

1937

38090

3

C0533/480
KENYA

38090

3

DEFENCE FORCE

LEGISLATION

Previous

M.F.

Subsequent

1938

R. 297

10/1/37

R. 309

28/1/37

M. 200

R. 297

12/4/37

R. 309

24/5/37

Libraries (Legal)

25/5/37

R. 297

7/7/37

R. 309

7/12/37

M. 200

8

297

C.I.
DEFENCE.

1. ACTING COL. SEC. 3 PM. 16.2.37.
Trs. 12 copies of Report of Select Committee of Leg.
Co. on the Kenya Defence Force Bill.
(Spares to Library).

See minutes below Army on
38240/37. C.A. [Signature] 2573

2.A./GOV'S DEPUTY. 200. 3.4.37.
Spares to Libry. Trs. Ordce. 5 of 1937 "Kenya Defence Ordce., 1937" and
comments thereon requesting non-disallowance be
communicated by telegram.

Deft to W.O. on
38240/2/37.
C.A. [Signature] 20/4/37.
See minutes on 38240/2/37

3 To Gov. ltr. 46. - 24/4/37. (Draft on 38240/2/37)

Noted.
K. [Signature]
25/5/37

4 To W.O. (on 38240/2/37) - 18/5/37

~~Extract from Supply to Gazette No. 20 of 4.5.37 (reg. on 38240/2/37)~~

Librarians to file (2)

5. GOV. KENYA. 413. 26.7.37.
Requests to be informed as early as possible whether
the Army Council wishes to propose any additional
amendments.

See minutes of 12/4/37 on
38240/3/37.

C. Gov., Kenya ----- 626 ----- -18.10.37

Ref (5) enquires whether the Army Council has proposed
amendments.

FOR MINUTES, MEMORANDA & CORRES WITH YOUR OFFICE, SEE ON 38240/2/37

7 To Kenya Govt (2) - ~~Copy of [redacted]~~ - 30 NOV 1937
(6 enclosed.) (Draft on 38240/3/37.)

8. Extract from Gazette N° 44 of 21.9.37.

9. Extract from Gazette N° 44 of 21.9.37

No 8 & 9. 2/12/37. Clerk's Note 7/12

J. J. P. P.
2/12
as usual.

2
Extract from Kenya Gazette N° 44 of 21.9.37

450

Kenya Proclamations, Rules and Regulations, 1937

GOVERNMENT NOTICE No. 724

THE KENYA DEFENCE FORCE ORDINANCE, 1937

ORDER

IN EXERCISE of the powers conferred upon him by section 12 (2) of the Kenya Defence Force Ordinance, 1937, His Excellency the Governor in Council has been pleased to exempt Mr G. S. Davidson from all obligations imposed by the aforesaid Ordinance or by any regulations made thereunder except service of a non-combatant nature.

By Command of His Excellency the Governor in Council.

Nairobi,

This 13th day of September, 1937.

R. W. BAKER-BEALL,
Clerk to the Executive Council.

Extract from Gazette No 44 of 21 9 37

GOVERNMENT NOTICE NO. 723

THE KENYA DEFENCE FORCE ORDINANCE, 1937

ORDER

IN EXERCISE of the powers conferred upon him by section 12 (2) of the Kenya Defence Force Ordinance, 1937, His Excellency the Governor in Council has been pleased to exempt the classes of persons specified in the Schedule hereto from all the obligations imposed by the aforesaid Ordinance or by any regulations made under such Ordinance

By Command of His Excellency the Governor in Council,
Nairobi,

This 13th day of September, 1937

R W BAKER-BEALL,

Clerk to the Executive Council

SCHEDULE

Officers and Members of the Kenya Regiment

Officers and Members of the Reserve and Special Reserve to the Kenya Regiment.

The person for the time being holding the post of His Majesty's Trade Commissioner, and the person for the time being holding the post of Assistant to His Majesty's Trade Commissioner, in East Africa.

AIR MAIL

KENYA

No. 413



5
GOVERNMENT HOUSE

NAIROBI

KENYA

RECEIVED

24 AUG 1957

26 JULY, 1957.

Sir,

3
2
With reference to correspondence terminating with your telegram No. 96 of the 27th April last on the subject of the Kenya Defence Force Ordinance, 1957, I have the honour to inform you that it is considered desirable to introduce the amendment of the Ordinance referred to in Mr. Logan's despatch No. 200 of the 3rd April during a session of Legislative Council which will probably be held in October or November. I shall be glad therefore if I may be informed as early as possible whether the Army Council wishes to propose any additional amendments.

I have the honour to be,

Sir,

Your most obedient,
humble servant,

R Brooke-Johnson

AIR CHIEF MARSHAL,

G O V E R N O R .

THE RIGHT HONOURABLE

W. ORMSBY GORE, P.C., M.P.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET,

L O N D O N .

S. W. 1

Copy

4

Draft on
SSC/2/37

18 May, 1937.

Sir,

I am directed by Mr. Secretary Ormsby Gore to refer to the previous correspondence regarding the draft Ordinances for the establishment of the Kenya Regiment (Territorial Force) and the Kenya Auxiliary Reserve, and to transmit to you, to be laid before the Army Council, copies of the Ordinances as passed by the Legislative Council of Kenya together with the reports of the Select Committee of the Legislative Council appointed to consider the provisions of the Bills as submitted to the Council. For convenience of reference the amendments proposed by the Select Committee have been marked in red ink in copies of the Bills which are also enclosed, for perusal and return.

2. Mr. Ormsby Gore will be grateful for any observations which the Army Council may now have to offer

~~Copy No. 4. 1937~~
~~Bill marked~~
~~in red ink~~
~~Copy No. 5. 1937~~
~~Bill marked~~
~~in red ink~~

Reports

THE UNDER SECRETARY OF STATE
WAR OFFICE.

offer on the Ordinances as passed.

3. As regards the proposed auxiliary force, it will be observed that the title has been changed to the Kenya Defence Force. In Clause 8 of the Kenya Defence Force Ordinance, 1937, provision has been made for an age limit of 55 years, and in this connection I am to invite reference to the accompanying copy of a despatch from the Acting Governor dated the 4th of March and the Secretary of State's reply of the 19th of March. As the Governor proposes to take an early opportunity to amend the Ordinance in accordance with the terms of the Secretary of State's telegram of the 19th of March, it will be appreciated if any amendments which the Army Council may have to propose in connection with this or the Kenya Regiment (Territorial Force) Ordinance can be communicated to the Colonial Office as early as possible, in order that they may be transmitted to the Governor with a view to their inclusion in the next amending Ordinances.

4. The Governor has been informed by telegraph that His Majesty will not be advised to exercise his power of disallowance in respect of these Ordinances and that any proposals for amendments which may be made after fuller detailed examination and consideration, will

From O.A.G.
4.3.37

To O.A.G.
19.3.37

will be sent by despatch.

The Governor has now reported that it is proposed to bring the Kenya Regiment Ordinance into force with effect from the 1st of June and the Defence Force Ordinance with effect from the 1st of September.

I am,

Sir,

Your most obedient servant,

Signed: E. W. F. O.

Kepton
58240/2/37

3

TELEGRAM from the Secretary of State for the Colonies
to the Governor of Kenya.

Sent 7.0 p.m. 27th April, 1937.

No. 96.

Your despatches 3rd April No. 199 and No. 200.
Kenya Regiment (Territorial Force) Ordinance and Kenya
Defence Force Ordinance. His Majesty will not be advised
to exercise power of disallowance, and Ordinances may be
brