the Colonial Labour Conference aimed, he entirely agreed with those Governments that the abolition of penal sanctions would be premature and impracticable. Sir Philip Cunliffe-Lister accepted the Governor's views and those of the other East African Governments in regard to the abolition of penal sanctions and stated that he did not wish to press the matter.

As regards the Native Registration Ordinance, the Governor, in a despatch dated the 5th November 1931 reported that he was not convinced that the objections to native registration were based on any sound reasoning. He stated two main causes of its dislike - racial discrimination and
the

Not
17217/A77

the administration of the system - and argued that he did not believe the system could be revised so as to render it unobjectionable to those who objected to it in its existing form.

No 2
172/19/1931

In a despatch dated the 10th May 1928 the Governor was informed that the Secretary of State found himself in general agreement with the arguments adduced in favour of requiring every native to possess some documentary evidence of his legal identity, and in so far as the Native Registration Ordinance served this end it conduced not only to convenience of administration but to the education of the native. It was stated that the charge of racial discrimination which had been brought against the present system could well be met by reference to the fact that the vast majority of Africans in Kenya are debarred by their illiteracy from establishing their identity by such means of documentary proof as are readily available in the case of the European and the Indian communities. It was considered however that exemption from registration should be more elastic, and that the Native Exemption Ordinance should be suitably amended with this object in view. (Other amendments were suggested to which I have drawn attention below in connection with the new Bills now submitted). A Bill to amend the Native Exemption Ordinance was subsequently approved by the Secretary of State.

No 5
3/11/33

The Governor now submits for the Secretary of State's consideration fresh drafts of the three labour Bills

Employment of Servants Ordinance. (1522/35)

X. No 4
15346/28

The Governor says that in his despatch No. 328 of the 12th November 1928 Mr. Amery made certain comments on the proposed amendments to Clauses 5, 11, 16, 23, 24,

25-28, 29, 31 and 32 of the Bill which was prepared in 1928. The comments were sent to the Governor in a Memorandum and were answered in a Memorandum from the Governor. The Governor's advice was accepted in all cases. The following provides the reference to the amendments questioned:-

<u>1928 Bill.</u>	<u>Present Bill.</u>
Clause 5	Not reproduced.
Clause 11	Clause 52(b)
Clause 16	Clause 75(4)
Clause 25 (Form of labour agents permit).	Deleted from Schedule.
Clause 24	Clause 1d
Clauses 25-28	Clause 23(1)(2) and (5)
Clause 29	Clause 40
Clause 31 (Leave)	Not reproduced.
Clause 32	Clause 45(1)(2) and (5).

My only comment on this is that in spite of the Secretary of State's acceptance of the following proviso to what is now Clause 14(b) it is not reproduced in the present Bill:- "Provided that all servants other than unskilled labourers shall in the absence of any agreement to the contrary be deemed to be under a contract to their respective employers from month to month determinable by either party upon payment of one month's wages". The reason why it is not reproduced in the present Ordinance is explained in paragraph 18 of the despatch.

It is not clear however why the provisions as regards leave (Clause 31 of the 1928 Bill) are not reproduced.

Not
3522/24

Clause 7(1) and (2). Foreign Contract of Service.

In view of the Secretary of State's decision regarding penal sanctions for breaches of labour contracts mentioned above I do not comment on this clause. The amendments introduced into this Bill which have not been the subject of previous correspondence are dealt with in the despatch and do not, I think, call for comment.

Native Registration Ordinance. (2022/31-)

It has been explained above that the principle of native registration has been accepted by the Secretary of State. Apart from the question of enlarging the category of exempt natives, the Governor was asked to amend those sections of the Ordinance, notably Section 6, which compel the native employee to ask for particulars of his employment to be entered on his certificate and place an invariable obligation, under penalty, upon the employer to enter such particulars. It was desired that the Ordinance should be amended so as to make the entry of particulars of employment obligatory upon the employer only at the voluntary request of the employee. Section 4(2) of the new draft Bill does not provide for this.

The Governor was also asked to amend the Ordinance so as to substitute for the present obligation to carry the "Kipandi" upon his person, a requirement that a registered native shall produce his certificate to an authorised person within a period of 24 to 48 hours after production has been demanded. It is the Governor's considered opinion that the amendment proposed would nullify the value of the Ordinance (see paragraph 15 of the despatch).

It was also suggested to the Governor that the "Kipandi" should be amended by printing the various headings

para 14

No 12/17/19/21

No 1

3522/20

headings in Swahili as well as English. The Governor will make provision for this in the rules to be made in the Ordinance.

Other amendments have been introduced into the Bill. They are described in detail in the despatch.

The Resident Native Labourers Ordinance 2/22/35

No. 1
2/22/35

The working of the Native Labourers Ordinance 1925 has been examined by a strong representative Committee and their conclusions are well set out in the report accompanying the Governor's despatch.

The chief points of difference between the draft Bill and the Resident Native Labourers Ordinance 1925 are set out on pages 6-8 of the report and rather more fully in the Memorandum accompanying the despatch.

The Governor points out that Clauses 21 and 22 introduce an entirely new principle, that of local option to which reference is made below. "Otherwise the Bill is largely a consolidated re-enactment of the Resident Native Labourers Ordinance 1925, with certain provisions designed to secure more effective means of control of the occupier, the squatter and his cattle, than were inherent in that Ordinance, which in fact, experience has shown to be so unsatisfactory as to be unworkable, with the result that it has been mainly honoured in the breach".

Clause 5(?). Empowers a magistrate for any good and sufficient reason to order the removal of a native or Somali or a squatter and/or his stock from any farm, forest area, railway land or unalienated Crown land and provides that the magistrate shall assess the costs of such removal and determine by whom such costs shall be paid. A somewhat similar amendment was proposed in 1950

See No 2
16258/30

and the view taken then was that it would be against the liberty of the subject that the Government should have the power to direct the removal of natives from a farm in cases other than those in which the natives have been duly charged before a Court of Law and found guilty of stock theft or produce theft.

Clauses 7, 8, 9. Apply certain provisions of the Native Registration Ordinance to occupiers and squatters. This in effect turns squatters into servants. The Bill removes any claim that squatters may have to the status of tenants, and in this conforms to the recommendations of the Kenya Land Commission.

Clauses 21 and 22. Introduce the entirely new principle of local option, i.e. subject to the provisions of Section 8 and 22 of the Ordinance a local authority may, in respect of any farm or group of farms within the area of its jurisdiction -

- (a) Prohibit the engagement of squatters.
- (b) Limit the number of squatters to be engaged.
- (c) Prohibit or limit the keeping of stock by squatters.
- (d) Prescribe the days in which a squatter shall work for wages, such number of days in no case to be less than 180.

The introduction of the new principle is mainly due to the very definite difference of opinion, both non-official and official, as to the desirability or otherwise of having squatters and as to the method of legislating for their employment.

The planters in the main desire to have the squatter and his cattle, i.e. his labour and the manure produced by the cattle. The stockholders generally are

opposed

opposed to the squatter; they do not need his labour,
and fear the illicit movement of cattle. This is
described fully in pages 4 and 5 of the Committee's
report.

AIR MAIL

KENYA

No. 154



GOVERNMENT HOUSE
NAIROBI
KENYA

CONFIDENTIAL.

October 1935.

Sir

I have the honour to transmit the accompanying Bill to Provide for the Control of the Employment of Servants, together with a copy of Chapter 139, Laws of Kenya, amended so as to show the effect of the bill and a Comparative Table prepared by the Attorney General, for your consideration.

I should be glad to receive your observations on the Bill before it is submitted to my Executive Council with a view to publication for introduction into Legislative Council.

The Resident Native Labourers' Bill and the Native Registration Bill forwarded to you under cover of my Confidential air mail despatch No. 156 of 27th October, 1935, and my Confidential air mail despatch No. 155 of 29th October 1935, also deal with the various aspects of the relations between employer and employed. I have therefore considered it desirable to transmit to you all three bills simultaneously with a separate covering despatch in each case.

2. The Bill for the Control of the Employment of Servants has a long history, and in order that the position may be clear I propose to give a brief resume of the proceedings which have finally resulted in the Bill now submitted for your consideration.

3. I would first refer to Sir Jacob Barth's despatch No. 422a of the 24th July, 1928, transmitting

three ...

1/13546/28
THE RIGHT HONOURABLE
MALCOLM MACDONALD, F.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
London, S. W. 1.

three bills, including a bill to Amend the employment of Natives Ordinance. In his despatch No. 828 of the 12th November 1928, Mr. Amery made certain comments on, and proposed amendments to Clauses 5, 11, 16, 23, 24, 25 to 28, 29, 31 and 32 of the bill.

4/15/30/650

2/16/28/30

1/16/28/30

4. The bill was passed and in his despatch No. 250 of the 25th September 1930 Lord Passfield agreed to the bill with the alterations suggested in Sir Henry Moore's despatch No. 457 of 7th July 1930. Lord Passfield commented, however, on Clause 32 of the Bill which made provision for the expenses incurred by Government in connection with the arrest and trial of servants under that clause to be refunded by the complainant if the Court was satisfied that the facts stated in the complaint were materially untrue in any particular, and suggested that the clause might include provision for payment to the servant by the complainant of a sum to be assessed by the Court as compensation.

1/17/28/31

5. In my despatch No. 219 of the 20th April 1931, I agreed to the amendment suggested and in paragraph 11 of that despatch proposed the following additional amendments:-

"Section 5 of the Principal Ordinance is hereby deleted and the following substituted therefor -

- '5(1). Every foreign contract of service shall be approved and attested by a Provincial Commissioner or by a District Officer authorised in writing by a Provincial Commissioner to approve and attest such contracts.
- (2). Every contract of foreign service shall be in the form in the Schedule hereto or to the like effect'."

3/17/28/31

6. Lord Passfield, in his telegram No. 165 of the 19th May 1931, accepted the proposed amendment to Section 11 and instructed -

(1) That the bill should be regarded as an interim measure in that the whole question of penal sanctions for breaches of labour contracts was under

review.

(2) That the bill be further revised so as to ensure not only that whenever a penalty was provided there should be the option of a fine, but also that the penalty should be reduced

(a) for offences under Section 47 to a fine not exceeding half a month's wages or one month's imprisonment in default;

(b) for offences under Sections Nos. 45 and 53, to a fine not exceeding £5 or six months' imprisonment in default.

4/1786/31.
7. I replied in my despatch No. 413 of the 20th July 1931, stating that I did not consider it wise to introduce an interim measure and made the proposal, which was agreed to, that the matter should be deferred for a time.

7/1788/31.
8. In his despatch No. 11 of the 7th January 1932, Sir Philip Cunliffe-Lister enclosed a copy of the recommendations of the Committee appointed to examine the question of penal sanctions.

90086/4/32
deal.
9. I replied in my despatch No. 431 of the 5th September 1932, stating that I had received copies of despatches on the question of penal sanctions from the Governments of Nyasaland, Northern Rhodesia, and Uganda, and while appreciating the ideal at which Colonial Labour Conference aimed, I entirely agreed with these Governments that the abolition of penal sanctions would be premature and impracticable.

3/1788/31.
10. I also agreed with the reduction of the penalty for certain offences committed by servants to which Lord Passfield had referred in the second paragraph of his telegram No. 165 of the 19th May 1931.

11. Sir Philip Cunliffe-Lister accepted my views and those of the other East African Governments in

regard ...

regard to the abolition of penal sanctions, and in paragraph 2 of his despatch No. 652 of the 28th August 1933, stated that he did not wish to press the matter.

10/31/4/33
Jal

12. It will be seen that the draft bill submitted under cover of Sir Henry Moore's despatch No. 457 of the 7th July 1930, was approved by your predecessor subject to the amendments referred to in my despatch of the 20th April 1931, and Lord Passfield's telegram of the 18th May 1931. In view, however, of the number of amendments involved it has been considered desirable to draft a consolidating measure, and in submitting the following observations on the bill as now enclosed I shall, therefore, confine myself to explaining any additions, omissions, or alterations to the Clauses which have either not been referred to, or have already been approved by your predecessor.

1/6/25/30

11/3/27/16/31

13. Clause 1. The bill as now drafted provides that the Ordinance shall be cited as "the employment of Servants Ordinance, 1935". This change has been made in view of section 2 of the Interpretation (Definition of Native) Ordinance, 1934, which excludes Arabs, certain Abyssinians, Somalis, Maluchis born in Africa, Malagasias and Comore islanders from the definition of "native". A considerable number of these races, with the exception of Abyssinians, are employed as servants, and, as it is considered desirable that both they and their employers should receive the mutual protection afforded by the new legislation, these races have been included in the definition of "servant".

28-10/35
(in case)
- Sir C. ...

14. Clause 2 (a). The definition of "juvenile", "private servant", "recruiter" and "labour forwarding agent" have been amended in consequence of the Ordinance referred to in the last preceding paragraph of the despatch.

x This 8th
to Clause 5

(b) the definition of "unskilled labourer" has been omitted. I shall refer to the reasons for this below.

17/11/31

15. Clause 6 of the 1931 Bill, which referred to the giving of one month's notice by employer and employee in the case of servants other than unskilled labourers, has been omitted. In his despatch No. 457 of 7th July 1930, Sir Henry Moore asked that this clause should be retained on the grounds that great inconvenience was caused to employers through domestic servants, herdsmen or syces departing from their employment on the last day of their monthly contract without having given their employer any notice whatever or any reason to believe that they intended to terminate their contracts.

1/1/31

Circumstances have, however, changed since this opinion was expressed and I am of the opinion that the existing Ordinance works satisfactorily as it stands in this respect and that an amendment on the lines suggested would be disadvantageous to both the employer and employee. I trust you will agree, therefore, to the omission of Clause 6 of the 1931 Bill. A consequential amendment is the omission of the definition of "unskilled labourer" to which I have referred above.

17/11/31

16. Clause 50, which is based on Section 2 of Uganda Ordinance No. 9 of 1933, is designed to simplify the procedure in actions brought against employers for non-payment of wages.

1/1/31
agenda

17. Clause 70 (1) makes it an offence to give or to promise, before engagement, any wages of consideration in order to induce a native to enter into employment. Incessant trouble has been caused in the past by natives accepting advances from labour recruiters and absconding before engagement, and this practice is likely to become acute with the development of mining activities and the resulting competition in recruiting. Conversely,

some ...

some employers have in the past made large advances to employees prior to engagement, and have thus obtained a hold over the servant for long periods. At the same time, there are many cases in which a servant cannot accept employment unless he has some money to give to his family or to buy himself clothing, or for some other purpose, and sub-clause (2) of Clause 70 has been inserted in order to permit an advance not exceeding one month's wages to be made to a servant who has actually been engaged.

18. Clause 71 will enable the wife and family of a servant to reside with him at his place of employment, with the consent of the employer, for a period not exceeding two weeks, and, with the additional permission of a magistrate, for a longer period.

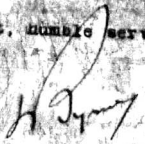
19. In view of the provisions of section 100 of ordinance no. 61 of 1930, Clause 83 has been substituted for section 83 of Chapter 139.

18/16087/30

I have the honour to be,

Sir,

Your most obedient, humble servant,



BRIGADIER-GENERAL.

G O V E R N O R.

COLONY AND PROTECTORATE OF KENYA



A BILL TO PROVIDE FOR THE CONTROL OF
THE EMPLOYMENT OF SERVANTS

A Bill to Provide for the Control of the Employment of Servants.

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 Employment of Servants Ordinance, 1935. Short title

2. In this Ordinance when not inconsistent with the context— Interpretation

“contract of service” means any contract whether in writing or oral, whether expressed or implied, to employ or to serve as a servant for any period of time and any contract of apprenticeship; Contract of service.

“desertion” means absence by a servant without lawful excuse for a period exceeding seven whole consecutive days from his place of employment; Desertion

“employer” means any person or any firm, corporation or company who or which has entered into a contract of service to employ any servant, and the agent, foreman, manager, or factor of such person, firm, corporation or company, and, where a servant has entered into a contract of service with the Government or with any officer on behalf of the Government, the Government officer under whom such servant is working shall be deemed to be his employer: Provided that no Government officer shall be personally liable under this Ordinance for anything done by him as an officer of the Government in good faith; Employer.

“foreign contract of service” means a contract of service made within the Colony and to be performed in all or in part outside the Colony and any contract for service with a foreign state: Provided, however, that a contract for employment of a domestic servant for service in the Uganda Protectorate or in the Tanganyika Territory or within the Dominions of the Foreign contract of service.

"Sultan of Zanzibar" means the Sultan of a sailor for service on a vessel or on a motor vessel or a vessel calling at the ports of the Sultan of the Dependencies of the Sultan of Zanzibar but the Sultan alone shall not be deemed to be a foreign contract of service.

Government medical officer

"Government medical officer" shall include any medical practitioner, assistant surgeon or sub-assistant surgeon specially appointed for the purpose of this Ordinance:

Juvenile

"juvenile" means an Arab, a Baluchi born in Africa, a Comoro Islander, a Malagasy, a Somali or a native who has not reached the apparent age of sixteen years;

Labour forwarding agent

"labour forwarding agent" means any person who acts as agent for an employer in respect of the engagement, attestation, rationing or travelling facilities of Arabs, Baluchis born in Africa, Comoro Islanders, Malagasies, Somalis or natives who voluntarily offer themselves for engagement under this Ordinance at the office of such labour forwarding agent, but does not include a private recruiter;

Parties

"parties" means the employer and employed under any contract of service;

Private recruiter

"private recruiter" means any person who by himself or by a servant in his regular, permanent and exclusive employ engages or enters into contracts with Arabs, Baluchis born in Africa, Comoro Islanders, Malagasies, Somalis or natives for his own bona fide personal or business service exclusively and includes any officer of Government who in the course of his duties recruits or collects Arabs, Baluchis born in Africa, Comoro Islanders, Malagasies, Somalis or natives for the purposes of Government work or labour.

Servant

"servant" means any Arab, Baluchi born in Africa, Comoro Islander, Malagasy, Somali or native employed or engaged by any person and who, in return for his services, is paid any money or is given any consideration whatsoever. Provided that the Governor may, by notice in the Gazette, exclude any person or class of persons, whether by name, race or occupation, from this definition and from the operation of this Ordinance.

Task

"task" means that extent of piece work that can be performed by a servant in six hours working diligently at such work.

"task work" means any work that can be performed by a servant in six hours working diligently at such work.

Task work

"writing" includes printing.

Writing

FORMATION AND INTERPRETATION OF CONTRACTS.

3. A contract of service which, or a sufficient memorandum whereof, is not in writing and signed by the parties thereto, shall not be in force for a longer period than one month from the making thereof.

Contracts not in writing and unsigned

4. Notwithstanding anything contained in section 3 of this Ordinance, it shall be competent for any person and an Arab, a Baluchi born in Africa, a Comoro Islander, a Malagasy, a Somali or a native to enter into a contract of service, either orally or in writing, for the servant to work for the employer for thirty days (in succession or otherwise at the election of the employer) and in such cases—

Employer and servant may enter into a contract for performance of thirty days work within a period of forty-two days.

(a) the employer shall provide work for the servant for such number of days;

(b) the employer shall provide food for the servant or payment in lieu thereof during the continuance of the contract, except for days on which the servant is absent from his place of employment without lawful cause or the mutual consent of parties;

(c) it shall not be necessary, if the contract be in writing, to comply with any of the formalities prescribed by this Ordinance for a written contract;

(d) the contract shall be known as a "thirty days contract" and shall not survive beyond a period of forty-two days from the making thereof. On the expiration of such period the servant shall be entitled to the payment of all wages accrued due in respect of the number of days he has worked in the proportion which such number of days bear to thirty;

(e) if the servant is absent from work through illness, the employer shall, at his own expense, if the servant is residing on the employer's premises, cause such servant to be properly fed during the period of his illness for the unexpired period of forty-two days.

Employer and servant may be taken into a contract of service in writing for a definite number of days' work in a period not exceeding one year.

5. Notwithstanding anything contained in paragraph (a) of section 8 of this Ordinance, it shall be competent for any person and an Arab, a Baluchi born in Africa, a Comoro Islander, a Madagasy, a Somali or a native to enter into a contract of service in writing for the servant to work for the employer within a specified calendar year not exceeding one year (or, where the Governor by notice in the Gazette so approves for any class of skilled work, two years) for a definite number of days (in succession or otherwise at the election of the employer) and in such case—

- (a) the employer shall provide work for the servant for such definite number of days;
- (b) the employer shall provide food for the servant or payment in lieu thereof during the continuance of the contract, except for days on which the servant is absent from his place of employment without lawful cause or by mutual consent of the parties;
- (c) the contract shall be known as a "special contract";
- (d) in all such contracts the number of days for which the servant engages to work and for which the employer engages to provide work shall be not less than five-sevenths of the total number of days of the duration of the contract.

Attestation of written contract.

8. (1) No written contract of service shall be enforced as against any servant who is unable to read and understand writing unless it bears an attestation under the hand and seal of a magistrate or of a justice of the peace to the effect that such contract was read over and explained to such servant in the presence of such magistrate or justice of the peace and was entered into by him voluntarily and with full understanding of its meaning.

Security for payment of wages.

(2) A magistrate or a justice of the peace may, when he deems it necessary before attesting any contract, require the employer to give security for the payment of the wages of the servant about to be engaged. Such security may be given by bond in the form set out in the Schedule hereto, or to the like effect, with one or more sureties to be approved by the magistrate or justice of the peace.

Foreign contract of service.

9. (1) Every foreign contract of service shall be in writing, signed by the parties thereto, and shall be approved and attested by a Provincial Commissioner or by a district officer authorized in writing by a Provincial Commissioner to approve and attest such contracts.

(2) Every foreign contract of service shall be in the form in the Schedule hereto or to the like effect.

A contract of service or foreign contract of service shall be attested by a magistrate, a justice of the peace or a Provincial Commissioner unless it specifies as accurately as may be—

Contracts of service not to be attested unless in certain forms.

- (a) the terms and duration of the service;
- (b) the place or limits within which such service is to be performed;
- (c) the remuneration to be paid;
- (d) a stipulation by the employer to pay the wages of the servant monthly or at shorter periods unless otherwise expressly desired by the servant; and
- (e) in the case of a foreign contract of service a stipulation by the employer to provide the servant with sufficient means of returning, if such servant desires to do so at the termination of the contract, to the place at which he was engaged.

9. (1) The Governor may by Rule prescribe the fees to be paid to Government on the attestation of contracts of service, foreign or otherwise, and may from time to time alter and vary such fees as he may think fit, and such fees shall be paid by the employer on or before the attestation of the contract.

Powers to fix fees for the attestation of contracts.

(2) A receipt for the amount of the fees paid by an employer, signed by the magistrate, justice of the peace, or Provincial Commissioner, as the case may be and bearing duly cancelled stamps for the amount paid, shall be delivered to the person paying the same. Save as herein provided a contract of service attested as aforesaid shall not be chargeable with any duty.

10. (1) When the employer in a foreign contract does not reside or carry on business within the Colony, he shall give security by bond in the form in the Schedule hereto or to the like effect, with one or more sureties, approved of by the Provincial Commissioner attesting the contract and resident within the Colony, conditional for the due performance of the contract in such sums as the Provincial Commissioner may consider reasonable.

Security in foreign contract of service.

(2) A Provincial Commissioner may require any employer in a foreign contract of service to give the bond mentioned in the preceding sub-section with the like securities.

Inducing persons to proceed abroad under informal contract.

11. Whoever

- (a) induces or attempts to induce any person to proceed outside the limits of the Colony with a view to being employed as a servant; or
 - (b) knowingly aids in the engagement of any person so induced, by forwarding or conveying him or by advancing money or by any other means whatever,
- shall, unless there is a foreign contract of service with such person and unless the provisions of this Ordinance relating to foreign contracts of service have been complied with, on conviction be liable to a fine not exceeding one hundred pounds, and in default of payment to imprisonment for any period not exceeding twelve months:

Provided, however, that an employer of a domestic servant or sailor engaged under a contract of service shall not render himself liable to the aforesaid penalties by inducing or attempting to induce such domestic servant or sailor to proceed in any place within the Uganda Protectorate or the Tanganyika Territory or within the dominions of the Sultan of Zanzibar beyond the Colony or to any port on Victoria Nyanza.

Duplicates to be attested. Custody of originals.

12. (1) Two duplicate copies of every contract of service attested under this Ordinance shall be attested along with the original; one duplicate shall be delivered to the employer and the other to the servant or in the case of a gang of servants to the headman of such gang.

(2) The original of every attested contract shall be deposited with and preserved by the Provincial Commissioner of the province within which the same was attested. An attested duplicate shall be evidence of the original.

A written contract not valid for more than two years.

13. A written contract of service other than a contract of apprenticeship shall not be binding or valid for a longer period than two years from the date thereof.

Determination of contract where duration not expressed

14. Every contract of service wherein no agreement is expressed respecting its duration, not being a contract to perform some specific work without reference to time, shall—

(a) if made, and to be performed within the Colony be deemed to be—

(i) in cases where the wages are not fixed by the contract or where the contract is to pay wages

at any period or at any rate other than monthly a contract at will, and determinable by either party at the close of any day without notice;

(ii) in cases where the contract is to pay wages monthly or at a monthly rate, a contract for one month and determinable by either party at the end of any month without notice.

(b) If a foreign contract of service, be determinable at any time upon notice of intention to terminate the contract being given by either party to the other one month before the date of the intended termination in cases where wages are by the contract or local custom payable monthly or at longer intervals, or one week before the date of the intended termination in cases where wages are by the contract or local custom payable weekly or at longer intervals, being less than monthly, or in all other cases one day before the date of the intended termination.

15. If the period expressed in any contract of service or foreign contract of service for the duration thereof expires, or if a servant seeks to determine any contract wherein no agreement is expressed respecting its duration whilst the servant is engaged in any voyage or journey, the employer may, for the purpose of terminating such voyage or journey, prolong the period of service for a sufficient period to enable the voyage or journey to be terminated: Provided that such extended period shall in no case exceed one month.

Contract expiring on journey may be prolonged.

16. Neither section 3 nor section 14 of this Ordinance shall apply to a contract of service entered into by a person in the service of the Government of the Colony, if and so long as special provision is made by law with regard to the duration or the notice required for the determination of such contracts of service.

Provision of sections 3 and 14 not to apply to Government servants.

17. (1) It shall be lawful for an employer and a servant to enter into a contract of service whereby the servant undertakes to perform task work for an agreed remuneration.

Task work.

(2) Where a task has not been completed the servant shall be entitled to be paid in proportion to the amount of the task which he has performed.

Eight hours to constitute day's work.

18. A servant may be required to work on any day on which he is employed for the purpose of a thirty days contract or a special contract for a period not exceeding eight hours exclusive of the time allowed for meals.

Penalty for decoying and harbouring servants.

19. Whoever decoys away or unlawfully induces any servant to quit the service of his employer, or who attempts to decoy away or attempts unlawfully to induce any servant to quit the service of his employer, or who knowingly harbours any servant who may improperly quit the service of his employer, shall be liable, on conviction, to a fine not exceeding one hundred and fifty pounds and in default of payment to imprisonment for any period not exceeding six months.

APPRENTICESHIP CONTRACTS.

Apprenticeship of children by parents or guardians.

20. The father, or in case of a fatherless child the guardian, of an Arab or a native child, or of the child of a Malagasy, a Comoro Islander, a Baluchi born in Africa, or a Somali may, if such child is above the age of nine years and under the age of sixteen, with the consent of such child testified by his execution of the deed of apprenticeship, apprentice him to a trade or employment in which art or skill is required, or as a domestic servant, for any term not exceeding five years.

Apprenticeship of children without known relatives or a guardian.

21. Whenever a child under the age of sixteen years of an Arab or of a native, a Malagasy, a Comoro Islander, a Baluchi born in Africa, or a Somali is without known relatives, and is without a guardian, a magistrate of the district in which such child resides or is found may authorize the apprenticing of such child to a trade or employment mentioned in the last preceding section, and may appoint some fit person to execute the deed of apprenticeship and to act generally as guardian of such child.

When persons may apprentice themselves.

22. An Arab, a native, a Malagasy, a Comoro Islander, a Baluchi born in Africa, or a Somali of the age of sixteen years or upwards, not being under a deed of apprenticeship, and subject to the provisions of section 24 of this Ordinance, may apprentice himself for a term not exceeding five years to a trade or employment in which art or skill is required or as a domestic servant.

Assignment of contracts of apprenticeship.

23. Every contract of apprenticeship may, with the consent of the parties *hereto*, and subject to the next succeeding section, be assigned.

24. (1) Every contract of apprenticeship and every assignment thereof shall be by deed, and no such deed shall be valid unless attested by and made with the approval of a magistrate having jurisdiction in the district where the person to be apprenticed shall be living, and unless such approval is certified in writing under the hand of the magistrate on the deed of apprenticeship or assignment.

(2) Deeds of apprenticeship may be in one of the forms in the Schedule hereto, or to the like effect.

25. Whoever removes or attempts to remove from the Colony any apprentice under this Ordinance during his apprenticeship without the authority in writing (the proof whereof shall be on him) of the Provincial Commissioner of the province wherein such apprentice resides shall be liable to a fine not exceeding one hundred and fifty pounds and in default of payment to imprisonment for a period not exceeding twelve months.

26. Whoever induces or attempts to induce any apprentice to quit the service of his employer shall be liable to a fine not exceeding twenty-five pounds and in default of payment to imprisonment for a period not exceeding three months.

27. If any person with whom any apprentice under this Ordinance has been placed shall retain such apprentice in his service after the stipulated period of service has expired, without any agreement between the parties for the payment of wages, the apprentice shall be entitled to recover from the person so retaining him wages at the ordinary current rate payable for service similar to that performed by such apprentice.

JUVENILES.

28. (1) No juvenile shall seek employment unless he shall have obtained a certificate from a district officer, which certificate shall be in the form set out in the Schedule hereto, and shall, if such be the case, state that the permission of the father or guardian has been obtained.

(2) A juvenile who has obtained such a certificate may, subject to the provisions of this Ordinance, enter into a contract of service.

Magistrate and approval unless by deed.

Apprentice not to be removed from the Colony.

Decoying apprentices.

Apprentices retained after expiration of contract entitled to wages.

Employment of juveniles.

(3) A district officer may withhold such certificate for any reason deemed by him to be sufficient.

Provided that—

- (a) when there is a parent or guardian of a juvenile in question and when such parent or guardian is unwilling to grant permission to such juvenile to seek employment the district officer shall withhold the certificate;
- (b) no juvenile who appears to be below the age of ten years shall be allowed to contract for service;
- (c) nothing in this section shall apply to any juvenile who is employed by the day only and who is accompanied throughout the duration of such employment by an adult relative.

Powers of district officer and Inspector of Labour.

29. A district officer of the district in which any juvenile is employed or seeking employment or an inspector of labour may exercise the following powers:—

- (1) He may terminate or cancel any contract of service, which may have been entered into by a juvenile, on the grounds that the employer is an undesirable character, or that the nature of the employment is dangerous, or immoral, or injurious to the health of such juvenile, or for any other reasonable cause.
- (2) On the application of a parent or guardian, or for any reason, which may appear desirable or proper, he may order any juvenile to return home, or restore him to the charge of such parent or guardian; and if such juvenile is employed, he may cancel the contract of service entered into by him.
- (3) Any person aggrieved by the action or by the order of a district officer or an inspector of labour under the provisions of this section may, within thirty days after the date of such action or such order as the case may be, appeal to the Chief Native Commissioner whose decision shall be final.

Apprenticeship contracts not affected.

30. Nothing in sections 27, 28 and 29 of this Ordinance contained shall be deemed to affect or apply to apprenticeship contracts.

CARE OF SERVANTS.

81. During the period of service the employer shall at all times at his own expense cause every servant in his service to be properly housed and shall observe all reasonable directions which may be given by a Government medical officer or an inspector of labour in respect of sanitary arrangements: Provided that the obligation of an employer as regards housing shall not by reason of this section extend to any case in which a servant is able to return to his home at the conclusion of his daily work or to obtain suitable and proper housing at or conveniently near to his place of employment.

Housing of servants.

82. During the period of the service of any servant employed at such a distance from such servant's home as to render it impossible for him to return to his home at the conclusion of his daily work, the employer shall at his own expense cause such servant to be properly fed and to be supplied with sufficient and proper cooking utensils and means of cooking: Provided, however, that the obligations of an employer to cause his servant to be fed or to supply cooking utensils and means of cooking as aforesaid, as the case may be, shall not extend to any case when the servant is employed at a place where he can obtain for himself sufficient and proper food, or cooking utensils and means of cooking, and when it has been expressly agreed between the parties, at the time of entering into the contract of service, that the servant shall procure his food or cooking utensils and means of cooking at his own expense.

Feeding of servants.

83. Where an employer is required by the provisions of this Ordinance to cause his servant to be housed or fed, he shall arrange for a proper water supply for the use of such servant.

Water supply for use of servants.

84. An employer shall, when necessary and if requested by a servant, supply him with a suitable blanket, and in the case of a porter engaged for a journey also with a jersey and a water-bottle. In any such case unless expressly agreed to the contrary the reasonable cost of the article or articles supplied shall be paid by the servant and may be deducted from the remuneration of the servant, and shall the whole or a portion of such cost shall have been so deducted as aforesaid by the servant the articles so supplied shall remain the property of the employer.

Blankets, etc when necessary to be supplied if requested by a servant. Unless otherwise agreed the cost to be paid by the servant.

Porters to be provided with sufficient and comfortable accommodation.

35. An employer shall when necessary provide sufficient that accommodation for his porters engaged for a journey.

Employer to provide medicines and medical attendance.

36. Every employer shall provide his servants with proper medicines during illness and also (if procurable) medical attendance during serious illness, and any employer failing so to provide shall, in addition to his liability for breach of this section, be liable to pay any expenses incurred by Government in providing such medical attendance.

Employer to notify a magistrate of the death of a servant and to deliver wages, etc., due or belonging to deceased to a magistrate.

37. (1) If a servant dies during service, the employer shall give immediate notice thereof to the nearest magistrate, together with a medical certificate, if procurable, of the cause of death.

(2) The employer shall pay to the magistrate all wages due and deliver to him all property belonging to the deceased servant, for transmission to the representatives of the deceased to be distributed in accordance with the law.

In certain cases servants to be returned to place of engagement at employer's expense.

38. Whenever any servant has been taken to the place of employment at the expense of the employer the employer shall, at the termination of the contract of service otherwise than by cancellation thereof by a magistrate on account of any wrongful act or default of the servant, in like manner return the servant to the place of engagement should the servant wish to return.

To supply food for servant's consumption when returning to place of engagement.

39. Every employer shall on the termination of the contract of service provide at his own expense a sufficient supply of food for the servant's consumption on the way back to the place of engagement.

LABOUR FORWARDING AGENTS.

Private recruiter and labour forwarding agent only to procure labour for employment.

40. No person shall himself or through agents or messengers, in his own name or otherwise, procure or attempt to procure, seek for engagement, conduct, take charge of, supply, or undertake to supply Arabs, Malagasies, Comoro Islanders, Baluchis, born in Africa, Somalis or natives to be employed in work or labour of any kind: Provided that nothing in this section shall prevent a private recruiter or labour forwarding agent from carrying out the functions ascribed to them in section 2 of this Ordinance.

Labour forwarding agent's licence.

41. (1) No person shall act as a labour forwarding agent unless he is in possession of a licence issued by a Provincial Commissioner in such form and in accordance with such Rules and conditions as the Governor in Council may, from time to time, prescribe.

(2) Every application for a licence to act as a labour forwarding agent shall be made in writing and shall state in full the name and address of the person to whom the licence is to be issued. The Provincial Commissioner may require any applicant for such licence to execute a bond for such amount as he may deem reasonable for the fulfilment of the provisions of this Ordinance and of any Rules or conditions that may be prescribed.

(3) The licence shall be issued for a limited period, not exceeding in any case twelve months, and shall specify the premises in which the labour forwarding agent is permitted to conduct his business.

(4) A labour forwarding agent shall not employ any person for the purpose of assisting him unless and until he has received the permission in writing of the Provincial Commissioner. The name of any person in respect of whom permission has been accorded shall be endorsed by the Provincial Commissioner on the labour forwarding agent's licence.

(5) A Provincial Commissioner may at his discretion refuse the issue of a labour forwarding agent's licence and may for reasonable cause cancel any licence which has been issued in so far as it relates to premises within his jurisdiction.

BREACH OF CONTRACT AND DISPUTES BETWEEN AND OFFENCES BY EMPLOYERS AND SERVANTS.

Complaint in cases of dispute between employers and servants.

42. Whenever an employer or servant neglects or refuses to fulfil any contract of service, or whenever any question, difference or dispute arises as to the right or liabilities of either party, or touching any misconduct, neglect or ill-treatment of either party, or any injury to the person or property of either party, under any contract of service, the party feeling aggrieved may make a complaint to any magistrate or justice of the peace, who may thereupon issue a summons to the party complained against: Provided that a magistrate holding a subordinate court of the third class or a justice of the peace shall forthwith forward such complaint to a magistrate having jurisdiction to try the case.

Complaints by
servants
No. 11 of 1936
Cap. 21.

43. (1) Notwithstanding anything contained in the Criminal Procedure Code or the provisions of the Peace Ordinance, any magistrate or justice of the peace may, on receiving from an employer a complaint in the form set out in the Schedule hereto, issue a warrant for the arrest of any servant therein alleged to have committed the offence of desertion.

(2) When a warrant has been issued as aforesaid, such servant may be arrested, wherever found, by any police officer and brought before a magistrate who may remand such servant to the magistrate of the district in which the services were to be rendered.

(3) On the termination of the hearing of a complaint as aforesaid, the court, if satisfied that the facts stated in the complaint were materially untrue in any particular, may, in addition to any other order for costs, order the complainant to pay into court a sum equivalent to the whole of the expenses incurred by Government in connection with the arrest and trial of such servant, together with such amount as may be assessed by the court as compensation to such servant for his arrest and trial. If such a sum is not paid forthwith the court may issue a distress warrant against the goods and chattels of the complainant, and goods and chattels taken under the distress warrant shall, unless the complainant pays the amount due by him together with the costs of the distress warrant, be sold and the amount due under the distress warrant together with the costs of the distress shall be paid into the revenue of the Colony, and the balance, if any, shall be paid to the complainant.

The jurisdiction of
magistrate.

44. Every magistrate holding a subordinate court of the first or second class and every special magistrate shall have jurisdiction, notwithstanding that the person complained against may be a European, an American or an Asiatic, and notwithstanding anything contained in any Ordinance or law respecting the jurisdiction of such magistrates to the contrary, in all cases arising in their respective areas of jurisdiction between employers and their servants, and with reference to their relative rights and duties or to any matter or thing or offence for which provision is made in this Ordinance.

45. Whenever a complaint as aforesaid shall be made to a magistrate holding a subordinate court of the third class or to a justice of the peace, and such magistrate or justice of the peace shall issue process for the purpose of requiring or compelling the attendance of the party complained against, such process shall be made returnable before a magistrate holding a subordinate court of the first or second class or a special magistrate having jurisdiction in the case.

A warrant or summons issued by a magistrate of third class or justice of the peace, to be made returnable before a magistrate having jurisdiction to try the case.

46. If at any time after the laying of the complaint it appears to the magistrate or justice of the peace, by information on oath, that the party complained against is about to abscond, he may cause him to be arrested and detained in custody, unless such party finds security to appear and answer the complaint and to abide by the decision of the court thereon.

Arrest of absconding defendant.

47. A magistrate having jurisdiction to adjudicate on any complaint made to him or forwarded to him for adjudication may, if it should appear to him that the matter of such complaint or of any cross complaint or defence could more properly or conveniently be dealt with in a civil action, order, at any time before judgment thereon is delivered by him, that the remedy, if any, for the matter complained of shall be by an action brought in accordance with the law relating to procedure in civil cases and not by complaint under this Ordinance.

A magistrate may order that the remedy of complainant shall be by civil cases and not by complaint under this Ordinance.

48. (1) Upon any complaint under this Ordinance the magistrate may, in addition to any jurisdiction he might have exercised if this Ordinance had not been made, exercise all or any of the following powers:—

Discretionary powers of magistrate.

(a) He may adjust and set off one against the other all such claims on the part either of the employer or of the servant arising out of, or incidental to the relation between them, as the magistrate may find to be subsisting, whether such claims are liquidated or unliquidated, and for wages, damages or otherwise, and he may direct the payment of such sum as he finds due by one party to the other party.

To adjust and set off claims.

To direct fulfillment of the contract

(b) He may direct fulfillment of the contract, and, in case where he might award damages for any breach of contract, he may, in place either of the whole or the damages which would otherwise have been awarded or some part of the damages, direct the party committing such breach to find security to the satisfaction of the magistrate for the due performance of so much of the contract as remains unperformed, and if the party neglects or refuses to find security, he may commit him to prison until he finds it, but the term of imprisonment shall not exceed three months.

To rescind the contract and apportion wages, etc.

(c) He may rescind the contract upon such terms as to the apportionment of wages or other sums due thereunder, and as to the payment of wages or damages or other sums due, as he thinks fit.

To impose fine

(d) When no amount of compensation or damages can be assessed, or when pecuniary compensation will not in the opinion of the magistrate meet the circumstances of the case, he may, in addition to rescinding the contract and discharging the parties therefrom, fine either party a sum not exceeding twenty pounds with imprisonment in default of payment for any period not exceeding one month.

To pass any sentence or judgment authorized by this Ordinance

(e) Where it appears to the magistrate that an employer or servant has been guilty of any offence under this Ordinance, he may in lieu of or in addition to doing any of the acts or things and in making any of the orders or directions authorized by paragraphs (a), (b) and (c) of this sub-section, pass any sentence or judgment authorized by this Ordinance upon the person so offending, and may make any order or do any act or thing by this Ordinance authorized, or which may lawfully be done for giving effect to such judgment or order.

Form of security

(2) A person shall give security under this section by a written or oral acknowledgment in the presence of the court of the undertaking or condition by which he binds himself, and such bond shall be forfeited

and entered in the manner provided for the certificate and endorsement of bonds under the law for the time being in force relating to offences in criminal cases.

(3) All the provisions provided in this Ordinance shall apply to proceedings in criminal cases, and the levying of moneys ordered to be paid shall apply to all proceedings and all orders for the payment of money under this Ordinance.

provisions relating to criminal procedure shall apply to proceedings under this Ordinance.

(4) Anything in this Ordinance to the contrary notwithstanding, it shall be lawful for any Magistrate, having jurisdiction in any proceedings under this Ordinance, whenever he considers that by following or by requiring the complainant to follow the procedure laid down by law for criminal cases the ends of justice will or may be defeated, to adopt or order to be adopted for all or any purpose of the proceedings and at any stage thereof or for the levying of moneys ordered to be paid, all or any of the provisions of the law for the time being in force relating to procedure in civil cases.

When civil procedure may be followed.

49. Whenever any male person appears liable to have any of the orders specified in the last preceding section made upon him, or to be punished in any other manner provided by this Ordinance, if he appears to the court to be under the age of sixteen years and to require punishment in the way of discipline rather than in any other manner, the court may instead of any other punishment order him to be detained for one day in any suitable place of detention, and to be whipped: Provided that in no case shall such whipping exceed twelve strokes.

Punishment of juveniles

50. (1) Notwithstanding anything contained in the Criminal Procedure Code, on a complaint or action against an employer in respect of wages due to more than one of his servants the magistrate may permit one complaint or one plaint to be made or filed by an inspector of labour or by one of such servants on behalf of all such servants and their claims to be proved by such inspector of labour or by such servant accordingly: Provided that the complaint or plaint shall have annexed thereto a schedule setting forth the names of such servants, their addresses and descriptions and the total amounts and periods over which wages are respectively due.

Joinder in cases of non-payment of wages

(2) All such claims shall rank equally between themselves and shall be paid in full, unless the amount recovered from the employer be less than the total amount of the claims with costs, in which case, after payment of the costs, all such claims shall abate in equal proportions among themselves and be paid accordingly. Costs given against the servants shall be paid by such servants or by any of them in such proportions as the court shall direct.

PENALTIES.

Offences by servants.

51. Any servant may be fined a sum not exceeding one-half of his monthly wages and in default of payment may be imprisoned for a period not exceeding one month if he is convicted of any of the following acts:—

- (1) If, after having entered into a contract, he fails or refuses without lawful cause to commence the service at the stipulated time.
- (2) If, without leave or other lawful cause, he absents himself from his employer's premises or other place proper and appointed for the performance of his work.
- (3) If, during working hours, he unfit himself for the proper performance of his work by becoming or being intoxicated.
- (4) If he neglects to perform any work which it was his duty to have performed or if he carelessly or improperly performs any work which from its nature it was his duty under his contract to have performed carefully and properly.
- (5) If without leave and for his own purposes he makes use of any horse, vehicle, or other property belonging to his employer.
- (6) If he uses any abusive or insulting language or is guilty of insulting behaviour to his employer, or to any person placed by his employer in authority over him, calculated to provoke a breach of the peace.
- (7) If he refuses to obey any command of his master, or of any person lawfully placed by his master in authority over him, which command it was his duty to obey.
- (8) If on entering into or for the purpose of obtaining a contract or service he gives a false name or address.

52. Any servant may be fined a sum not exceeding five pounds and in default of payment may be imprisoned for a period not exceeding six months if he is convicted of any of the following acts:—

- (1) If he wilfully or by wilful breach of duty or through drunkenness does any act tending to the immediate loss, damage or serious risk of any property placed by his employer in his charge or placed by any other person in his charge for delivery to or on account of his employer.
- (2) If he, by wilful breach of duty or by neglect of duty or through drunkenness, refuses or omits to do any lawful act proper and requisite to be done by him for preserving in safety any property placed by his employer in his charge, or placed by any other person in his charge for delivery to or on account of his employer.
- (3) If, being employed as a herdsman—
 - (a) he fails to report to his employer the death or loss of any animal placed in his charge (which animal he alleges to have died or to have been lost) at the earliest opportunity after he has discovered, or at the earliest opportunity after he should in the ordinary course of duty have discovered, such death or loss;
 - (b) he fails, after having received an order from his employer to preserve for the use or inspection of his employer any part or parts of an animal which he alleges to have died, to preserve such part or parts and is unable to prove to the satisfaction of the court the death of the animal which he alleges to have died;
 - (c) he alleges the loss of any animal placed in his charge and it is proved by his employer to the satisfaction of the court that such animal could not, in the circumstances of the case, have become irrevocably lost without the act or default of the servant.
- (4) If, being employed in any capacity other than that of a herdsman, he alleges the loss of any property placed in his charge by or for his employer and it is proved by his employer to the satisfaction of the court that the property in question could not have been lost without the act or default of the servant.

(5) If he shall be convicted of any offence under this Ordinance, or under a special contract, any be guilty of desertion.

Neither fine nor imprisonment seems to have the effect of cancelling a contract.

53. No delay during the period of imprisonment undergone under this Ordinance by a servant shall have the effect of cancelling the contract of service.

No wages to servant during period of imprisonment.

54. No wages shall become payable to a servant for or during any term of his imprisonment under this Ordinance.

When a servant is convicted of absconding himself or departing from service, period of absence may be added to term of service.

55. (1) When the offence of which any servant is convicted under this Ordinance is the offence of absconding himself from or of departing from the service of his employer, then the period of his absence may, on the application of the employer and at the discretion of the magistrate, be added to the term of service originally stipulated.

(2) In any such case it shall be the duty of the magistrate convicting such servant to ascertain at the trial the period of absence, and to certify the same by some writing under his hand to be delivered to the employer, and the period mentioned in such writing shall by all courts and in all places be deemed to be added to the original term of service.

Loss, etc. of employer's property

56. As often as any property of the employer shall be lost or damaged by means of any act or omission of his servant, it shall be lawful for the magistrate, if he thinks fit to fix the amount of compensation for such loss or damage, and to make such order as to the payment thereof, either at once or in instalments out of wages to be yet earned or otherwise, as shall seem to him to be reasonable and just. Provided that no instalment ordered to be paid out of wages shall exceed one half of the servant's monthly wage; if the instalments are ordered to be paid monthly, or one half of the servant's weekly wage if the instalments are ordered to be paid weekly.

Penalty on servant leaving service before working off an advance of wages.

57. Any servant who receives from his employer any wages in advance and who without good reason quits the service of such employer before such advance is fully repaid or worked off, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five pounds and in default of payment to imprisonment for a period not exceeding three months.

The limit within which complaint must be made by employer.

58. No servant shall be convicted under any of the foregoing sections of this Ordinance unless the employer shall lodge his complaint without undue delay after he becomes cognizant of the offence or alleged offence.

Penalty on employer.

59. An employer of any servant shall be liable to a fine not exceeding fifty pounds and in default of payment to imprisonment for a period not exceeding six months, if he is guilty of any of the following acts or omissions:—

Non-payment of wages.

(1) If he, without reasonable cause, fails to pay any wages due to such servant.

Detaining servant's property.

(2) If, before or after the expiration of the contract of service, upon demand made and without lawful cause, he refuses to deliver or permit to be taken away any property belonging to such servant lawfully retaining or being upon such employer's land without reasonable and probable cause for believing that the property in question was lawfully detained.

Failing to supply food, etc., stipulated for in any written contract.

(3) If he fails upon demand to supply or deliver to such servant the food, blanket or other articles stipulated for in any written contract of service, or if he supplies or delivers food, blanket or other articles not conformable to the said contract.

Non-compliance with provisions of Ordinance with regard to care of tenant.

(4) If he fails to comply with any of the provisions or requirements of sections 30 to 33 of this Ordinance.

GENERAL

Independent complaint offence.

60. Every person complained against or charged with an offence under this Ordinance shall be a competent but not compellable witness.

Independent not to be compelled to enter the dock except in certain events.

61. No person against whom a complaint is made under this Ordinance who is not immediately before the hearing of such complaint in actual custody shall be compelled to enter the dock or place usually assigned for prisoners under trial in the court or shall be otherwise treated as under arrest during the hearing of such complaint: Provided that if, in the opinion of the magistrate before whom the complaint is heard, it is necessary, in order to secure the attendance of an employer or servant, that he should be placed in custody, it shall be lawful for such magistrate to cause such person to be arrested and detained in custody.

The amount of a fine imposed or a part thereof may be paid to the complaining party.

62. When a magistrate imposes any fine or enforcement of any sum secured by a recognizance or bond, he may direct that such fine or sum when recovered, or any part thereof he thinks fit, shall be applied to compensate any employer or servant for any wrong or damage sustained by him by reason of the act or thing in respect of which the fine was imposed or by reason of the non-performance of the contract of service.

Servant may be put at Government expense pending issuing of complaint.

63. Whenever it appears to a magistrate having jurisdiction to adjudge upon a complaint made by a servant that such servant has not the means and is otherwise unable to obtain food for himself pending the determination of his complaint, he may cause such servant to be supplied with necessary food at the expense of Government, but in such case the cost thereof shall be a debt due to Government from such servant and may be deducted by the magistrate from any moneys received by him for or on behalf of such servant, or shall otherwise be paid by the servant.

The cost to be refunded by servant.

64. In any complaint under this Ordinance the process of the court of the magistrate for compelling the attendance of the party accused and of all necessary witnesses shall be maintained at the public charge and without any fees of court. Provided that, if at the trial the complaint shall appear to the magistrate to be frivolous or vexatious, the party complaining shall be liable to a fine not exceeding ten pounds, and to defray the costs of the process and of the witnesses in the case, and in default of payment of such fine and costs, shall be liable to be imprisoned for any period not exceeding one month. Such fine and costs may be imposed upon the accused of such trial and without any fresh action or proceeding for the recovery thereof.

Costs of witnesses, etc.

Persons may be proceeded against for any offence punishable under any law in force.

65. Nothing in this Ordinance shall prevent any employer or servant from being proceeded against according to law for any offence punishable under any law in force in the Colony.

Servant as to contract of service made abroad.

66. (1) Nothing in this Ordinance shall prevent any employer or servant from enforcing their respective rights and remedies in any breach or non-performance of any lawful contract of service made outside the Colony but the respective rights of such parties under such contract as well as against third parties invading such rights

may be enforced in the same manner as other contracts made thereunder may be enforced and all the Ordinance hereinbefore enacted: Provided that, whenever any such contract has been executed in conformity with this Ordinance, it shall be enforced in the same manner as a contract entered into under this Ordinance: But no written contract shall be the basis and execution of which shall be in conformity with this Ordinance shall be enforced as against a servant who is unable to read and understand writing. Any such contract shall be deemed to be executed in conformity with this Ordinance if it is signed by the names or marks of the contracting parties and bears, as concerns any illiterate parties, an attestation to the like effect as is prescribed by section 6 of the Ordinance.

(2) (a) If the contract was made in the United Kingdom or elsewhere in His Majesty's dominions or in a British protectorate or in a mandated territory the attestation may be by any justice of the peace or other officer authorized by law to take affidavits or to attest contracts of service.

(b) If the contract was made in any foreign parts the attestation may be by any judge or magistrate being authenticated by the official seal of the court to which he is attached or by any British minister, consul, vice-consul or consular agent.

67. (1) The Governor may appoint such persons as he may think fit and as occasion may require as special magistrates for the Colony or for any district or districts thereof, who shall hold office during the Governor's pleasure and whose appointment shall be notified in the Gazette.

Power to appoint special magistrates.

(2) A special magistrate shall have and exercise within the limits of which he is appointed such powers, rights, duties and jurisdiction as are vested in a special magistrate by or under this Ordinance or may be exercised in relation to the Ordinance by a magistrate holding a subordinate court of the first class.

68. Any magistrate or justice of the peace may for any purpose under this Ordinance at any time enter upon any land or into any building where any servant is employed as housed.

Magistrate or justice of the peace may enter land or buildings for purpose of Ordinance.

69. Any person who gives or offers to give any money or other gift to any native chief or headman with a view to securing a supply of servants shall on conviction be liable to a fine not exceeding twenty-five pounds.

Penalty for giving reward to chief or headman for procuring labour.

Advance of wages.

70. (1) No person shall give or promise to an Arab, a Malagasy, a Comoro Islander, a Baluchi born in Africa, a Somali or a native any advance of wages or any valuable consideration upon a condition expressed or implied that such Arab, Malagasy, Comoro Islander, Baluchi born in Africa, Somali or native or any dependant of his shall enter upon any employment.

(2) No employer shall give to a servant during any one month any advances of wages, whether in money or in kind exceeding in the aggregate one month's wages of such servant.

Wife and family may reside with such servant.

71. The wife and family of a servant may, with the written consent of the employer, reside with such servant at his place of employment :

Provided that the wife and family of such servant shall not so reside for any period in excess of two weeks unless, in addition to the written consent of the employer, such wife and family have received the written permission of a magistrate.

Penalty.

72. Any person contravening any of the provisions of this Ordinance or any Rules made thereunder for which no special penalty is provided shall on conviction be liable to a fine not exceeding thirty pounds and, in default of payment, to imprisonment for a period not exceeding three months.

Appointment of Inspectors of Labour and their Rights.

Powers and Duties.

Appointment of inspectors of labour.

73. (1) The Governor may from time to time appoint such inspectors (under the title of inspectors of labour) and such clerks and servants as he may deem necessary for the purposes of the execution of this Ordinance, and may appoint a principal inspector of labour with an office in Nairobi; and may, either generally or in particular cases, regulate the cases and manner in which the inspectors of labour or any of them are to execute and perform the powers and duties of inspectors by this Ordinance conferred, and may remove such inspectors, clerks and servants.

(2) Notice of the appointment of every such inspector of labour shall be published in the Gazette.

74. An inspector of labour under this Ordinance shall, for the purposes of the execution of this Ordinance, have power to do all or any of the following matters or things, namely:—

- (1) To enter, inspect and examine at all reasonable times by day and night any labour encampment or any farm or holding or other land whatsoever or any house, building or other erection whatsoever and every part of any of the aforesaid when he has reasonable cause to believe that any servant, other than a domestic servant, is living, residing or is employed thereon or therein; and after such entry as aforesaid or otherwise to make such inquiry and examination as may be necessary to ascertain whether the provisions of this Ordinance are being complied with so far as regards any servant living, residing or being employed in any such labour encampment, farm, holding or other land or in any such house, building or other erection as aforesaid, and if he shall deem fit, to take with him, in any of the cases aforesaid, a police officer or officers
- (2) At all reasonable times and without undue interference with the work of a servant, to require the production of any servant, contracts of service, labour wage or other register, certificate of physical fitness or other document whatsoever relating to servants from any person required by any law in force to be in possession of the same.
- (3) To enter, inspect and examine any hospital buildings and all latrines and other sanitary arrangements and any water supply.
- (4) To inspect and examine all food provided for the use of servants and to take samples thereof and to ascertain if reasonable medicines and dressings are provided for the use of servants. Any sample taken under this provision shall be taken in duplicate in the presence of the employer and shall be sealed in the presence of the employer and one sample so sealed shall be left with the employer.
- (5) To order all buildings or premises where servants are housed or employed to be kept in a clean and sanitary condition.

74. (a) To institute proceedings in respect of any offence committed by any person in contravention of any of the provisions of this Ordinance; (b) To issue Ordinances relating to houses and to prosecute and appear in his own name in respect of the same.

(c) To institute or appear for or to institute and appear on behalf of any servant in any civil proceedings by a servant against his master in respect of any matter or thing or cause of action arising out of or in the course of the employment, whether such civil proceedings shall be contemplated or instituted by the servant himself or be civil proceedings ordered by a magistrate in lieu of criminal proceedings pursuant to the provisions of section 47 of this Ordinance.

(7) To attest all written contracts of service required by law to be attested or any alteration in the same in all respects as a magistrate or justice of the peace can attest contracts of service under the provisions of this Ordinance.

Powers of
Government
medical officer.

75. A Government medical officer may for the purposes of this Ordinance exercise the powers conferred upon an Inspector of labour by sub-sections (1) to (5) inclusive of section 74 of this Ordinance and shall further have power to do all or any of the following matters or things, namely:—

(1) To order any servant who in his opinion is sick and for whom the conditions prevailing at the place of employment are not conducive to the rapid recovery of his health or strength to return to the place of his engagement, or to proceed to a native hospital. In any such case the employer shall at the earliest opportunity and at his own expense send such servant to such native hospital or to such place of engagement, as the case may be.

(2) To condemn food provided for Somalis, Comoro Islanders, Malagasies, Baluchis born in Africa, Arabs or natives which in his opinion is unfit for human consumption. No food condemned under the provisions of this section shall be given or sold to any Somali, Comoro Islander, Malagasy, Baluchi, born in Africa, Arab or native. If an employer objects to any such condemnation of food under this section

two samples of the food shall be taken in the presence of the medical officer and of the employer and one such sample shall be sealed and sent to the Government analyst and the other sample shall be sealed and left with the employer.

(3) To condemn any house, building or other erection whatsoever in which any servant is living or employed if in his opinion such house, building or other erection is unfitted by its construction, situation or condition for the purpose to which it is put. No such house, building or other erection so condemned shall be used for the aforesaid purpose until a Government medical officer has subsequently certified that the house, building or other erection may be used for such purpose.

(4) To order the supply of such variety of food for a servant as he may deem necessary.

(5) To order the employer to supply a servant working under a written contract of service with one or more suitable blankets or with clothing. In any such case the reasonable cost shall be paid by the servant and may be deducted from the remuneration of the servant and until the whole or a portion of such cost shall have been paid or deducted or otherwise paid by the servant the blanket or blankets or clothing supplied shall remain the property of the employer.

(6) To inspect all drugs and medicines provided for the use of servants.

76. In respect of orders given under sub-section (5) of section 74 of this Ordinance and in respect of orders given under sub-sections (2) to (5) inclusive of section 75 of this Ordinance, there shall be a right of appeal within a period of fourteen days to a magistrate holding a subordinate court of the first or second class or to such other person or body of persons as the Governor may, by notice in the Gazette, appoint for the purpose.

77. Every person who wilfully delays an Inspector of labour or a Government medical officer in the exercise of any power granted by this Ordinance, or who neglects or fails to comply with any requisition or order of an Inspector of labour or of a Government medical officer in pursuance of any powers conferred on them respectively by this Ordinance, or who neglects or fails to produce any contract of service, register,

certificate of physical fitness or other document whatsoever which he is required by or in accordance with this Ordinance to produce, or who conceals or prevents any servant from appearing before or being examined by an Inspector of Labour or a Government medical officer or who attempts so to conceal or prevent a servant shall be guilty of an offence and shall, on conviction by a magistrate entitled to hold a subordinate court of the first or second class, be liable to a fine not exceeding twenty five pounds and in default of payment to imprisonment for any period not exceeding one month.

Provisions in regard to Physical Fitness of Servants.

78. A Government medical officer shall, free of charge, examine every person being an Arab, Somali, Comoro (Islander, Malagasy, Baluchi born in Africa or a native brought to him by an employer or by a licensed labour forwarding agent for examination as to such person's physical fitness for the work in which it is intended to employ him, and shall give a certificate as to whether such person is or is not fit for such work.

79. Notwithstanding anything heretofore contained no juvenile shall in any case be employed or be caused to be employed as a porter, fuel cutter, trolley or rickshaw boy or in any other class of labour for which in the opinion of a Government medical officer he is physically unsuitable.

80. Any Arab, Somali, Comoro, Islander, Malagasy, Baluchi born in Africa or native who has been recruited by a Government medical officer, after such examination as is herebefore mentioned, as physically unfit for the work for which he has been recruited or of which he is intended to be employed shall be returned to his home or place of recruitment at the expense of the party who recruited him or produced him for medical examination.

Provided that failing the return to his home or place of recruitment at the expense of the party who recruited him or produced him for medical examination any magistrate or labour inspector may return such Arab, Somali, Comoro Islander, Malagasy, Baluchi born in Africa or native to his home or place of recruitment, and any expenses incurred thereby shall be recoverable summarily as a civil debt from the person who recruited him or from the employer for whose service such person recruited him.

Medical
examinations.

Prohibition
against
employment of
juveniles
under
the apparent
age of sixteen
years.

Persons
recruited on
medical
examination to
be returned
home at
expense of
recruiter or
other person
producing such
persons for
medical
examination.
Proviso.

81. Any person employing any Arab, Somali, Comoro, Islander, Malagasy, Baluchi born in Africa or native in contravention of the provisions of section 79 of this Ordinance shall on conviction by a magistrate of the first or second class be liable to a fine not exceeding one hundred pounds and in default of payment to imprisonment for any period not exceeding six months.

Power of Governor in Council to make Rules.

82. (1) The Governor in Council may make Rules for all or any of the following purposes:—

Power of
Governor in
Council to
make Rules

- (a) Prescribing, either generally or in particular cases, or for particular areas, the duties of and the acts to be performed by, an employer in respect of all or any of the following matters:—
 - (i) the premises in which servants are housed or employed, including sanitary arrangements and water supply;
 - (ii) the feeding of servants in cases where food is to be supplied by the employer under the contract of service, prescribing the amount, kind and variety of food to be supplied;
 - (iii) the care of the sick and injured;
 - (iv) the care of servants in transit between their homes and the place of their employment;
 - (v) the recruitment and engagement of servants under this Ordinance and the conditions under which they so work;
- (b) for the regulation and control of private recruiting and of the business of labour forwarding agents;
- (c) the keeping by employers and labour forwarding agents of books and the rendering of returns concerning servants;
- (d) prescribing classes of employment in which juveniles may not be employed.

(b) Regulating the recruitment of labour for service out of the Colony.

(c) Regulating the engagement and embarkation of servants to be employed under a foreign contract of service.

(2) All Rules made by the Governor in Council under this Ordinance shall be laid by the table of the Legislative Council.

Exceptions.

Especially. **83.** The provisions of this Ordinance shall not apply to any agreement entered into under the provisions of section 100 No. 21 of 1930 of the Shipping Ordinance, 1930.

Repeal.

Repeal. **84.** The Employment of Natives Ordinance, and all amendments thereto, are hereby repealed.

SCHEDULE.
FORM OF BOND.

(Under section 6 (2) of the Employment of Servants Ordinance, 1935.)

Be it known unto all men by these presents that we (4) severally bound unto (3) are jointly and and to any one or more of them in the sum of (2) to be paid to the said (1) their and each of their heirs, executors, administrators, and assigns. For which payment well and truly to be made as liquidated damages and not as a penalty, we bind ourselves jointly and severally, and our heirs, executors and administrators, and every one of them firmly by these presents.

Sealed with our seals, dated this day of 19.....

The condition of the above written obligation is such that if (4) (hereinafter called "the employer") the employer of the said (1) (hereinafter called "the employed") do pay to each of the employed performing their part of the agreement after-mentioned the several sums of money set opposite to their respective names in the schedule to an agreement made and entered into between the employer and the employed at on the day of 19..... and

- (1) Insert names and description of employer and one or more persons resident within the jurisdiction.
- (2) Name and description of the employed.
- (3) Insert sum, not less than half the total amount (less any advances) due by the contract.
- (4) Repeat names of employed.
- (5) Name of names of employers.
- (6) Name or names of employed.

Attested by (7) in regular payments to be computed from the day of and also to find and furnish the said employed with the substance set opposite to their respective names in the said schedule at regular (8) periods, to commence as aforesaid, as agreed and promised by the said employer in the said agreement, and to execute, carry out and perform his part of the said agreement in all respects, then this obligation to be void otherwise to be in full force and virtue.

Signed, sealed and delivered in the presence of

(To be signed and sealed by each of the obligants and attested, if practicable, by the officer attesting the relative agreement.)

- (7) Official name of officer before whom agreement is signed.
- (8) Weekly or monthly, etc., as the case may be.
- (9) Weekly or monthly, etc., as the case may be.

FORM OF FOREIGN CONTRACT OF SERVICE.

(Section 7 of the Employment of Servants Ordinance, 1935.)

Memorandum of agreement made this day of 19..... between (hereinafter called "the employer") of the one part, and the persons whose names appear in the schedule hereto (hereinafter called "the employed") of the other part.

1. Each of the employed hereby contracts with the employer to serve him in the capacity of for the period of to be computed from the day of 19.....

2. The employer hereby contracts with the employed that he will during the period aforesaid make to each of the employed the payments and allowances set opposite his name in the schedule hereto, and will at the expiration of the said period provide each of the employed who desires it with sufficient means of returning to the place at which he was hired.

In witness whereof the said parties have hereunto set their hands or made their marks at before the the day and year first above written.

Signature of Employer

THE SCHEDULE

Name and Address	Profession or Occupation	Agreement for subsistence on

The above-named parties set their hands or made their marks hereto in my presence, the agreement being assented to by them, upon the same being read over and explained to them in my presence, and I hereby attest under my hand and seal that the agreement was entered into voluntarily by them with full understanding of its meaning and effect.

FORM OF BOND.

(Under section 10 of the Employment of Servants Ordinance, 1935.)

Be it known unto all men by these presents that we *do* are jointly and severally bound unto (1) and to any one or more of them in the sum of (2) to be paid to the said (3) their and each of their heirs, executors, administrators and assigns. For which payment well and truly to be made as liquidated damages and not as a penalty, we bind ourselves jointly and severally, and our heirs, executors, and administrators, and every one of them firmly by these presents. Witness our seals, dated this day of 19.....

- (1) Insert names and description of employer and one or more survivors resident within the jurisdiction.
- (2) Name and description of the employed.
- (3) Insert sum, not less than half the gross amount (less any advances) due by the contract.
- (4) Repeat names of employer.

The condition of the above-written obligation is such that (hereinafter called "the employer") the employer of the said (hereinafter called "the employed") do pay to and to the employed performing their part of the agreement after-mentioned, the several sums of money set opposite to their respective names in the schedule to an agreement made and entered into between the employer and employed at on the day of 19..... and attested by (7) in regular (8) payments to be computed from the day of their departure at (9) and also to find and furnish the said employed with the subsistence set opposite to their respective names in the said schedule at regular (10) periods to commence as aforesaid, and do further at the expiration of the term of (11) computed from the day of departure of the said employed, provide the said employed or any of them desiring with sufficient means to return or with a free passage and subsistence during such passage back to (12) the place at which the said agreement was executed, as agreed and promised by the said employer in the said agreement, and to execute, carry out and perform his part of the said agreement in all respects, then this obligation to be void, otherwise to be in full force and virtue.

Signed, sealed and delivered in the presence of:

(To be signed and sealed by each of the obligants and attested if practicable by the officer attesting the relative agreement.)

- (2) Name or names of employees.
- (3) Name of names of employed.
- (7) Official name of officer before whom agreement is signed.
- (8) Weekly or monthly, etc., as the case may be.
- (9) Place of departure.
- (10) Weekly or monthly, etc., as the case may be.
- (11) Term of agreement.
- (12) Place of employment.

DEED OF APPRENTICESHIP

(Under section 20 of the Employment of Servants Ordinance 1985.)

This deed made the day of 19..... between a boy (1) above the age of nine years and under the age of sixteen, by of the one part, and of the other part.

Witnesseth as follows :-

1. The said by the authority of the said hereby binds himself apprentice to the said for years from the date hereof, and agrees during that term faithfully to serve the said and obey his lawful commands and not absent himself by day or night from the service of the said without leave.
2. The said agrees with the said that during the said term he will provide him with sufficient good food and drink and lodging and suitable clothing, and medical advice and medicine, and will instruct him or cause him to be instructed in the employment of and will produce him to any magistrate or justice of the peace whenever called upon by such magistrate or justice of the peace so to do, and at the end of the said term apply the said if he desires it with sufficient means of returning to his home.

In witness whereof (2) this day and year first above written (attestation when party or parties can read and write.)

Signed, sealed and delivered by the said in the presence of :

Magistrate

(1) Or "girl".
 (2) "Father" or "guardian".
 (3) The said have hereunto set their hands and seals, or "have hereunto made their marks and set their seals" or "the said has hereunto set his hand and seal and the said has hereunto made his mark and set his seal" as the case may be

Attestation when party or parties illiterate.

The mark of the said was made hereon and the indenture hereon sealed and delivered by him after the same was interpreted to him when he seemed fully to understand the same in the presence of :

Magistrate

Approved Magistrate

The day of 19.....

DEED OF APPRENTICESHIP

(Under section 21 of the Employment of Servants Ordinance 1985.)

This deed made the day of 19..... between (a child under the age of sixteen years without known relatives and without a guardian) by of (who has been appointed by the (1) as the guardian of the said and to execute this deed on his behalf) of the one part, and of the other part

Witnesseth as follows :-

1. The said by the authority of the said magistrate hereby binds himself apprentice to the said for years from the date hereof, and agrees during that term faithfully to serve the said and obey his lawful commands, and not to absent himself by day or night from the service of the said without leave.
2. The said agrees with the said that during the said term he will provide him with sufficient good food and drink and lodging and suitable clothing and medical advice and medicine, and will instruct him or cause him to be instructed in the employment of and will produce him to any magistrate or justice of the peace whenever called upon by such magistrate or justice of the peace so to do, and at the end of the said term will provide the said if he desires it with sufficient means of returning to his home.

In witness whereof (2) the day and year first above written. (Attestation and approval as in the immediately preceding form.)

(1) State by what magistrate appointed.
 (2) As in note (3) to preceding form.

DEED OF APPRENTORSHIP

(Under section 23 of the Employment of Servants Ordinance, 1935.)

This deed made the day of 19 .. between (a person not under the age of sixteen years) of of the one part and of the other part.

Witnesseth as follows:-

1. The said hereby binds himself apprentice to the said for years from the date hereof, and agrees during that term faithfully to serve the said and obey his lawful commands and not to absent himself by day or night from the service of the said without leave.

2. The said agrees with the said that during the said term he will provide him with sufficient good food and drink and lodging and suitable clothing, and medical advice and medicine and will instruct him or cause him to be instructed in the employment of

In witness whereof (1) the day and year first above written. (Attestation and approval as in the form under section 20.)

(1) As in note (3) to form under section 20.

CERTIFICATE

(Under section 23 of the Employment of Servants Ordinance, 1935.)

I hereby certify that son of a juvenile, has duly received from

(1) his father s/o registration number

(2) his guardian s/o registration number

(3) me, District Officer, the permission, required under section 23 of the Employment of Servants Ordinance, 1935, to seek employment.

(1) Strike out words not required.

FORM OF COMPLAINT

(Under section 43 of the Employment of Servants Ordinance, 1935.)

I, hereby make complaint as follows against hereby make Reg. No. hereinafter referred to as "the accused"

1. That the said accused on the day of was a servant employed by me at under a contract of service made under the provisions of the Employment of Servants Ordinance, 1935.

2. That the said contract of service was a- (a) Verbal contract for a calendar month commencing

(b) ~~Verbal~~ Written 30 days contract commencing

(c) Written "special" contract for months commencing

(d) Written contract for months commencing

3. That on or about the day of the said accused did, in contravention of the terms of the said contract, without lawful excuse absent himself from his place of employment at and has absented himself therefrom for a period exceeding seven whole consecutive days, thereby committing the offence of desertion.

I therefore apply for a warrant for the arrest of the said accused to answer the above complaint, which I undertake to substantiate on oath when required to do so.

Dated this day of

Employer.

(a), (b), (c) and (d) are alternative clauses; those inapplicable should be struck out.

C O P Y
O F
THE EMPLOYMENT OF NATIVES ORDINANCE
(CHAPTER 139 OF THE REVISED EDITION)
SHOWING IN RED INK THE AMENDMENTS
PROPOSED TO BE MADE BY THE EMPLOYMENT
OF SERVANTS BILL, 1935

"servant" means any Arab, Bahuch born in Africa, Eastern Islander, Malagasy, Somali or native employed or engaged by any person and who, in return for his services, is paid any money or is given any consideration, whatsoever; Provided that the Governor may, by notice in the Gazette, exclude any person or class of persons, whether by name, race or occupation, from this definition and from the operation of this Ordinance;

"desertion" means absence by a servant without lawful excuse for a period exceeding seven whole consecutive days from his place of employment.

CHAPTER 139.

THE EMPLOYMENT OF NATIVES

[1st March, 1910.]

Act No. 39 of 1909
No. 39 of 1910
No. 39 of 1910
No. 39 of 1910

1. This Ordinance may be cited as "the Employment of Natives Ordinance."

2. In this Ordinance when not inconsistent with the interpretative context

"servant" means any Arab or native employed for hire, wages or other remuneration as a labourer, herdsmen, artificer, domestic servant, sailor, boatman, porter, messenger or in any employment of a like nature in any of the foregoing and any Arab or native apprentice and any Arab or native to be exhibited in any capacity in any circus or exhibition.

"Native" means a native of Africa and of the Malay Peninsula or Asiatic race or origin and includes any through and Swahili.

Ord. 55/34

"Contract of service" means any contract, whether in writing or oral, whether expressed or implied, to employ or to serve as a servant for any period of time and any contract of apprenticeship.

"Government medical officer" shall include any medical practitioner, assistant surgeon or sub-assistant surgeon appointed for the purpose of this Ordinance.

"Employer" means any person or firm, company or corporation or company who or which has entered into a contract of service to employ any servant, and the agent, foreman, manager or factor of such person, firm, corporation or company and where a servant has entered into a contract of service with the Government or with any officer on behalf of the Government, the Government officer under whom such servant is working shall be deemed to be his employer, provided that no Government officer shall be personally liable under this Ordinance for anything done by him as an officer of the Government in good faith.

"Foreign contract of service" means a contract of service made within the Colony and to be performed in all or in part outside the Colony and any contract for service with a

foreign state. Provided, however, that a contract for employment of a domestic servant for service in the Uganda Protectorate or within the Dominions of the Sultan of Zanzibar or of a ship for service on a vessel on Lake Victoria Nyanza or on a vessel calling at the ports of that Lake or of the Dominions of the Sultan of Zanzibar shall not be deemed to be a foreign contract of service.

"Parties" means the employer and employed under any contract of service.

"Writing" includes printing.

"Labour agent" includes any person who shall himself or through agents or messengers in his own name or otherwise, procure or attempt to procure, seek for engagement, conduct, take charge of, supply, or undertake to supply natives to be employed in work or labour of any kind, provided that the words "labour agent" shall not apply to any person who procures or engages or conducts natives for his own *bona fide* domestic, personal service or business, exclusively or to any messenger or servant who procures or engages or conducts natives for his employer's domestic personal service or business, exclusively.

"Railway servant" shall mean any person employed by a public administration in connection with the service of a railway.

Examples of the scope of the Ordinance.

3. (1) A foreign contract of service shall be in writing and shall be signed by the parties thereto, otherwise such contract shall be void.

(2) A contract of service, which, or a sufficient memorandum thereof, is not in writing and signed by the parties thereto, shall not be in force for a longer period than one month from the making thereof.

Provided that it shall be lawful for an employer and servant to enter into a contract of service, either orally or in writing, the period of time comprised of thirty completed days' work, whether completed in succession or otherwise, in this Ordinance, to be a "thirty days' contract," and in the event of such thirty days' contract being in writing, it shall not be necessary to comply with any of the formalities prescribed by this Ordinance, in the case of written contracts: Provided

juvenile

"juvenile" means an Arab, a Baluchi born in Africa, a Comoro Islander, a Malagasy, a Somali or a native who has not reached the apparent age of sixteen years;

labour forwarding agent

"labour forwarding agent" means any person who acts as agent for an employer in respect of the engagement, attestation, rationing or travelling facilities of Arabs, Baluchis born in Africa, Comoro Islanders, Malagasies, Somalis or natives who voluntarily offer themselves for engagement under this Ordinance at the office of such labour forwarding agent, but does not include a private recruiter;

private recruiter

"private recruiter" means any person who by himself or by a servant in his regular, permanent and exclusive employ engages or enters into contracts with Arabs, Baluchis born in Africa, Comoro Islanders, Malagasies, Somalis or natives for his own *bona fide* personal or business service exclusively, and includes any officer of Government who in the course of his duties recruits or collects Arabs, Baluchis born in Africa, Comoro Islanders, Malagasies, Somalis or natives for the purposes of Government work or labour;

Task

"task" means that extent of piece work that can be performed by a servant in six hours working diligently at such work;

"task work" means any work the pay for which is estimated by the amount performed irrespective of the time occupied in its performance;

Employer and servant may enter into a contract for performance of thirty days work within a period of forty-two days.

Notwithstanding anything contained in section 138 of this Ordinance, it shall be competent for a master and servant to enter into a contract of service either orally or in writing, for the servant to work for the employer for thirty days (in succession or otherwise) at the election of the employer, and in such cases:-

(a) The employer shall provide work for the servant for such number of days.

(b) The employer shall provide food for the servant or payment in lieu thereof during the continuance of the contract, except for days on which the servant is absent from his place of employment without lawful cause or mutual consent of parties.

(c) It shall not be necessary for the contract to be in writing, to comply with any of the formalities prescribed in this Ordinance for a written contract.

The contract shall be known as a "thirty days contract" and shall not extend beyond a period of forty-two days from the making thereof. On the expiration of such period the servant shall be entitled to the payment of all wages accrued due in respect of the number of days he has worked in the proportion which such number of days bear to thirty.

If the servant is absent from work through illness, the employer shall, at his own expense, if the servant is residing on the employer's premises, cause such servant to be properly fed during the period of his illness for the unexpired period of forty-two days.

Further that subject to the provisions of section 138 of this Ordinance, in no event whatsoever shall such a contract extend beyond a period of forty-two consecutive days, and on the expiration of such period the servant shall be entitled to the payment of all wages accrued due in respect of the number of days he has worked in the proportion which such number of days bear to thirty.

If any servant employed under a thirty days' contract shall be absent from work through illness, the employer shall, at his own expense, if the servant is residing on the employer's premises, cause such servant to be properly fed during the period of his illness, for the unexpired period of forty-two days.

Abolition of contract term upon illness

No written contract of service shall be endorsed as against any servant who is unable to read and understand writing unless it bears an attestation under the hand and seal of a magistrate or of a justice of the peace to the effect that such contract was read over and explained to such party in the presence of such magistrate or justice of the peace and was entered into by him voluntarily and with full understanding of its meaning.

All such a contract conditions

Security for payment of wages

(2) A mag. deems it necessary to bind the employer to pay servant about the effect, with one note or justice

Where any contract of service shall be approved and attested by a magistrate or justice of the peace in the schedule hereto or to the like effect, the servant shall be deemed to have accepted the terms of the contract of service without having observed the assent of the Government to such contract, which assent the Government may at any time withhold.

Approval of contract of service by a magistrate or justice of the peace

The contract of service or contract of service shall be a contract of a justice of the peace of a magistrate, unless it specifies accurately as may be required.

Contract of service not to be attested unless in certain form

- (a) The notice and duration of the service.
- (b) The place or places within which such service is to be performed.
- (c) The remuneration to be paid.
- (d) A stipulation by the employer to pay the wages of the employed monthly or at shorter periods unless otherwise expressly desired by the employed, and

CAP. 189. Employment of Natives

(e) In the case of a foreign contract of service a stipulation by the employer to provide the servant with sufficient means of returning, if he so desires to do so, at the termination of the contract, to the place at which he was engaged.

Powers to fix fees for the attestation of contracts:

(11) The Governor may, by rule or order, fix the fees to be paid to the Government on the attestation of contracts of service, foreign or otherwise, and may from time to time alter and vary such fees as he may think fit, and such fees shall be paid by the employer on or before the attestation of the contract.

(12) A receipt for the amount of the fees paid by an employer, signed by the magistrate, justice of the peace, or district commissioner, as the case may be, and bearing duly cancelled stamps for the amount paid, shall be delivered to the person paying the same. Save as herein provided a contract of service attested as aforesaid shall not be chargeable with any duty.

Security in foreign contract of service:

106. (1) When the employer in a foreign contract does not reside or carry on business within the jurisdiction, he shall give security by bond in the form in the schedule hereto or to the like effect, with one or more sureties to be approved of by the district commissioner attesting the contract and resident within the jurisdiction, conditional for the due performance of the contract in such sums as the district commissioner may consider reasonable.

(2) The district commissioner may require any employer in a foreign contract of service to give the bond mentioned in the preceding subsection with the like securities.

108. Whoever

(a) induces or attempts to induce any person to proceed to the Colony with a view to being employed as a servant; or

(b) knowingly aids in the engagement of any person so induced, by forwarding or conveying him or by advancing money or by any other means whatever, unless there is a foreign contract of service with such person and unless the provisions of this Ordinance relating to foreign contracts of service have been complied with, shall be liable to imprisonment for a term of one year or to a fine of one hundred pounds, or to both and in default of payment to imprisonment for any period not exceeding twelve months.

Penalty:

Employer and servant may enter into a special contract for a definite number of days such as a period not exceeding two years.

63. Notwithstanding anything contained in clause (a) of section six of this Ordinance it shall be competent for an employer and a servant to enter into a contract of service in writing for the servant to work for the employer within a specified calendar period not exceeding one year (or where the Governor has, by notice in the Gazette, so approved for any class of settled work, two years), for a definite number of days (in succession or otherwise at the election of the employer, and in such case —

(a) The employer shall provide work for the servant for such definite number of days;

(b) The employer shall provide food for the servant or payment in lieu thereof during the continuance of the contract, except for days on which the servant is absent from his place of employment without lawful cause or by mutual consent of parties;

(c) The contract shall be known as a "special contract";

(d) In all such contracts the number of days for which the servant engaged to work and for which the employer engaged to provide work shall be not less than five-sevenths of the total number of days of the duration of the contract.

See 71/66

CAP. 100 Employment of Natives

(d) In the case of a foreign contract of service a stipulation by the employer to provide the servant with sufficient means of returning, if he so desires to do so, at the termination of the contract, to the place at which he was engaged.

Power to fix fees for the attestation of contracts.

9 (1) The Governor may fix the fees to be paid to the Government on the attestation of contracts of service, foreign or otherwise, and may from time to time alter and vary such fees as he may think fit, and such fees shall be paid by the employer on or before the attestation of the contract.

(2) A receipt for the amount of the fees paid by an employer, signed by the Magistrate, Justice of the Peace, or District Commissioner, as the case may be, and bearing duly cancelled stamps for the amount paid, shall be delivered to the person paying the same. Save as herein provided a contract of service attested as aforesaid shall not be chargeable with any duty.

10 (1) When the employer in a foreign contract does not reside or carry on business within the jurisdiction, he shall give security by bond in the form in the schedule hereto or to the like effect, with one or more sureties, to be approved of by the District Commissioner attesting the contract and resident within the jurisdiction, conditional for the due performance of the contract in such cases as the District Commissioner may consider reasonable.

Security in foreign contract of service.

(2) The District Commissioner may require any employer in a foreign contract of service to give the bond mentioned in the preceding subsection with the like securities.

11. Whoever

(a) induces or attempts to induce any person to proceed to or from the Colony with a view to being employed as a servant; or

Inducing persons to proceed abroad under informal contract.

(b) knowingly aids in the engagement of any person so induced, by forwarding or conveying him or by advancing money or by any other means whatever, unless there is a foreign contract of service with such person and unless the provisions of this Ordinance relating to foreign contracts of service have been complied with, shall be liable to imprisonment for a term of one year or to a fine of one hundred pounds, or to both and in default of payment

Penalty

to imprisonment for any period not exceeding twelve months.

Employer and servant may enter into a special contract for a definite number of days not exceeding two years.

6A. Notwithstanding anything contained in clause (a) of section six of this Ordinance it shall be competent for an employer and a servant to enter into a contract of service in writing for the servant to work for the employer within a specified calendar period not exceeding one year (or where the Governor has, by notice in the Gazette, so approved for any class of settled work, two years), for a definite number of days (in succession or otherwise at the election of the employer) and in such case

wa 7/25

(a) The employer shall provide work for the servant for such definite number of days;

(b) The employer shall provide food for the servant or payment in lieu thereof during the continuance of the contract, except for days on which the servant is absent from his place of employment without lawful cause or by mutual consent of parties;

(c) The contract shall be known as a "special contract";

(d) In all such contracts the number of days for which the servant engaged to work and for which the employer engaged to provide work shall be not less than five-sevenths of the total number of days of the duration of the contract.

Provided, however, that an employer of a domestic servant or sailor engaged under a contract of service shall not render himself liable to the aforesaid penalties by inducing or attempting to induce such domestic servant or sailor to be engaged in any place within the Uganda Protectorate within the dominions of the Sultan of Zanzibar beyond the Colony or to any port on Lake Victoria Nyanza.

10. (1) Two duplicate copies of every contract of service attested under this Ordinance shall be attested along with the original; one duplicate shall be delivered to the employer and the other to the ~~employer~~ or in the case of a gang to the headman of the gang. (2) The original of every attested contract shall be deposited with and preserved by the ~~local~~ Commissioner of the province within which the same was attested. An attested duplicate shall be evidence of the original.

Duplicate to be attested by Custom or Registrar

11. A written contract of service other than a contract of apprenticeship shall not be binding or valid for a longer period than two years from the date thereof.

A written contract not valid for more than two years

12. Every contract of service wherein no agreement is expressed respecting its duration, not being a contract to perform some specific work without reference to time, shall

Determination of contract where duration not expressed

(a) If made and to be performed within the Colony in

(i) In cases where the wages are not fixed by the contract or where the contract is to pay wages at any period or at any rate other than monthly, a contract at will, and determinable by either party at the close of any day without notice.

(ii) In cases where the contract is to pay wages monthly or at a monthly rate, a contract for one month and determinable by either party at the end of any month without notice.

(iii) If a foreign contract of service, be determinable at any time upon notice of his intention to terminate the contract being given by either party to the other one month before the date of the intended termination in cases where wages are by the contract or local custom payable monthly or at longer intervals, or one week before the date of the intended termination in cases where wages are by the contract or local custom payable weekly or at longer intervals, being less than monthly, or in all other cases one day before the date of the intended termination.

Provided, however, that an employer of a domestic servant or sailor engaged under a contract of service shall not render himself liable to the aforesaid penalties by inducing or attempting to induce such domestic servant or sailor to proceed in any place within the Uganda Protectorate within the dominions of the Sultan of Zanzibar beyond the Colony or to any port on Lake Victoria Nyanza.

13.10. Two duplicate copies of every contract of service attested under this Ordinance shall be attested along with the original: one duplicate shall be delivered to the employer and the other to the ~~employee~~ or in the case of a ~~ship~~ the headman of the gang. The original of every attested contract shall be deposited with and preserved by the ~~local~~ Commissioner of the province within which the same was attested. An attested duplicate shall be evidence of the original.

Duplicates to be attested with original.

13.11. A written contract of service other than a contract of apprenticeship shall not be binding or valid for a longer period than two years from the date thereof.

A written contract not valid for more than two years.

13.12. Every contract of service wherein no agreement is expressed respecting its duration, not being a contract to perform some specific work without reference to time shall—

Determination of contract where duration not expressed.

(a) If made and to be performed within the Colony be deemed to be—

(i) In cases where the wages are not fixed by the contract or where the contract is to pay wages at any period or at any rate other than monthly, a contract at will, and determinable by either party at the close of any day without notice.

(ii) In cases where the contract is to pay wages monthly or at a monthly rate, a contract for one month and determinable by either party at the end of any month without notice.

(b) If a foreign contract of service, be determinable at any time upon notice of his intention to terminate the contract being given by either party to the other one month before the date of the intended termination in cases where wages are by the contract or local custom payable monthly or at longer intervals, or one week before the date of the intended termination in cases where wages are by the contract or local custom payable weekly or at longer intervals, being less than monthly, or in all other cases one day before the date of the intended termination.

CAR 1891 Employment of Natives

Contract
service
between
employer
and
servant

13. If the period expressed in any contract of service or
other contract of service for the duration thereof shall expire
or if a servant shall seek to determine any contract wherein no
agreement is expressed respecting its duration, whether the
servant be engaged in any voyage or journey, the employer may,
for the purpose of terminating such voyage or journey, prolong
the period of service for a sufficient period to enable the voyage
or journey to be terminated. *Provided that such extension
shall be no less than ten days.*

Registration of
contracts - they
shall be kept
and to apply
for the same
within
three months

14. Neither section three subsection (1) nor section twelve
of this Ordinance shall apply to a contract of service entered
into by a ~~native or~~ person in the service of the
Government, or as long as special provision is made by law
with regard to the duration or the notice required for the
determination of such contracts of service.

Penalty for
deceiving and
harbouring
servants

15. Whoever deceives away or unlawfully induces any
servant to quit the service of his employer, or who attempts to
deceive away or attempts unlawfully to induce any servant to quit
the service of his employer, or who knowingly harbours any
servant who may improperly quit the service of his employer,
shall be liable on conviction to a fine not exceeding five pounds
or to imprisonment for ~~not exceeding three months~~ ^{the term of three months} or any period not
exceeding six months, or to both such fine and imprisonment.

Apprenticeship
of children
by
parents or
guardians

16. The father, or in case of a fatherless child, the
guardian of an Arab or a native child above the age of nine
years and under the age of sixteen years, with the consent of
such child testified by his or her possession of the deed of
apprenticeship, apprenticeship him to a trade or employment in
which art or skill is required, or as a domestic servant for any
term not exceeding five years.

Apprenticeship
of children
without known
relative
or a
guardian

17. Whenever an Arab or native child under the age of
sixteen years is without known relatives, and is without a
guardian, a magistrate of the district in which such child
resides or is found may authorise the apprenticing of such child
to a trade or employment mentioned in the last preceding
section, and may appoint some fit person to exercise the duty of
apprenticeship and to act generally as guardian of such child.

When persons
may apprentice
themselves

18. An Arab or native of the age of sixteen years or
upwards, not being under a deed of apprenticeship, and subject
as in section twenty of this Ordinance, may apprentice

17. (1) It shall be lawful for an employer and a servant ~~not work~~
to enter into a contract of service whereby the servant under-
takes to perform task work for an agreed remuneration.
(2) Where a task has not been completed the servant shall
be entitled to be paid in proportion to the amount of the
task which he has performed.

Eight hours
to constitute
day's work

18. A servant may be required to work on any day on
which he is employed for the purposes of a thirty days' contract
or a special contract for a period not exceeding eight hours
exclusive of the time allowed for meals.

*or of the father of a Malagasy, a Comoro, a Bahili born in Africa,
or a Somali, any of such child to*

*or an Arab or of a native, a Malagasy, a Comoro, a Bahili born in Africa,
or a Somali*

(a Malagasy, a Comoro, a Bahili born in Africa, or a Somali

CHAPTER 1007 Employment of Natives

Contract of service for a fixed period

13. If the period expressed in any contract of service or voyage contract of service for the duration thereof expires or if a servant shall seek to determine any contract wherein no agreement is expressed respecting its duration, whether the servant is engaged in any voyage or journey, the employer may, for the purpose of terminating such voyage or journey, prolong the period of service for a sufficient period to enable the voyage or journey to be terminated.

Duration of sections three and four not to apply to special contracts

14. Neither section three subsection (1) nor section four of this Ordinance shall apply to a contract of service entered into by a native or a person in the service of the Government, or a ship or boat as special provision is made by law with regard to the duration or the notice required for the determination of such contracts of service.

Penalty for enticing away and harbouring servants

15. Whoever entices away or unlawfully induces any servant to quit the service of his employer, or who attempts to decoy away or attempts unlawfully to induce any servant to quit the service of his employer, or who knowingly harbours any servant who has improperly quit the service of his employer, shall be liable on conviction to a fine not exceeding five pounds or to imprisonment for any period not exceeding six months, or to both such fine and imprisonment.

Apprenticeship of children in houses of guardians

20. 19. The father, or in case of a fatherless child, the guardian of an Arab or a native child above the age of nine years and under the age of sixteen years, with the consent of such child testified by his or her occupation of the deed of apprenticeship, apprentice him to a trade or employment in which art or skill is required, or as a domestic servant for any term not exceeding five years.

Apprenticeship of children without known relatives or a guardian

21. 17. Whenever an Arab or native child under the age of sixteen years is without known relatives, and is without a guardian, a magistrate of the district in which such child resides or is found may authorise the apprenticing of such child to a trade or employment mentioned in the last preceding section and may appoint some fit person to execute the deed of apprenticeship and to act generally as guardian of such child.

When persons may apprentice themselves

22. 18. An Arab or native of the age of sixteen years or upwards, not being under a deed of apprenticeship, and subject as in section twenty of this Ordinance, may apprentice

17. (1) It shall be lawful for an employer and a servant to enter into a contract of service whereby the servant undertakes to perform task work for an agreed remuneration.

(2) Where a task has not been completed the servant shall be entitled to be paid in proportion to the amount of the work which he has performed.

Eight hours to constitute day's work

18. A servant may be required to work on any day on which he is employed for the purpose of a thirty-days contract or a special contract for a period not exceeding eight hours exclusive of the time allowed for meals.

(1) of the child of a Malagasy, a Comoro Islander, a Bahili born in Africa or a Somali man, of such child is

(2) of an Arab or of a native, a Malagasy, a Comoro Islander, a Bahili born in Africa or a Somali

(3) a Malagasy, a Comoro Islander, a Bahili born in Africa or a Somali

823
of the 1928 P.M.
1928 P.M.
no 9/10/28

JUVENILES.

28. (1) No juvenile shall seek employment unless he shall have obtained a certificate from a district officer, which certificate shall be in the form set out in the Schedule hereto, and shall, if such be the case, state that the permission of the father or guardian has been obtained.

Employment of juveniles.

(2) A juvenile who has obtained such a certificate may, subject to the provisions of this Ordinance, enter into a contract of service.

(3) A district officer may withhold such certificate for any reason deemed by him to be sufficient:

Provided that --

(a) when there is a parent or guardian of a juvenile living, and when such parent or guardian is unwilling to grant permission to such juvenile to seek employment the district officer shall withhold the certificate.

(b) no juvenile who appears to be below the age of ten years shall be allowed to contract for service;

(c) nothing in this section shall apply to any juvenile who is employed by the day only and who is accompanied throughout the duration of such employment by an adult relative.

Powers of district officer and inspector of labour.

29. A district officer of the district in which any juvenile is employed or seeking employment or an inspector of labour may exercise the following powers:

(1) He may terminate or cancel any contract of service, which may have been entered into by a juvenile, on the grounds that the employer is an undesirable character, or that the nature of the employment is dangerous, or immoral, or injurious to the health of such juvenile, or for any other reasonable cause.

(2) On the application of a parent or guardian, or for any reason which may appear desirable or proper, he may order any juvenile to return home, or restore him to the charge of such parent or guardian; and if such juvenile be employed, he may cancel the contract of service entered into by him.

(3) Any person aggrieved by the action or by the order of a district officer or an inspector of labour under the provisions of this section may, within thirty days after the date of such action or such order as the case may be, appeal to the Chief Native Commissioner whose decision shall be final.

Apprenticeship contracts not affected.

30. Nothing in sections 17, 18 and 28 of this Ordinance contained shall be deemed to affect or apply to apprenticeship contracts.

himself for a term not exceeding ^{three} years to a trade or employment in which art or skill is required or to a domestic servant.

23 19. Every contract of apprenticeship may, with the consent of the parties thereto, and subject ^{to} in the next succeeding section, be assigned.

Assignment of contracts of apprenticeship.

24 20. Every contract of apprenticeship and every assignment thereof shall be by deed, and no such deed shall be valid unless attested by and made with the approval of a magistrate having jurisdiction in the district where the person to be apprenticed shall be living, and unless such approval be certified in writing under the hand of the magistrate on the deed of apprenticeship or assignment. Deeds of apprenticeship may be in one of the forms in the schedule hereto, or to the like effect.

Contracts of apprenticeship void unless approved by deed.

25 21. Whoever removes or attempts to remove ^{from the colony} any apprentice under this Ordinance from the colony during his apprenticeship without the authority in writing (the proof whereof shall be on him) of the ^{Provincial} ~~Chief~~ commissioner of the province where such apprentice resides shall be liable to imprisonment of either description for a term not exceeding ^{twelve} ~~three~~ months, or to a fine not exceeding one hundred and fifty pounds, or to both, ^{in default of payment to be imprisoned for a period not exceeding twelve months.}

Apprentices not to be removed from colony without authority.

26 22. Whoever induces or attempts to induce any apprentice to quit the service of his employer shall be liable to imprisonment of either description for a term not exceeding ^{three months} ~~three months~~ or to a fine not exceeding twenty-five pounds, or to both, ^{in default of payment to be imprisoned for a period not exceeding three months.}

Inducement of apprentices to quit service.

27 23. If any person with whom any apprentice under this Ordinance has been placed shall retain such apprentice in his service after the stipulated period of service has expired, without any agreement between the parties for the payment of wages, the apprentice shall be entitled to recover from the person so retaining him wages at the ordinary current rate payable for service similar to that performed by such apprentice.

Apprentices retained after expiration of contract entitled to wages.

Care of Servants.

28 24. During the period of service the employer shall at all times at his own expense cause every servant in his service to be properly housed, and shall observe all reasonable arrangements which may be given by ^{the Government} ~~the Government~~ in respect of sanitary arrangements: Provided, however, the obligation of an employer as regards housing shall not by reason of this section

Servants.

JUVENILES.

26. (1) No juvenile shall seek employment unless he shall have obtained a certificate from a district officer, which certificate shall be in the form set out in the Schedule hereto, and shall, if such be the case, state that the permission of the father or guardian has been obtained.

(2) A juvenile who has obtained such a certificate may, subject to the provisions of this Ordinance, enter into a contract of service.

(3) A district officer may withhold such certificate for any reason deemed by him to be sufficient:

Provided that—

(a) when there is a parent or guardian of a juvenile living, and when such parent or guardian is unwilling to grant permission to such juvenile to seek employment the district officer shall withhold the certificate;

(b) no juvenile who appears to be below the age of ten years shall be allowed to contract for service;

(c) nothing in this section shall apply to any juvenile who is employed by the day only and who is accompanied throughout the duration of such employment by an adult relative.

27. A district officer of the district in which any juvenile is employed or seeking employment or an inspector of labour may exercise the following powers:—

(1) He may terminate or cancel any contract of service, which may have been entered into by a juvenile, on the grounds that the employer is an undesirable character, or that the nature of the employment is dangerous, or immoral, or injurious to the health of such juvenile, or for any other reasonable cause.

(2) On the application of a parent or guardian, or for any reason which may appear desirable or proper, he may order any juvenile to return home, or restore him to the charge of such parent or guardian; and if such juvenile be employed, he may cancel the contract of service entered into by him.

(3) Any person aggrieved by the action or by the order of a district officer or an inspector of labour under the provisions of this section may, within thirty days after the date of such action or such order as the case may be, appeal to the Chief Native Commissioner whose decision shall be final.

30. Nothing in sections 17, 18 and 28 of this Ordinance contained shall be deemed to affect or apply to apprenticeship contracts.

Powers of district officer and inspector of labour.

Apprenticeship contracts not affected.

himself for a term not exceeding ^{five} years to a trade or employment in which art or skill is required or to a domestic servant.

23. Every contract of apprenticeship may, with the consent of the parties thereto, and subject to the next succeeding section, be assigned.

24. Every contract of apprenticeship and every assignment thereof shall be by deed, and no such deed shall be valid unless attested by and made with the approval of a magistrate having jurisdiction in the district where the person to be apprenticed shall be living, and unless such approval be certified in writing under the hand of the magistrate on the deed of apprenticeship or assignment. Deeds of apprenticeship may be in one of the forms in the schedule hereto, or to the like effect.

25. 21. Whoever removes or attempts to remove any apprentice under this Ordinance from the colony during his apprenticeship without the authority in writing (the price whereof shall be on him) of the ^{district} commissioner of the province where such apprentice resides shall be liable to imprisonment of either description for a term not exceeding ^{two} months or to a fine not exceeding one hundred and fifty pounds and in default of payment to be imprisoned for a period not exceeding twelve months.

26. 22. Whoever induces or attempts to induce an apprentice to quit the service of his employer shall be liable to imprisonment of either description for a term not exceeding three months or to a fine not exceeding twenty-five pounds and in default of payment to be imprisoned for a period not exceeding three months.

27. 23. If any person with whom any apprentice under this Ordinance has been placed shall retain such apprentice in his service after the stipulated period of service has expired, without any agreement between the parties for the payment of wages, the apprentice shall be entitled to recover from the person so retaining him wages at the ordinary current rate payable for service similar to that performed by such apprentice.

Care of Servants.

28. During the period of service the employer shall at all times of his own expense cause every servant in his service to be properly housed, and shall observe all reasonable provisions which may be given by any authority in respect of sanitary arrangements. Provided, however, the obligation of an employer as regards housing shall not by reason of this section

Assignment of contracts of apprenticeship.
Contracts and assignments invalid unless by deed approved.

from the colony to be apprenticed in the colony.
Apprentice not to be taken out of the colony without the consent of the Commissioner.

Apprentice to quit the service of his employer.

Apprentice retained after expiration of contract.

of servants.

G.A.P. 129. Employment of Native

extend to any case in which a servant is able to return to his home at the conclusion of his daily work or to obtain suitable and proper housing at or conveniently near to his place of employment.

Feeding of servants

32-25. During the period of the service of any servant employed at such distance from such servant's home as to render it impossible for him to return to his home at the conclusion of his daily work, the employer shall at his own expense cause such servant to be properly fed and to be supplied with sufficient and proper cooking utensils and means of cooking. Provided, however, that the obligations of an employer to cause his servant to be fed or to supply cooking utensils and means of cooking as aforesaid, as the case may be, shall not extend in any case when the servant is employed at a place where he can obtain for himself sufficient and proper food, or cooking utensils and means of cooking, and when it has been expressly agreed between the parties, at the time of entering into the contract of service, that the servant shall procure his food or cooking utensils and means of cooking at his own expense.

Water supply for use of servants

32-26. ^{Water} If and whenever an employer is required by the provisions of this Ordinance to cause his servant to be housed or fed, he shall arrange for a proper water supply for the use of such servant.

Blankets, etc. which may be required by a servant

32-27. An employer shall, when necessary and if requested by a servant, supply him with a suitable blanket, and in the case of a porter engaged for a journey also with a jersey and water-bottle. In any such case unless expressly agreed to the contrary the reasonable cost of the article or articles supplied shall be paid by the servant and may be deducted from the remuneration of the servant, and until the whole or a portion of such cost shall have been so deducted or otherwise paid by the servant the article or articles supplied shall remain the property of the employer.

Porter to be provided with sufficient tent accommodation

32-28. An employer shall, when necessary provide sufficient tent accommodation for his porter engaged for a journey.

Employer to provide medicine and medical attendance

32-29. Every employer shall provide his servants with proper medicines during illness and with proper medical attendance during serious illness. And any employer failing so to provide shall, in addition to his liability for breach of this section, be liable to pay any expenses incurred by a doctor in providing such medical attendance.

OAP. 120. Employment of Natives

extend to any case in which a servant is able to return to his home at the conclusion of his daily work or to obtain suitable and proper housing at or conveniently near to his place of employment.

Feeding of servants

12-25. During the period of the service of any servant employed at such distance from such servant's home as to render it impossible for him to return to his home at the conclusion of his daily work, the employer shall at his own expense cause such servant to be properly fed and to be supplied with sufficient and proper cooking utensils and means of cooking: Provided, however, that the obligations of an employer to cause his servant to be fed or to supply cooking utensils and means of cooking as aforesaid, as the case may be, shall not extend to any case when the servant is employed at a place where he can obtain for himself sufficient and proper food or cooking utensils and means of cooking, and when it has been expressly agreed between the parties, at the time of entering into the contract of service, that the servant shall procure his food or cooking utensils and means of cooking at his own expense.

Water supply for use of servants

12-26. If and whenever an employer is required by the provisions of this Ordinance to cause his servant to be (issued or fed), he shall arrange for a proper water supply for the use of such servant.

Blankets, etc. which are to be supplied to servants

12-27. An employer shall, when necessary and if requested by a servant, supply him with a suitable blanket, and in the case of a porter engaged for a journey also with a jersey and water-bottle. In any such case unless expressly agreed to the contrary the reasonable cost of the article or articles supplied shall be paid by the servant and may be deducted from the remuneration of the servant, and until the whole or a portion of such cost shall have been so deducted or otherwise paid by the servant the article or articles supplied shall remain the property of the employer.

Porters to be provided with sufficient food for subsistence

12-28. An employer shall, when necessary, provide sufficient tent accommodation for his porters engaged for a journey.

Employer to provide medicines and medical attendance

12-29. Every employer shall provide his servants with proper medicines during illness and also of procurable medical attendance during serious illness, and any employer failing so to provide shall, in addition to his liability as prescribed in section, be liable to pay any expenses incurred by a servant in providing such medical attendance.

extent to any case in which a servant is able to return to his home at the conclusion of his daily work or to obtain suitable and proper housing at or conveniently near to his place of employment.

Feeding of
servants

32-25. During the period of the services of any servant employed at such distance from such servant's home as to render it impossible for him to return to his home at the conclusion of his daily work, the employer shall at his own expense cause such servant to be properly fed and to be supplied with sufficient and proper cooking utensils and means of cooking. Provided however, that the obligations of an employer to cause his servant to be fed or to supply cooking utensils and means of cooking as aforesaid, in the case only be, shall not extend to any case where the servant is employed at a place where he can obtain for himself sufficient and proper food or cooking utensils and means of cooking, and where it has been expressly agreed between the parties, at the time of entering into the contract of service, that the servant shall procure his food or cooking utensils and means of cooking at his own expense.

Water supply
for use of
servants

33-26. If ^{Office} an employer is required by the provisions of this Ordinance to cause his servant to be housed or fed, he shall arrange for a proper water supply for the use of such servant.

Blankets
to be supplied
if requested
by servant
If no such
agreement
has been
made the
cost to be
paid by
servant

34-27. An employer shall when necessary, and if requested by a servant, supply him with a suitable blanket and in the case of a porter engaged for a journey also with a sock and water bottle. In any such case unless expressly agreed to the contrary the reasonable cost of the article or articles supplied shall be paid by the servant and may be deducted from the remuneration of the servant, and until the whole or a portion of such cost shall have been so deducted or otherwise paid by the servant the article or articles supplied shall remain the property of the employer.

Provision to be
made for
servants
Employer to
provide
medicine and
medical
attendance

35-28. An employer shall when necessary provide suitable tent accommodation for his porters engaged for a journey.

36-29. Every employer shall provide his servants with proper medicines during illness and also (if procurable) medical attendance during serious illness, and any employer failing so to provide shall, in addition to his liability for breach of this section, be liable to pay any expenses incurred by a servant in providing such medical attendance.

extend to any case in which a servant is able to return to his home at the conclusion of his daily work or to obtain suitable and proper housing at or conveniently near to his place of employment.

Employment of
servants

32-25. During the period of the service of any servant employed at such distance from such servant's home as to render it impossible for him to return to his home at the conclusion of his daily work, the employer shall at his own expense cause such servant to be properly fed and to be supplied with ~~adequate~~ proper cooking utensils and means of cooking. Provided however, that the obligations of an employer to cause his servant to be fed or to supply cooking utensils and means of cooking as aforesaid, in the case any be, shall not extend to any case where the servant is employed at a place where he can obtain for himself sufficient and proper food, or cooking utensils and means of cooking, and where it has been expressly agreed between the parties, at the time of entering into the contract of service, that the servant shall procure his food or cooking utensils and means of cooking at his own expense.

Water supply
for use of
servants

32-26. If ~~and whenever~~ ^{whenever} an employer is required by the provisions of this Ordinance to cause his servant to be lodged or fed, he shall arrange for a proper water supply for the use of such servant.

Articles to
be supplied
to be supplied
to a servant
upon being
engaged to
be employed
by an employer

32-27. An employer shall when necessary, and if requested by a servant, supply him with a suitable blanket and in the case of a porter engaged for a journey also with a jacket and water-bottle. In any such case unless expressly agreed to the contrary the reasonable cost of the article or articles supplied shall be paid by the servant and may be deducted from the remuneration of the servant, and until the whole or a portion of such cost shall have been so deducted or otherwise paid by the servant the article or articles supplied shall remain the property of the employer.

Provision to be
made for
servants
employed
in
providing
medical
attendance

32-28. An employer shall when necessary provide suitable rest accommodation for his porters engaged for a journey.

32-29. Every employer shall provide his servants with proper medicines during illness and also (if procurable) medical attendance during serious illness, and any employer failing so to provide shall, in addition to his liability for breach of this section, be liable to pay any expenses incurred by a servant in providing such medical attendance.

LABOUR FORWARDING AGENTS.

Private
permits and
labour for-
warding agent
only to recruit
labour for
employment

40. No person shall himself or through agents or messengers, in his own name or otherwise, procure or attempt to procure, seek for engagement, conduct, take charge of, supply, or undertake to supply, Arabs, Malagases, Comoro Islanders, Baluchis born in Africa, Somalis, or natives to be employed in work or labour of any kind. Provided that nothing in this section shall prevent a private recruiter or labour forwarding agent from carrying out the functions ascribed to them in section 2 of this Ordinance.

41. (1) No person shall act as a labour forwarding agent unless he is in possession of a licence issued by a Provincial Commissioner in such form and in accordance with such Rules and conditions as the Governor in Council may, from time to time, prescribe.

(2) Every application for a licence to act as a labour forwarding agent shall be made in writing and shall state in full the name and address of the person to whom the licence is to be issued. The Provincial Commissioner may require any applicant for such licence to execute a bond for such amount as he may deem reasonable for the fulfilment of the provisions of this Ordinance and of any fines or conditions that may be prescribed.

(3) The licence shall be issued for a limited period, not exceeding in any case twelve months, and shall specify the premises in which the labour forwarding agent is authorised to conduct his business.

(4) A labour forwarding agent shall not employ any person for the purpose of assisting him unless and until he has received the permission in writing of the Provincial Commissioner. The name of any person in respect of whom permission has been accorded shall be endorsed by the Provincial Commissioner on the labour forwarding agent's licence.

(5) A Provincial Commissioner may at his discretion refuse the issue of a labour forwarding agent's licence and may for reasonable cause cancel any licence which has been issued in so far as it relates to premises within his jurisdiction.

Employment of Natives

CAP. 186

3730 (1) If a servant dies during service, the employer shall give immediate notice thereof to the nearest magistrate, together with a medical certificate, if procurable, of the cause of death. (2) The employer shall pay to the magistrate all wages due and deliver all property belonging to the deceased servant for transmission through the agency of the administration to the representatives of the deceased, to be distributed in accordance with the law.

Magistrate of the death of a servant and all wages, etc., due to deceased to a magistrate.

3781. Whenever any servant shall have been taken to the place of employment at the expense of the employer the employer shall, at the termination of the contract of service, otherwise than by cancellation thereof by a magistrate on account of any wrongful act or default of the servant, in like manner return the servant to the place of engagement should the servant wish to return.

In certain cases servants to be returned to place of engagement at employer's expense.

3732. Every employer shall, at the termination of the contract of service provide at his own expense a sufficient supply of food for the servant's consumption on the way back to the place of engagement.

To supply food for servant's consumption when returning to place of engagement.

Labour Agents.

33. No labour agent shall recruit or seek to recruit any native to be employed in work or labour unless such labour agent is in possession of a permit issued by the senior Commissioner in the form contained in the schedule to this Ordinance or any form hereafter substituted therefor by or in accordance with any rules and conditions as the Governor may prescribe from time to time.

No labour agent to recruit labour without permit.

34. Every application for a permit to recruit at aforesaid shall be made in writing and expressly state the name of the labour agent to whom the permit is to be issued. The senior Commissioner may require any person by whom an application for a permit is made to sign a bond for such amount as may be required for the fulfilment of the provisions of this Ordinance and of any rules or conditions prescribed by the Governor.

Application for permit to be made in writing. Bond may be required for labour agent.

35. The permit shall be issued for a limited period, not exceeding in any case twelve months, and for a specified district or for specified districts only in the province of the officer issuing the same.

Permits to be issued for limited time and for specified districts.

bb

LABOUR FORWARDING AGENTS.

Private
recruiter and
labour forward-
ing agent
only to provide
labour for
employment.

40. No person shall himself or through agents or messengers, in his own name or otherwise, procure or attempt to procure, seek for engagement, conduct, take charge of, supply, or undertake to supply Arabs, Malagases, Comoro Islanders, Baluchis born in Africa, Somalis or natives to be employed in work or labour of any kind. Provided that nothing in this section shall prevent a private recruiter or labour forwarding agent from carrying out the functions ascribed to them in section 2 of this Ordinance.

41. (1) No person shall act as a labour forwarding agent unless he is in possession of a licence issued by a Provincial Commissioner in such form and in accordance with such rules and conditions as the Governor in Council may, from time to time, prescribe.

(2) Every application for a licence to act as a labour forwarding agent shall be made in writing and shall state in full the name and address of the person to whom the licence is to be issued. The Provincial Commissioner may require any applicant for such licence to execute a bond for such amount as he may deem reasonable for the fulfilment of the provisions of this Ordinance and of any rules or conditions that may be prescribed.

(3) The licence shall be issued for a limited period, not exceeding in any case twelve months, and shall specify the premises in which the labour forwarding agent is permitted to conduct his business.

(4) A labour forwarding agent shall not employ any person for the purpose of assisting him unless and until he has received the permission in writing of the Provincial Commissioner. The name of any person in respect of whom permission has been granted shall be endorsed by the Provincial Commissioner on the labour forwarding agent's licence.

(5) A Provincial Commissioner may at his discretion refuse the issue of a labour forwarding agent's licence and may for reasonable cause cancel any licence which has been issued in so far as it relates to premises within his jurisdiction.

37. (a) If a servant dies during service, the employer shall give immediate notice thereof to the nearest magistrate together with a medical certificate, if procurable, of the cause of death. (b) The employer shall pay to the magistrate all wages due and deliver all property belonging to the deceased servant, for transmission through the agency of the administration to the representatives of the deceased, to be distributed in accordance with the law.

Magistrate to advise the nearest magistrate of the death of a servant and to deliver wages, etc. due or belonging to deceased to a magistrate.

38. Whenever any servant shall have been taken to the place of employment at the expense of the employer the employer shall, at the termination of the contract of service, otherwise than by cancellation thereof by a magistrate on account of any wrongful act or default of the servant, in like manner return the servant to the place of engagement should the servant wish to return.

In certain cases servants to be returned to place of engagement at employer's expense.

39. Every employer shall, at the termination of the contract of service provide at his own expense a sufficient supply of food for the servant en route on the way back to the place of engagement.

To supply food for servant's en route on way returning to place of engagement.

Labour Agents.

33. No labour agent shall recruit or seek to recruit any native to be employed in work or labour unless such labour agent is in possession of a permit issued by the Provincial Commissioner in the form contained in the schedule to this Ordinance or any form hereafter substituted therefor by or in accordance with any rules and conditions as the Governor may prescribe from time to time.

No labour agent to recruit labour without a permit.

34. Every application for a permit to recruit at aforesaid shall be made in writing and expressly state the name of the labour agent to whom the permit is to be issued. The Provincial Commissioner may require any person by whom an application for a permit is made to sign a bond for such amount as may be required for the fulfilment of the provisions of this Ordinance and of any rules or conditions prescribed by the Governor.

Application for permit to be made in writing. A bond may be required of labour agent.

35. The permit shall be issued for a limited period, not exceeding in any case twelve months, and for a specified district or for specified districts only in the province of the place issuing the permit.

Permit to be issued for limited time and for specified districts.

37. 30. If a servant dies during service, the employer shall give immediate notice thereof to the nearest magistrate together with a medical certificate, if procurable, of the cause of death. The employer shall pay to the magistrate all wages due and deliver all property belonging to the deceased servant for transmission through the agency of the administration to the representatives of the deceased, to be distributed in accordance with the law.

Employer to notify magistrate of the death of a servant and to deliver wages, etc., due to him belonging to deceased to a magistrate.

38. Whenever any servant shall have been taken to the place of employment at the expense of the employer the employer shall, at the termination of the contract of service, otherwise than by cancellation thereof by a magistrate or account of any wrongful act or default of the servant, in the manner return the servant to the place of engagement should the servant wish to return.

In certain cases servant to be returned to place of engagement at employer's expense.

39. Every employer shall on the termination of the contract of service provide at his own expense a sufficient supply of food for the servant's consumption on the way back to the place of engagement.

To supply food for servant's consumption on the way back to place of engagement.

Labour Forwarding Agents

Private recruitment agents not to recruit labour for employment.

40. No person shall himself or through agents or messengers, in his own name or otherwise, procure or attempt to procure, seek for employment, conduct, take charge of, supply, or undertake to supply, Arabs, Malaysians, Comoro Islanders, Bantu's born in Africa, Boninis or natives to be employed in work or labour of any kind. Provided that nothing in this section shall prohibit a private recruiter or labour forwarding agent from carrying out the functions ascribed to him in section 2 of this Ordinance.

41. (1) No person shall act as a labour forwarding agent unless he is in possession of a licence issued by a Provincial Commissioner in such form and in accordance with such rules and conditions as the Governor in Council may, from time to time, prescribe.

Labour forwarding agent's licence.

(2) Every application for a licence to act as a labour forwarding agent shall be made in writing and shall state in full the name and address of the person to whom the licence is to be issued. The Provincial Commissioner may require any applicant for such licence to execute a bond for such amount as he may deem reasonable for the fulfilment of the provisions of this Ordinance and of any rules or conditions that may be prescribed.

(3) The licence shall be issued for a limited period, not exceeding in any case twelve months, and shall specify the premises in which the labour forwarding agent is permitted to conduct his business.

(4) A labour forwarding agent shall not employ any person for the purpose of assisting him, unless and until he has received the permission in writing of the Provincial Commissioner. The name of any person in respect of whom permission has been accorded shall be endorsed by the Provincial Commissioner on the labour forwarding agent's licence.

(5) A Provincial Commissioner may at his discretion refuse the issue of a labour forwarding agent's licence and may for reasonable cause cancel any licence which has been issued in so far as it relates to premises within his jurisdiction.

Labour Agents

39. No labour agent shall recruit or seek to recruit any native to be employed in work or labour unless such labour agent is in possession of a permit issued by the senior commissioner in the form contained in the schedule to this Ordinance or any form hereafter substituted therefor by or in accordance with any rules and conditions as the Governor may prescribe from time to time.

No labour agent to recruit labour without a permit.

34. Every application for a permit to recruit as aforesaid shall be made in writing and expressly state the name of the labour agent to whom the permit is to be issued. The senior commissioner may require any person by whom an application for a permit is made to sign a bond for such amount as may be required for the fulfilment of the provisions of this Ordinance and of any rules or conditions prescribed by the Governor.

Application for permit to be made in writing. Bond may be required of labour agent.

35. The permit shall be issued for a limited period, not exceeding in any case twelve months, and for a specified district or for specified districts only in the province of the officer issuing the same.

Permits to be issued for limited time and for specified districts.

Labour agent
not to employ
person to recruit
labour
without first
notifying the
senior commissioner.

Penalty for
breach of
various provisions.

Power to make
rules.

Penalties

36. A labour agent shall not employ any agent for the purpose of assisting him in recruiting unless and until he shall first have notified the senior commissioner in writing of such employment and of the name of such agent.

37. A senior commissioner may refuse the issue of a permit to any person who shall have committed a breach of the provisions of this Ordinance relating to labour agents or of any rule or condition which may have been prescribed by the Governor.

38. The Governor in Council may make rules for any of the purposes following:—

- (1) Prohibiting the recruiting of natives in any specified districts, areas or places, or regulating the recruiting of labour in such districts, areas or places.
- (2) Providing for the proper clothing, feeding and housing of natives recruited by and at the expense of labour agents.
- (3) Prescribing the fees to be paid in respect of a permit to recruit labour.
- (4) Imposing such conditions upon labour agents and the recruitment of natives for work or labour as he may consider proper for the protection of natives.

All such rules shall be laid before the Legislative Council before the same are published in the Gazette.

39. Any labour agent, who shall without a permit be employed in work or labour, or who shall having obtained a permit contravene any of the provisions of this Ordinance relating to labour agents, or who shall commit any breach of any rule or condition prescribed by the Governor shall be liable to a fine not exceeding one hundred and fifty pounds and in default of imprisonment of either description for a period not exceeding three months, and any permit issued to him shall be cancelled by the Governor.

Labour agent
not to employ
person to recruit
him in recruit-
ing labour
without first
obtaining the
permission of
the Commissioner

36. A labour agent shall not employ any agent for the purpose of assisting him in recruiting unless and until he shall first have notified the senior commissioner in writing of such employment and of the name of such agent.

Labour agent
not to employ
person to recruit
him in recruit-
ing labour
without first
obtaining the
permission of
the Commissioner

37. A senior commissioner may refuse the issue of a permit to any person who shall have committed a breach of the provisions of this Ordinance relating to labour agents or of any rule or conditions which may have been prescribed by the Director.

Power to make
rules.

38. The Governor in Council may make rules for any of the purposes following:—

- (1) Prohibiting the recruiting of natives in any specified districts, areas or places, or regulating the recruiting of labour in such districts, areas or places.
- (2) Providing for the proper clothing, feeding and housing of natives recruited by and at the expense of labour agents.
- (3) Prescribing the fees to be paid in respect of a permit to recruit labour.
- (4) Imposing such conditions upon labour agents and the recruitment of natives for work or labour as he may consider proper for the protection of natives.

All such rules shall be laid before the Legislative Council before the same are published in the Gazette.

Penalties

39. Any labour agent, who shall without a permit hereinafter provided for, recruit or seek to recruit any native to be employed in work or labour, or who shall having obtained a permit contravene any of the provisions of this Ordinance relating to labour agents, or who shall commit any breach of any rule or condition prescribed by the Governor shall be liable to a fine not exceeding one hundred and fifty pounds and in default to imprisonment of either description for a period not exceeding three months, and any permit issued to him may be cancelled by the Governor.

Complaints by
employers
No. 11 of 1930
Cap. 21

43. (1) Notwithstanding anything contained in the Criminal Procedure Code or the Justices of the Peace Ordinance, any magistrate or justice of the peace may, on receiving from an employer a complaint in the form set out in the Schedule hereto, issue a warrant for the arrest of any servant therein alleged to have committed the offence of desertion.

(2) When a warrant has been issued as aforesaid, such servant may be arrested, wherever found, by any police officer and brought before a magistrate who may remand such servant to the magistrate of the district in which the services were to be rendered.

(3) On the termination of the hearing of a complaint as aforesaid, the court, if satisfied that the facts stated in the complaint were materially untrue in any particular, may, in addition to any other order for costs, order the complainant to pay into court a sum equivalent to the whole of the expenses incurred by Government in connection with the arrest and trial of such servant, together with such amount as may be assessed by the court as compensation to such servant for his arrest and trial. If such a sum is not paid forthwith the court may issue a distress warrant against the goods and chattels of the complainant, and goods and chattels taken under the distress warrant shall, unless the complainant pays the amount due by him together with the costs of the distress warrant, be sold and the proceeds due under the order of the court together with the costs of the distress shall be paid into the treasury of the Colony, and be retained there shall be paid to the complainant.

Breach of Contract and Disputes between and Offences by Employers and Servants.

42. 40. Whenever an employer or servant shall neglect or refuse to fulfil any contract of service, or whenever any question, difference or dispute shall arise as to the right or liabilities of either party, or touching any misconduct, neglect or ill-treatment of either party, or any injury to the person or property of either party, under any contract of service, the party feeling aggrieved may make a complaint to any magistrate or justice of the peace, who may thereupon issue a subpoena to the party complained against: Provided that a magistrate holding a subordinate court of the third class or a justice of the peace shall forthwith forward such complaint to a magistrate having jurisdiction to try the case.

Complaint in cases of dispute between employers and servants.

44. 41. Every magistrate holding a subordinate court of the first or second class and every special magistrate shall have jurisdiction, notwithstanding that the person complained against may be of European, American or Asiatic, and notwithstanding anything in any Ordinance or law respecting the jurisdiction of such magistrate, to the contrary, in all cases arising in their respective areas of jurisdiction between employers and their servants, and with reference to their relative rights and duties as to any matter or thing or offence to which provision is made by this Ordinance, and every such magistrate shall have jurisdiction in any such case brought before him against any person before at the time within the area of his jurisdiction, whether the goods of such case were taken or not, or whether the person against whom such case is brought has his usual residence or place of abode in such area or not.

The jurisdiction of magistrates.

45. 42. Whenever a complaint as aforesaid shall be made to a magistrate holding a subordinate court of the third class or to a justice of the peace, and such magistrate or justice of the peace shall deem it best for the purpose of requiring or compelling the attendance of the party complained against, such process and proceedings may be made before a magistrate holding a subordinate court of the first or second class or a special magistrate having jurisdiction in the case.

A warrant or summons issued by magistrates of third class or justice of the peace may be made returnable before a magistrate having jurisdiction to try the case.

46. 43. If at any time after the laying of the complaint it appears to the magistrate or justice of the peace, by information on oath, that the party complained against is about to abscond,

Arrest of absconding defendant.

Complaints by
employers
No. 11 of 1930
Sep. 21.

43. (1) Notwithstanding anything contained in the Criminal Procedure Code or the Justices of the Peace Ordinance, any magistrate or justice of the peace may, on receiving from an employer a complaint in the form set out in the Schedule hereto, issue a warrant for the arrest of any servant therein alleged to have committed the offence of desertion.

(2) When a warrant has been issued as aforesaid, such servant may be arrested, wherever found, by any police officer and brought before a magistrate who may remand such servant to the magistrate of the district in which the services were to be rendered.

(3) On the termination of the hearing of a complaint as aforesaid, the court, if satisfied that the facts stated in the complaint were materially untrue in any particular, may, in addition to any other order for costs, order the complainant to pay into court a sum equivalent to the whole of the expenses incurred by Government in connection with the arrest and trial of such servant, together with such amount as may be assessed by the court as compensation to such servant for his arrest and trial. If such a sum is not paid forthwith the court may issue a distress warrant against the goods and chattels of the complainant and goods and chattels taken under the distress warrant shall, unless the complainant pays the amount due by him together with the costs of the distress warrant, be sold and the amount due under the order of the court together with the costs of the distress shall be paid into the treasury of the Colony, and the balance, if any, shall be paid to the complainant.

Breach of Contract and Disputes between and Offences by Employers and Servants.

44. 40: Whenever an employer or servant shall neglect or refuse to fulfil any contract of service, or whenever any question, difference or dispute shall arise as to the right or liabilities of either party, or touching any misconduct, neglect or ill-treatment of either party, or any injury to the person or property of either party, under any contract of service, the party feeling aggrieved may make a complaint to any magistrate or justice of the peace, who may thereupon issue a summons to the party complained against. Provided that a magistrate holding a subordinate court of the third class or a justice of the peace shall forthwith forward such complaint to a magistrate having jurisdiction to try the case.

Complaint in cases of dispute between employers and servants.

44. 41: Every magistrate holding a subordinate court of the first or second class and every special magistrate shall have jurisdiction, notwithstanding that the person complained against may be an European, American or Asiatic, and notwithstanding anything in any Ordinance or law respecting the jurisdiction of such magistrate to the contrary, in all cases arising in their respective areas of jurisdiction between employers and their servants, and with reference to their obligations and duties or to any matter or thing or offence to which provision is made by this Ordinance, and every such magistrate shall have jurisdiction in any such case brought before him against any person before at the time within the area of his jurisdiction, whether the grounds of such case be that such person is or was or whether the person against whom such case is brought has his usual residence or place of abode in the area of jurisdiction.

The jurisdiction of magistrate.

44. 42: When a complaint as aforesaid shall be made to a magistrate holding a subordinate court of the third class or to a justice of the peace, and such magistrate or justice of the peace shall deem proper for the purpose of requiring or compelling the attendance of the party complained against, such process and to be made available before a magistrate holding a subordinate court of the first or second class or a special magistrate having jurisdiction in the case.

A warrant or summons issued by magistrates of third class or justice of the peace to be made returnable before a magistrate having jurisdiction to try the case.

44. 43: If at any time after the laying of the complaint it appears to the magistrate or justice of the peace, by information on oath, that the party complained against is about to abscond,

Arrest of absconding defendant.

12

CAP. 139. *Regulation of Natives*

he may cause him to be arrested and detained in custody, unless he finds security to appear and answer the complaint and to abide the decision of the court thereon.

A magistrate may order that the remedy of complaint shall be by oral motion and not by complaint under this Ordinance.

472A. A magistrate having jurisdiction to adjudicate on any complaint made to him or forwarded to him for adjudication may, if it should appear to him that the matter of such complaint or of any cross complaint or defence could more properly or conveniently be dealt with in a civil action, order, at any time before judgment therein is delivered by him, that the remedy, if any, in the matter complained of shall be by an action brought in accordance with the law relating to procedure in civil action and not by complaint under this Ordinance.

Discretionary powers of magistrates.

472B. (1) Upon any complaint under this Ordinance the magistrate may, in addition to any jurisdiction he might have exercised if this Ordinance had not been made, exercise all or any of the following powers:

To adjust and set off one claim against another.

(a) He may adjust and set off one against the other all such claims on the part either of the employer or of the servant arising out of, or incidental to the relation between them as the magistrate may find to be subsisting, whether such claims are liquidated or unliquidated, and are for wages, damages or otherwise and he may direct the payment of such sum as he finds due by one party to the other party.

To direct fulfilment of the contract.

(b) He may direct fulfilment of the contract, and, in cases where he might award damages for any breach of contract, he may, in place either of the whole of the damages which would otherwise have been awarded or some part of the damages, direct the party committing such breach to find security to the satisfaction of the magistrate for the due performance of so much of the contract as remains unperformed, and if the party neglect or refuse to find security, he may commit him to prison until he finds it, but the term of imprisonment shall not exceed three months.

To rescind the contract and appoint wages, etc.

(c) He may rescind the contract upon such terms as to the apportionment of wages or other sums due thereunder, and as to the payment of wages or damages or other sums due as he thinks fit.

67K

CAP 110 Employment of Natives

he may cause him to be arrested and detained in custody unless he finds security to appear and answer the complaint and to abide the decision of the court thereon.

A magistrate may order that the remedy of complaints shall be by civil action and not by complaint under this Ordinance.

67A A magistrate having jurisdiction to adjudicate on any complaint made to him or forwarded to him for adjudication may, if it should appear to him that the matter of such complaint or of any cross complaint or defence could more properly or conveniently be dealt with in a civil action, order, at any time before judgment therein is delivered by him, that the remedy, if any, for the matter complained of shall be by an action brought in accordance with the law relating to procedure in civil action and not by complaint under this Ordinance.

Discretionary powers of magistrates.

67B (1) Upon any complaint under this Ordinance the magistrate may, in addition to any jurisdiction he might have exercised if this Ordinance had not been made, exercise all or any of the following powers, that is to say:

To adjust and set off claims

(a) He may adjust and set off one against the other all such claims on the part either of the employer or of the servant arising, out of, or incidental to the relation between them as the magistrate may find to be subsisting, whether such claims are liquidated or unliquidated, and are for wages, damages or otherwise and he may direct the payment of such sum as he finds due by one party to the other party (C)

To direct a fulfilment of the contract

(b) He may direct fulfilment of the contract, and, in case where he might award damages for any breach of contract, he may, in place either of the whole of the damages which would otherwise have been awarded or some part of the damages, direct the party committing such breach to find security to the satisfaction of the magistrate for the due performance of so much of the contract as remains unperformed, and if the party neglects or refuses to find security, he may commit him to prison until he finds it, but the term of imprisonment shall not exceed three months (C)

To rescind the contract and appoint wages etc.

(c) He may rescind the contract upon such terms as to the apportionment of wages or other sums due thereunder, and as to the payment of wages or damages or other sums due as he thinks fit (C)

(d) When no amount of compensation or damages can be assessed, or when pecuniary compensation will not in the opinion of the magistrate meet the circumstances of the case, he may, in addition to the rescinding of the contract and discharging the parties therefrom, fine either party a sum not exceeding twenty pounds with imprisonment of either description in default of payment, for a term not exceeding one month.

To impose fines.

(e) Where it appears to the magistrate that an employer or servant has been guilty of any offence under this Ordinance, he may, in lieu of or in addition to doing any of the acts or things, and to making any of the orders or directions authorized by paragraphs (a) (b) and (c) of this subsection, pass any sentence or judgment authorized by this Ordinance upon the person so offending, and may make any order or do any act or thing by this Ordinance authorized, or which may lawfully be done, for giving effect to such judgment or order.

To pass any sentence or judgment authorized by this Ordinance.

(2) A person shall give security (hereinafter called the bonds) under this section by a written or oral acknowledgment in or under the direction of the court of the undertaking or condition by which and the sums for which he is bound, and such bond shall be forfeited and enforced in the manner provided for the forfeiture and enforcement of bonds under the law for the time being in force relating to procedure in criminal cases.

Form of security.

(3) Save as in this Ordinance otherwise provided, the provisions of the law for the time being in force relating to procedure in criminal cases respecting appeals and references and the levying of monies ordered to be paid shall apply to all proceedings and all orders for the payment of money under this Ordinance.

Law relating to criminal procedure ordinary to apply to proceedings under this Ordinance.

(4) Anything in this Ordinance to the contrary notwithstanding, it shall be lawful for any magistrate, having jurisdiction in any proceedings under this Ordinance, whenever he shall consider that by following or by requiring the complainant to follow the procedure laid down by law for criminal cases the ends of justice will or may be defeated, to adopt or order to be adopted for all or any purpose of the proceedings and at any stage thereof or for the levying of monies ordered to be paid, all or any of the provisions of the law for the time being in force relating to procedure in civil cases.

When civil procedure may be followed.

Punishment of
Juvvales

46. Whenever any male person shall appear liable to have any of the orders specified in the last preceding section made upon him, or to be punished in any other manner provided by this Ordinance, if his shall appear to the court to be under the age of sixteen years and to require punishment in the way of discipline rather than in any other manner, the court may order him to be detained for one day in any suitable place of detention and to be ~~completely~~ punished with a light cane of such pattern as may be approved by the court, such punishment not exceeding sixteen stripes on the bare buttocks, instead of any other punishment. *marked that it is so laid*
held with nothing being left out.

Offence to
be
punished

47. Any servant who is ~~punished~~ with rigorous imprisonment ~~for any offence under this Ordinance~~ shall be liable to be ~~punished~~ with imprisonment ~~for any offence under this Ordinance~~ for a term not exceeding ~~three~~ *twelve* months or with a fine not exceeding ~~100 rupees~~ *1000 rupees* or both such imprisonment and ~~fine~~ *fine* in case he shall be ~~convicted~~ *convicted* of any of the following acts:

- (1) that he shall, after having read, if it is a contract, taken notice without delay of its contents, and give effect to its stipulations;
- (2) that he shall, within a reasonable time after the commencement of his employment, give notice to his employer of any physical or other defect in his person or in the performance of his work;
- (3) that he shall, during working hours, use his best skill for the proper performance of his work as becoming or being intimated;
- (4) that he shall neglect to perform any work which it was his duty to have performed or if he shall carelessly or improperly perform any work which from its nature it was his duty under his contract to have performed carefully and properly;
- (5) that he shall, without leave, and for his own purposes, make use of any horse, vehicle, or other property belonging to his employer;
- (6) that he shall use any abusive or insulting language or be guilty of insulting behaviour to his employer, or to any person placed by his employer in authority over him, calculated to provoke a breach of the peace.

50. (1) Notwithstanding anything contained in the Criminal Procedure Code, on a complaint or action against an employer in respect of wages due to more than one of his servants the magistrate may permit one complaint or one plaint to be made or filed by an inspector of labour or by one of such servants on behalf of all such servants and their claims to be proved by such inspector of labour or by such servant accordingly. Provided that the complaint or plaint shall have annexed thereto a schedule setting forth the names of such servants, their addresses and descriptions and the total amounts and periods over which wages are respectively due.

(2) All such claims shall rank equally between themselves, and shall be paid in full, unless the amount recovered from the employer be less than the total amount of the claims with costs, in which case, after payment of the costs, all such claims shall abate in equal proportions among themselves and be paid accordingly. Costs given against the servants shall be paid by such servants or by any of them in such proportions as the court shall direct.

Order in
cases of
non-payment
of wages

(7) If he shall refuse to obey any command of his master, or of any person lawfully placed by his master in authority over him which command it was his duty to obey

(18) If on entering into or for the purpose of obtaining a contract of service he shall give false name or address

48. Any servant may be fined ~~any sum not exceeding the amount of five pounds ten shillings~~ and in default of payment may be sentenced to imprisonment of either description for any period not exceeding six months or may at the discretion of the magistrate, without the intervention of a jury, be sentenced to imprisonment of either description for any period not exceeding six months, in case he shall be convicted of any of the following offences, to-wit:—

Offences by servants - Case II

(1) If he shall wilfully do any act tending to the destruction, damage or loss of any property placed in his charge or placed by any other person in his charge for delivery to or on account of his employer

(2) If he shall wilfully neglect his duty or be negligent of duty or through carelessness, refusal or want to do any lawful act proper and requisite to be done by him for preserving in safety any property placed by his employer in his charge, or placed by any other person in his charge for delivery to or for account of his employer

(3) If being employed as a herdman he shall fail to report to his employer the death or loss of any animal placed in his charge (which he shall allege to have died or been lost) on the earliest opportunity ~~of reporting~~ after he shall have the opportunity of doing so, or shall fail to have discovered such death or loss ~~of any animal~~ ~~as he shall allege to have died or been lost~~ ~~for the purpose of his use or inspection~~ ~~of any part or parts of such animals~~ ~~as he shall allege to have died or been lost~~ ~~and that such animals or parts of such animals have been directed to preserve, unless such herdman shall prove to the satisfaction of the court the death of such animal or that it should have been reported to his employer to have been preserved, or that such animal or parts of such animals should have been preserved, or that the circumstances of the case have become irrevocably lost without his act or default~~

Handwritten notes: "shall be liable to be fined... as above G. L. H."

(4) he alleges the loss of any animal placed in his charge and it is proved by his employer to the satisfaction of the court that such animal could not, in the circumstances of the case, have become irrevocably lost without the act or default of the servant.

(4) If being employed in any capacity other than that of a herdsman he shall allege the loss of any property placed in his charge by or for his employer and it shall ~~be made to appear~~ ^{be proved to the Court} by his employer that the property in question could not have been lost without ~~his~~ ^{the} act or default ~~of the servant.~~

(5) If he shall without lawful cause ~~desert from his employer's service with intent not to return thereto.~~

Any offence against this subsection shall be a cognisable offence, and a police officer may arrest without warrant any person accused of such an offence.

Q. 7/2
Neither fine nor imprisonment to have the effect of cancelling a contract.

No wages to accrue to servant during period of imprisonment

When a servant is convicted of absconding himself or departing from service, period of absence may be added to term of service

(1)

Sec. 56, of employer's property.

53 49: No fine or period of imprisonment undergone under this Ordinance by a servant shall have the effect of cancelling the contract of service.

54 50: No wages shall become payable to a servant for or during any term of his imprisonment under this Ordinance.

55 51(1) When the offence of which any servant shall be convicted under this Ordinance shall be the offence of absconding himself or departing from the service of his employer, then the period of his absence may, on the application of the ~~magistrate~~ ^{magistrate} and at the discretion of the magistrate, be added to the term of service originally stipulated. In such case it shall be the duty of the magistrate convicting such servant to ascertain at the trial the period of absence, and to certify the same by some writing under his hand to be delivered to the employer and the period mentioned in such writing shall by all courts and in all places be deemed to be added to the original term of service.

56 52: As often as any property of the employer shall be lost or damaged by means of any act or omission of his servant, it shall be lawful for the magistrate, ~~should he think fit~~, to fix the amount of compensation for such loss or damage, and make such order as to the payment thereof, either at once or by instalments out of wages to be ~~paid~~ ^{paid} or otherwise, as shall seem reasonable and just, provided that no instalment ordered to be paid out of wages shall exceed one-half of the servant's monthly wage if the instalments are ordered to be paid monthly, or one-half of the servant's weekly wage if the instalments are ordered to be paid weekly.

(5) If he shall be guilty of desertion. A servant employed under a thirty-days contract or under a special contract may be guilty of desertion.

47. Any servant who receives from his employer any wages in advance and who without good reason quits the service of such employer before such advance is fully earned or repaid of, shall be guilty of an offence and shall be liable to imprisonment or labour reformation for a term not exceeding three months.

Penalty on servant leaving service before expiry of an agreement with employer.

48. No servant shall be convicted under any of the foregoing sections of this Ordinance except section forty-eight (48) unless the employer shall lodge his complaint without undue delay after he becomes cognizant of the offence or alleged offence.

The limit within which complaint must be made by employer.

49. Any employer of any servant shall be liable to a fine not exceeding 200 pounds with imprisonment in default of payment or to imprisonment for a term not exceeding six months or to both such fine and imprisonment in case he shall be guilty of any of the following acts or omissions, that is to say:

Penalty on employer.

(1) If he shall withhold the wages of such servant without reasonable and probable cause for believing that the servant is unable to work.

Penalty on employer for withholding wages.

(2) If, before or after the expiration of the contract of service, upon demand made and without lawful cause he refuses to deliver or permit to be taken away any property belonging to such servant lawfully remaining or being upon such employer's land without reasonable and probable cause for believing that the property in question was lawfully detained.

Detaining servant's property.

(3) If he fails upon demand to supply or deliver to such servant the food, blanket or other articles stipulated for in any written contract of service, or if he supplies or delivers food, blanket or other articles not conformable to the said contract.

Failure to supply food, etc., stipulated for in any written contract.

(4) If he shall fail to comply with any of the provisions or requirements of sections twenty-four to thirty-two (inclusive) of this Ordinance.

Non-compliance with provisions of Ordinance with regard to care of servants.

50. Every person complained against or charged with an offence under this Ordinance shall be a competent but not a compellable witness.

Defendant a competent witness.

37. Any servant who receives from his employer any wages in advance and who without good reason quits the service of such employer before such advance is fully repaid or repaid off, shall be guilty of an offence and shall be liable to imprisonment of either description for a term not exceeding three months.

Penalty on servant leaving service before working of an advance of wages.

38. No servant shall be convicted under any of the foregoing sections of this Ordinance except section forty eight (48) unless the employer shall lodge his complaint without undue delay after he becomes cognizant of the offence or alleged offence.

The limit within which complaint must be made by employer.

39. Any employer of any servant shall be liable to a fine not exceeding ~~£50~~ pounds with imprisonment in default of payment or to imprisonment for a term not exceeding one month or to both such fine and imprisonment in case he shall be guilty of any of the following acts or omissions, that is to

Penalty on employer.

(1) If he shall withhold the wages of such servant without reasonable and probable cause for believing that the wages of such servant are not lawfully due.

Withholding wages.

(2) If, before or after the expiration of the contract of service, upon demand made and without lawful cause, he refuses to deliver or permit to be taken away any property belonging to such servant lawfully remaining or being upon such employer's land without reasonable and probable cause for believing that the property in question was lawfully detained.

Detaining servant's property.

(3) If he fails upon demand to supply or deliver to such servant the food, blanket or other articles stipulated for in any written contract of service, or if he supplies or delivers food, blanket or other articles not conformable to the said contract.

Failing to supply food, etc., stipulated for in any written contract.

(4) If he shall fail to comply with any of the provisions or requirements of sections twenty-four to thirty-two (inclusive) of this Ordinance.

Non-compliance with provisions of Ordinance with regard to care of servant.

General

6050. Every person complained against or charged with an offence under this Ordinance shall be a competent but not a compellable witness.

Defendant a competent witness.

Defendants not to be compelled to enter the dock except in certain events.

6157. No person against whom a complaint is made under this Ordinance, who is not immediately before the hearing of such complaint in actual custody, shall be compelled to enter the dock or place usually assigned for prisoners under trial in the court or shall be otherwise treated as under arrest during the hearing of such complaint; Provided that if, in the opinion of the magistrate before whom the complaint is heard, it shall be necessary in order to secure the attendance of such employer or servant, that he should be placed in custody, it shall be lawful for such magistrate to cause such person to be arrested and detained in custody.

6158. When the magistrate imposes any fine or enforces payment of any sum secured by a recognizance or bond, the magistrate may direct that such fine or sum when recovered, or any part thereof he thinks fit, shall be applied to compensate any employer or servant for any wrong or damage sustained by him by reason of the act or thing in respect of which the fine was imposed or by reason of the non-performance of the contract of service.

6159. Whenever it shall appear to a magistrate having jurisdiction to adjudicate upon a complaint made by a servant that such servant has not the means and is otherwise unable to procure food for himself pending the determination of his complaint, he may cause such servant to be supplied with necessary food at the expense of the Government, but in such case the cost thereof shall be a debt due to the Government from such servant and may be deducted by the magistrate from any moneys received by him for or on behalf of such servant or shall otherwise be paid by the servant.

6160. In any complaint under this Ordinance the process of the court of the magistrate for compelling the attendance of the party accused and of all necessary witnesses shall be instituted at the public charge and without any fees of court. Provided always, that if at the trial the complaint shall appear to the magistrate to be frivolous or vexatious, the party complaining shall be liable to a fine not exceeding ten pounds, and to defray the costs of the process and of the witnesses in the case, and in default of payment of such fine and costs, shall be liable to be imprisoned for any period not exceeding one month; Provided, also, that such fine may be imposed upon the occasion of such trial and without any fresh action or proceeding for the recovery thereof.

Miscellaneous Provisions.

658. Nothing in this Ordinance shall prevent an employer or servant from being proceeded against according to law for any offence punishable under any law in force in the Colony.

Persons may be proceeded against for any offence punishable under any law in force.

660. Nothing in this Ordinance shall prevent any employer or servant from enforcing their respective rights and remedies for any breach or non-performance of any lawful contract of service made outside of the Colony, but the respective rights of such parties under such contract as well against each other as against third parties invading such rights may be enforced in the same manner as other contracts arising thereout may be enforced and as if this Ordinance had not been made: Provided that, whenever any such contract has been executed in conformity with this Ordinance, it shall be enforced in the same manner as a contract entered into under this Ordinance. But no written contract the tenor and execution of which are not in conformity with this Ordinance shall be enforced as against a servant who is unable to read and understand writing. Any such contract which is signed by the names or marks of the contracting parties and bears, as concern any illiterate parties, an attestation to the like effect as is prescribed by section 659 thereof.

Saving as to contract of service made abroad.

659. If the contract was made in the United Kingdom or elsewhere in His Majesty's dominions, or in a British protectorate, the attestation may be by any justice of the peace or other officer authorised by law to take affidavits or to attest contracts of service. If made in any foreign parts the attestation may be by any judge or magistrate, being authenticated by the official seal of the court to which he is attached, or by any British minister, consul, vice-consul or consular agent.

63. (1) Save as is hereinafter otherwise provided this Ordinance shall not apply to any contract governed by any Imperial law relating to shipping or affect the rights and remedies of the parties thereunder.

Saving contracts relating to shipping.

(2) Every agreement entered into in the Colony by the master of any ship to which Part II of the Merchant Shipping Act, 1894, applies, for the engagement of any native or person as a seaman, shall contain, in addition to the terms required by or under the aforesaid Act, a stipulation by the master, that, if the services of the seaman engaged shall terminate for

Additional stipulations in such contracts.

any cause whatsoever otherwise than by the death or desertion of the seaman or by the consent of the seaman to be discharged during the currency of the agreement, at any port or place other than a port or place within the Colony or the dominions of the Sultan of Zanzibar, he will make adequate provision, as is hereinafter defined, for the maintenance and return of the seaman to the port in the Colony at which he was engaged.

(3) If a master of a ship to which Part II of the Merchant Shipping Act, 1894, applies carries any Arab or native to sea as a seaman without entering into an agreement containing a stipulation required by the preceding subsection he shall, for such offence, be liable to a fine not exceeding fifty pounds.

(4) In the preceding subsections the term "Arab or native" shall include only Arabs and natives of, or ordinarily resident in, the Colony or the dominions of the Sultan of Zanzibar or in the Uganda Protectorate.

The term "adequate provision" shall mean such provision as a master is required by the Merchant Shipping Act, 1894, to make in respect of the maintenance and return of a seaman to whom the provisions of section thirty-two subsection (1) of the said Act are applicable.

The provisions of subsections (2) and (3) of this section shall not apply to the engagement of an Arab or native as a seaman on a vessel calling at the ports of the Colony or of the dominions of the Sultan of Zanzibar alone.

Power to
appoint
magistrates.

6784 (1) The Governor may appoint such persons as he may think fit and as occasion may require special magistrates for the Colony or for any district or districts thereof who shall hold office during the Governor's pleasure and whose appointment shall be notified in the Gazette.

(2) A special magistrate shall have and exercise within the limits of which he is appointed such powers, rights, duties and jurisdiction as are vested in a special magistrate by virtue of this Ordinance, or may be exercised in relation to this Ordinance by a magistrate holding a subordinate court of the first class.

Magistrate or
justice of the
peace may enter
land or
buildings
purpose of
Ordinance

6885 Any magistrate or justice of the peace may for any purpose under this Ordinance at any time enter upon any land or into any building where any servant is employed or housed.

Any person shall give or promise to any Arab, a Malagasy, or Chinese, Indian, a Baluchi born in Africa, a Somali or a native any advance of wages or any valuable consideration upon a condition expressed or implied that such Arab, Malagasy, Chinese, Indian, Baluchi born in Africa, Somali or native or any dependant of his shall enter upon any employment.

(2) No employer shall give to a servant during any one month any advances of wages whether in money or in kind exceeding in the aggregate one month's wages of such servant.

71. The wife and family of a servant may, with the written consent of the employer, reside with such servant at his place of employment.

Provided that the wife and family of such servant shall not so reside for any period in excess of two weeks unless, in addition to the written consent of the employer, such wife and family have received the written permission of a magistrate.

72. Any person contravening any of the provisions of this Ordinance or any Rules made thereunder for which no special penalty is provided shall on conviction be liable to a fine not exceeding thirty pounds and in default of payment, to imprisonment for a period not exceeding three months.

68-6/Any person who shall give or shall offer to give any money or other gift to any gazetted native chief or headman with a view to securing a supply of labour shall, on conviction, be liable to a fine not exceeding fifteen pounds.

Penalty for giving reward to chief or headman for procuring labour.

PART II.

Appointment of Inspectors of Labour and their Rights, Powers and Duties.

73-67. (1) The Governor may from time to time appoint such inspectors (under the title of inspectors of labour) and such clerks and servants as he may deem necessary for the purposes of the execution of this Ordinance, and may confer on any such inspector, as a principal inspector of labour with an office in Nairobi, and may, either generally or in particular cases, regulate the cases and manner in which the inspectors of labour or any of them are to execute and perform the powers and duties of inspectors by this Ordinance conferred, and may remove such inspectors, clerks and servants.

Appointment of inspectors of labour.

(2) Notice of the appointment of every such inspector of labour shall be published in the Gazette.

74-68. An inspector of labour under this Ordinance shall, for the purposes of the execution of this Ordinance, have power to do all or any of the following matters or things, namely:

Power of inspectors of labour.

(1) To enter, inspect and examine at all reasonable times by day and night any labour encampment or any farm or holding or other land whatsoever or any house, building or other erection whatsoever and every part of any of the aforesaid when he has reasonable cause to believe any servant, other than a domestic servant, is living, residing or employed thereon or therein, and after such entry as aforesaid or otherwise to make such inquiry and examination as may be necessary to ascertain whether the provisions of this Ordinance are being complied with so far as regards any servant living, residing or being employed in any such labour encampment, farm, holding or other land or in any such house, building or other erection as aforesaid, and if he shall deem fit to take with him, in any of the cases aforesaid, a police constable or constables;

(2) At all reasonable times and without undue interference with his work to require the production of any servant, contracts of service, labour wage or other

register, certificate of physical fitness or other document whatsoever relating to servants from any person required by any law in force to be in possession of the same;

(3) To enter, inspect and examine any hospital buildings and all latrines and other sanitary arrangements and any water supply;

(4) To inspect and examine all food provided for the use of servants and to take samples thereof and to ascertain if reasonable costumes and dressings are provided for the use of servants. Any sample taken under this provision shall be taken in duplicate in the presence of the employer and shall be sealed in the presence of the employer and one sample so sealed shall be left with the employer;

(5) To order ^{all buildings & premises where} ~~the~~ ^{are} ~~any~~ ^{are} ~~used~~ ^{used} for housing of servants ~~shall be kept clean, cleared and~~ ^{shall be kept clean, cleared and} in a sanitary condition;

(6) To take cognizance of any offence under any of the provisions of this Ordinance committed by an employer and to report the facts to the Chief Native Commissioner and may direct such officer as he may appoint to investigate offences. Such officer may prosecute and appear in his own name in respect of the same and

ba. 2/26

to institute or to appear or both to institute and appear on behalf of any servant in any civil proceedings by a servant in respect of any matter of thing or cause of action arising out of or in the course of the employment, whether such civil proceedings shall be contemplated or instituted by the servant himself or be civil proceedings ordered by a magistrate in lieu of criminal proceedings pursuant to the provisions of section forty-four of this Ordinance;

(7) To attest all written contracts of service required by law to be attested or any alteration in the same in all respects as a magistrate or justice of the peace can attest contracts of service under the provisions of this Ordinance.

(6) (a) To institute proceedings in respect of any offence committed by an employer against any of the provisions of this Ordinance, or of any Ordinance amending the same and to prosecute and appear in his own name in respect of the same;

*Powers of
Medical
Inspection
by the
Medical Officer*

To 69. A Government medical officer may for the purposes of the execution of this Ordinance exercise the powers conferred upon an inspector of labour by section sixty-eight (1) to (6) inclusive of this Ordinance and shall further have power to do all or any of the following matters or things namely —

and for whom the conditions prevailing at the place
of employment are not conducive to the rapid
recovery of his health or strength

1. To order the employer to provide, for natives born
in the district, such food as

2. To order the employer to provide, for natives born
in the district, such food as

(1) To order any servant who in his opinion is sick
and is incapable of recovering his health or strength under
conditions prevailing at the place of employment to return
to the place of his engagement or to proceed to a native civil
hospital. In any such case the employer shall at the
earliest opportunity and at his own expense send such
servant to the native civil hospital or to the place of
engagement of the servant.

(2) To condemn food provided for natives which in
his opinion is unfit for human consumption. No food
condemned under the provisions of this section shall be
given or sold to any native. If an employer objects to any
condemnation of food under this section two samples of
the food shall be taken in the presence of the medical
officer and for the employer and one such sample shall be
sent and sent to the Government analyst and the other
sample shall be sealed and left with the employer.

(3) To condemn any house, building or other erection
whichever in which any servant is living or employed if
in his opinion such house, building or other erection is
unfitted by either its construction, situation or condition
for the purpose to which it is put. No such house,
building or other erection so condemned shall be used for
the purpose specified until a Government medical officer
has certified that the house, building or other
erection may be used for such purpose.

(4) To order the supply of such variety of food for a
servant as he may deem necessary. Provided that the cost
of the food supplied under any such order shall not exceed
the normal cost of rations ordinarily supplied by employers
to servants in that district at the time.

(5) To order the employer to supply a servant work-
ing under a written contract of service with one or more
suitable blankets or with clothing. In any such case the
reasonable cost shall be paid by the servant and may be
deducted from the remuneration of the servant and until
the whole or a portion of such cost shall have been paid
or deducted or otherwise paid by the servant the blanket
or blankets or clothing supplied shall remain the property
of the employer.

(6) To inspect all drugs and medicines provided for
the use of servants.

Appeal.

76. In respect of orders given under clause (5) of section ⁶⁶ ~~sixty-eight~~ of this Ordinance and in respect of orders given under ~~clauses~~ ^{clauses} (2) to (4) inclusive of section ~~sixty-nine~~ of this Ordinance, there shall be a right of appeal within a period of fourteen days to a magistrate holding a subordinate court of the first or second class or to such other person or body of persons as the Governor may by notice in the Gazette, appoint for the purpose.

Offences.

77. Every person who wilfully delays an inspector of labour or a Government medical officer in the exercise of any power granted by this Ordinance, or who neglects or fails to comply with any requisition or order of an inspector of labour or a Government medical officer in connection with any order of an inspector of labour or a Government medical officer in pursuance of section ~~sixty-eight~~ or ~~sixty-nine~~ of this Ordinance, or who produces any contract of service, register, certificate of physical fitness or other document whatsoever which he is required by or in accordance with this Ordinance to produce, or who conceals or prevents any servant from appearing before or being examined by an inspector of labour or a Government medical officer or who attempts so to conceal or prevent a servant shall be guilty of an offence and on conviction by a magistrate entitled to hold a subordinate court of the first or second class shall be liable to a period of imprisonment of either description not exceeding one month or to a fine not exceeding ~~two hundred rupees~~ ^{one hundred rupees} and in default of payment to imprisonment for any term not exceeding one month.

PART III.

Provisions in Relation to Medical Certification of Physical Fitness of Servants

Prohibition against employment of natives without medical certificate first had and obtained.

78. No person shall employ or cause to be employed any native who has been recruited for labour by a labour agent as a servant under any contract of service, and no labour agent shall engage or enter into a contract of service on behalf of an employer, unless and until such native shall have been first examined by a Government medical officer and a certificate in writing shall have been obtained from such Government medical officer that such native so examined by him as aforesaid is physically fit to perform the duties under or the work contemplated by the proposed or intended contract of service.

Medical examination

by a licensed labour forwarding agent

79. A Government medical officer shall examine free of charge every native brought to him by an employer or labour agent for examination in accordance with the provisions of the preceding sections, to such person's physical fitness for the work in which it is intended to employ him, and shall give a certificate as to whether such person is or is not fit for such work.

74. Notwithstanding anything herein before contained no native (and the apparent age of sixteen years shall in any case be employed or be caused to be employed as a porter, fuel carrier, rickshaw boy or in any other class of labour for which in the opinion of a Government medical officer he is physically unsuitable.

Prohibition against employment of natives under the apparent age of sixteen years.

75. Any native who has been rejected by a Government medical officer after such examination as is hereinbefore mentioned, is physically unfit for the work for which he has been recruited or in which he is intended to be employed shall be repatriated to his home or place of recruitment at the expense of the person who recruited him or produced him for medical examination.

Native rejected on medical examination to be returned home at expense of recruiter or other person producing such native for medical examination.

76. If any native who has been rejected by a Government medical officer after such examination as is hereinbefore mentioned, is physically unfit for the work for which he has been recruited or in which he is intended to be employed, he shall be repatriated to his home or place of recruitment at the expense of the person who recruited him or produced him for medical examination, and any such native who is repatriated shall be liable to pay as a civil debt from the date of his repatriation the amount of the expenses incurred by the person who recruited him or produced him for medical examination.

Proviso.

77. Any person employing any native in contravention of the provisions of this part of this Ordinance, or who is guilty of this offence, shall on conviction by a Magistrate be liable to a term of imprisonment of not less than six months or to a fine not exceeding one hundred pounds or to both, and in default of payment to be imprisoned for not less than six months.

Penalty.

PART IV

Power of Governor in Council to make Rules.

77. (1) The Governor in Council may make rules prescribing, either generally or in particular cases, or for particular areas, the mode in which all or any of the duties imposed upon an employer by this Ordinance shall be performed by such employer, and prescribing the acts necessary or requisite to be performed by such employer for the due fulfilment of any such duties imposed upon him as aforesaid, and generally for the better carrying into effect the provisions of this Ordinance.

Power of Governor in Council to make rules:

... ab, ... Malagasy ...
born in Africa or ...

... Malagasy ...
... Africa ...

... Malagasy ...
... Africa ...

... Malagasy ...
... Africa ...

(2) In particular, but without limiting the generality of the foregoing subsection, such matters are—

(a) Prescriptions, either general or in particular cases or for particular areas, for the duties to be performed by an employer in respect of all or any of the following matters that is to say—

(i) The housing accommodation of servants including sanitary arrangements;

(ii) The feeding of servants, in cases where food is to be supplied by the employer under the contract of service including the amount, kind and variety of food to be supplied;

(iii) Medical attendance on and supply of medicines to servants;

(iv) Regulating the introduction of labour for service out of the Colony;

(v) Regulating the engagement and superannuation of servants to be supplied under a foreign contract of service.

(3) Where any such regulations are made under this Ordinance shall be deemed to be inoperative in so far as they relate to the matters specified in sub-section (2).

82. (1) The Governor in Council may make Rules for all or any of the following purposes—

(a) Prescribing, either generally or in particular cases or for particular areas, the duties to be performed by an employer in respect of all or any of the following matters—

(i) the premises in which servants are housed or employed, including sanitary arrangements and water supply;

(ii) the feeding of servants in cases where food is to be supplied by the employer, under the contract of service, including the amount, kind and variety of food to be supplied;

(iii) the care of the sick and injured;

(iv) the care of servants in transit between their homes and the place of their employment;

(v) the recruitment, engagement of servants under this Ordinance and the conditions under which they shall work;

(vi) for the regulation and control of private recruiting and of the business of labour brokerage agents;

(vii) the keeping by employers and labour brokers of records of books and the forwarding of returns concerning servants;

(viii) the regulation of the employment of servants in the Colonies;

Power of Governor in Council to make Rules

[Faint, illegible text, likely bleed-through from the reverse side of the page.]

83. The provisions of this Ordinance shall not apply to the employment of servants in the service of the Government of the Colony.

84. The provisions of this Ordinance shall not apply to the employment of servants in the service of the Government of the Colony.

85. The provisions of this Ordinance shall not apply to the employment of servants in the service of the Government of the Colony.

86. The provisions of this Ordinance shall not apply to the employment of servants in the service of the Government of the Colony.

W. H. D. L. C.
F. O. B. O.

Printed and Published by the Government Printer, Singapore, 1935.

It is hereby certified that the provisions of this Ordinance are just and equitable and that the same are in conformity with the provisions of the Constitution of the Colony.

[Faint, illegible text, likely bleed-through from the reverse side of the page.]

in the schedule hereto, and with the expiration of the said period provide each of the employed who desires it with sufficient means of returning to the place at which he was hired.

In witness whereof the said parties have hereunto set their hands or made their marks at before the the day and year first above written

Signature of Employer

THE SCHEDULE

Name and Marks	Wages per	Allowance for subsistence per

The above-named parties set their hands or made their marks hereto in my presence, the agreement being assented to by them upon the same being read and explained to them in my presence, and I have read the aforesaid agreement and the documents referred to therein and have explained the same to them voluntarily by me, and they fully understand its contents and effect.

I, the undersigned, being a Justice of the Peace for the District of ... do hereby certify that the above-named parties have set their hands or made their marks to the above agreement and the documents referred to therein, and that they have explained the same to them voluntarily by me, and that they fully understand its contents and effect.

which payment well and truly to be made as liquidated damages and not as a penalty, we bind ourselves jointly and severally, and our heirs, executors, and administrators, and every one of them firmly by these presents. Sealed with our seals, dated this day of 19.....

The condition of the above-written obligation is such that if (a) (hereinafter called "the employer") the employer of the said (b) (hereinafter called "the employed") do pay to each of the employed performing their part of the agreement after mentioned the several sums of money set opposite to their respective names in the schedule to an agreement made and entered into between the employer and employed at on the day of

(c) and attested by (d) in regular (e) provisions to be computed from the day of their departure at (f) finally (g) and furnish the said employed with the subsistence set opposite to their respective names in the said schedule at regular (h) period to be provided as aforesaid and do further at the expiration of the term of (i) computed from the day of departure of the said employed, provide the said employed or any of them during with sufficient means to return or with a free passage and subsistence during such passage back to (j)

..... the place at which the said agreement was executed, as agreed and provided by the said employer in the said agreement, and to execute, carry out and perform his part of the said agreement in all respects, then this obligation to be void otherwise to be in full force and virtue.

Signed, sealed and delivered in the presence of

(To be signed and sealed by each of the obligants and attested if practicable by the officer attesting the relative agreement.)

- (1) Name or names of employers.
 (2) Name of employed.
 (3) Official name of officer before whom agreement is signed.
 (4) Weekly or monthly, etc., as the case may be.
 (5) Place of destination.
 (6) Weekly or monthly, etc., as the case may be.
 (7) Term of agreement.
 (8) Place of employment.

DEED OF EMPLOYMENT

(Under Article 20 of the Employment of Nationals Order)

This deed made the ... day of ... 19... between ... a boy (1) ... above the age of nine years and under the age of sixteen, by ... of the ... of the ... of the ... of the other part

Witnesseth as follows:

1. The said ... by the authority of the said ... hereby binds himself and ... to the said ... for ... from the ... and agrees during that term ... and obey his lawful commands ... without leave.

2. The said ... agree with the said ... that during the said term he will provide him with sufficient food, fuel, and lodging and suitable clothing, and medical services ... and will produce him ... to do ... of returning to his home.

In witness whereof ... this day and year first above written ... (attestation when party or parties can read and write)

Signed, sealed and delivered by the said ... in the presence of

Magistrate

(1) Or "girl."
(2) "Father" or "guardian."
(3) "The said ... have hereunto set their hands and seals," or "have hereunto made their marks and set their seals," or "the said ... has hereunto set his hand and seal and the said ... has hereunto made his mark and set his seal" as the case may be.

DEED OF APPRENTICESHIP: SECTION 16.
(Under Section 20 of the Employment of Natives Ordinance)
This deed made the day of

between a boy (1) above the age of nine
years and under the age of sixteen, by of
the 12 of the said of
the part, and of of the other
part

Witnesseth as follows

1. The said by the authority of the said
..... hereby binds himself apprentice to the said
..... for from the of and agrees
during that term and
obey his lawful and assent himself by day or
night from the of the said without leave.

2. The said agrees with the said
that during the said term he will provide him with sufficient
food for a and lodging and suitable clothing, and
medical advice for his and will instruct him to be
employed in the employ and will
produce him (1) and
to do the of returning
to his home

In witness whereof this day and
year first above written (attestation when party
or parties can read and write)

Signed, sealed and delivered
by the said in the
presence of

Magistrate

(1) Or "girl"
(2) "Father" or "guardian."
(3) "The said have hereunto set their hands and seals,"
or "have hereunto made their marks and set their seals," or "the said
..... has hereunto set his hand and seal and the said has
hereunto made his mark and set his seal" as the case may be

Attestation when party or parties illiterate

The mark of the said... was made hereon and the indenture was sealed and delivered by him after the same was interpreted to him when he seemed to fully understand the same in the presence of

Approved... Magistrate. Magistrate.

The... day of ... 19...

DEED OF APPRENTICESHIP under Section 17. (Under rule No. 21 of the Employment of Natives Rules, 1935)

This deed made the... day of... 19... between... (a child under the age of sixteen years without known relatives and without a guardian) by... (who has been appointed by the... as the guardian of the said... and to execute this deed on his behalf) of the one part, and... of the other part.

Witnesseth as follows:

1. The said... by the authority of the said magistrate... binds himself apprentice to the said... from the date hereof, and agrees during that term to faithfully serve the said... and obey his lawful commands and not to absent himself by day or night from the service of the said... without leave.

2. The said... agrees with the said... that during the said term he will provide him with... good food and drink and lodging and suitable clothing, and medical advice and medicine, and will instruct him or cause him to be instructed in the employment of... and will produce him to any magistrate or justice of the peace whenever called upon by such magistrate or justice of the peace so to do, and at the end of the said term will provide for and... if he desires it with sufficient means of returning to his home.

In witness whereof... the day and year first above written. Attestation and approval as in the preceding form.

(1) State by what magistrate appointed. (2) As in note (3) to preceding form.

Consenters
 (Under section 38 of the Employment of Servants Ordinance, 1935.)

I hereby certify that
 son of is juvenile,
 his duty received from
 (A) his father s/o
 registration number
 (B) his guardian s/o
 registration number
 (C) me, District Officer,
 the permission, required under section 38 of the Employment
 of Servants Ordinance, 1935, to seek employment.

(1) Strike out words not required.

FORM OF COMPLAINT.

(Under section 4 of the Employment of Servants Ordinance, 1935.)

I, of
 hereby make
 complaint as follows against
 Reg. No. hereinafter referred to as
 'the accused'

1. That the said accused on the day
 was a servant employed by me at
 under a contract of service
 made under the provisions of the Employment of Servants
 Ordinance, 1935.

2. That the said contract of service was a -

(a) Verbal contract for a calendar month commencing

(i) Verbal contract for months
 commencing
 (ii) Written contract for months
 commencing
 (c) Written contract for months
 commencing
 (d) Written contract for months
 commencing

3. That on or about the day of
 the said accused did, in contravention of
 the terms of the said contract, without lawful excuse absent
 himself from his place of employment at
 and has absented himself therefrom
 for a period exceeding seven whole consecutive days, thereby
 committing the offence of desertion.

I therefore apply for a warrant for the arrest of the said
 accused to answer the above complaint, which I undertake to
 substantiate on oath when required to do so.

Dated this day of

Employer.

(a), (b), (c) and (d) are alternative clauses; those inapplicable
 should be struck out.

Employment of Natives CAP 196

DISTRICT OFFICE OF APRENTICESHIP UNDER SECTION 14
 (Under section 14 of the Employment of Natives Ordinance, 1935.)
 This deed made the day of

19..... between (a person not under the age of
 sixteen years of age) of the one part and
 of the other part.

Witnesseth as follows.

1. The said hereby binds himself apprentice
 to the said for years from the date hereof,
 and agrees during that term to faithfully serve the said
 and obey his lawful commands and not to absent
 himself by day or night from the service of the said
 without leave.

2. The said agrees with the said
 that during the said term he will provide him with sufficient
 good food and drink and lodging and suitable clothing, and
 medical advice and medicine and will instruct him or cause
 him to be instructed in the employment of

In witness whereof I, the day
 and year first above written. Attestation and approval as in
 the form under Section sixteen.

(1) As in note (1) to form under section sixteen.

LABOUR AGENT'S PERMIT

Applicant for permit by Permission as hereby granted to
 For For the period of
 Date of receipt Months beginning
 Date of issue of permit And expiring
 Date of commencement of To recruit natives in the district of
 As
 Date of expiration of permit In the district of
 Upon the conditions enclosed hereto

CONDITIONS REFERRED ON PERMIT.

(1) The recruiter shall obey all lawful requirements of any magistrate
 while engaged in recruiting.

(2) The recruiter shall comply with the conditions of the Master and
 Servants Ordinance, with any rules published thereunder, as regards feeding,
 lodging, housing, and otherwise caring for any native recruited by him
 while such native is travelling to and from the locality in which he is to be
 employed, and shall further comply with any special conditions (if any)
 attached to this permit.

(3) Special conditions (if any).

Under section 38 of the Employment of Servants Ordinance 1935.

I hereby certify that... of... is a juvenile... his father... his guardian... registration number...

(7) me, District Officer, the permission required under section 38 of the Employment of Servants Ordinance, 1935, to seek employment.

(1) Strike out words not required.

FORM OF COMPLAINT

(Under section 43 of the Employment of Servants Ordinance, 1935.)

I, ... of ... hereby make complaint as follows against ... Reg. No. ... hereinafter referred to as 'the accused'

1. That the said accused on the ... day of ... was a servant employed by me at ... under a contract of service made under the provisions of the Employment of Servants Ordinance, 1935.

2. That the said contract of service was a -

- (a) Verbal contract for a calendar month commencing ...
(b) ... 30 days contract commencing ...
(c) Written 'special' contract for ... months ... commencing ...
(d) Written contract for ... months ... commencing ...

3. That on or about the ... day of ... the said accused did, in contravention of the terms of the said contract, without lawful excuse absent himself from his place of employment at ... and has absented himself therefrom for a period exceeding seven whole consecutive days, thereby committing the offence of desertion.

I therefore apply for a warrant for the arrest of the said accused to answer the above complaint, which I undertake to substantiate on oath when required to do so.

Dated this ... day of ...

Employer.

(a), (b), (c) and (d) are alternative clauses; those inapplicable should be struck out.

Employment of Servants CAP. 150

DISTRICT OFFICER'S APPOINTMENT CERTIFICATE
This deed made this ... day of ... 19...

19... between... (a person not under the age of sixteen years) of ... of the one part and ... of the other part.

Witnesseth as follows:
1. The said ... hereby binds himself apprentice to the said ... for ... years from the date hereof, and agrees during that term to faithfully serve the said ... and obey his lawful commands and not to absent himself by day or night from the service of the said ... without leave.

2. The said ... agrees with the said ... that during the said term he will provide him with sufficient good food and drink and lodging and suitable clothing, and medical advice and medicine and will instruct him or cause him to be instructed in the employment of ...

In witness whereof ... the day and year first above written. Attestation and approval as in the form under Section sixteen.

(1) as in note (2) to form under section sixteen.

LABOUR AGENT'S PERMIT

Application for permit by ... Permission is hereby granted to ... For ... For the period of ... Date of receipt ... Months beginning ... Date of issue of permit ... and expiring ... To recruit natives in the district of ... Date of commencement of ... As ... Date of expiration of permit ... In the district of ... Upon the conditions endorsed hereto

CONDITIONS ENDORSED ON PERMIT.

- (1) The recruit shall obey all lawful requirements of any magistrate while engaged in recruiting.
(2) The recruiter shall comply with the conditions of the Master and Servants Ordinance, with any rules published thereunder, as regards feeding, clothing, housing, and otherwise caring for any native recruited by him while such native is travelling to and from the locality in which he is to be employed, and shall further comply with any special conditions (if any) attached to this permit.
(3) Special conditions (if any).

THE EMPLOYMENT OF SERVANTS BILL, 1935

COMPARATIVE TABLE

Clause of the Bill.	Corresponding section of Chapter 139 of the Revised Edition.	Remarks
1.		Short title.
2.	3	The definitions of "desertion", "labour forwarding agent", "agent", "private recruiter", "task" and "task work" are new and are based on the Bill approved by the Secretary of State in his telegram of 19th May, 1931, hereinafter referred to as "the Bill". The definition of "servant" is new.
3.	3(2)	
4.	3A as amended by Ordinance No. 7 of 1926.	
5.	6A	-do-
6. (1) (2)	4	Clause 3 of the Bill.
7.	3(1) and (5)	
8.	6	
9.	7	
10.	8	
11.	9	
12.	10	
13.	11	
14.	12	
15.	13	
16.	14	
17.		Clause 23 of the Bill.
18.		Clause 24 of the Bill.
19.	15 and Clause 7 of the Bill.	
20.	16	
21.	17	
22.	18	
23.	19	

Clause of the Bill.	Corresponding section of Chapter 139 of the Revised Edition.	Remarks.
---------------------	--	----------

24.	20
25.	21
26.	22
27.	23
28.	
29.	
30.	
31.	24
32.	25
33.	26
34.	27
35.	28
36.	29
37.	30
38.	31
39.	32
40.	
41.	
42.	40
43.	
44.	41
45.	42
46.	43
47.	44
48.	45
49.	46
50.	
51.	47
52.	48
53.	49
54.	50

Clause 25 of the Bill.
 Clause 26 of the Bill.
 Clause 28 of the Bill.

Clause 29 of the Bill.
 Clause 30 of the Bill.
 Clause 32 of the Bill.

Sections 41A and 41B of Uganda Ordinance No.9 of 1933.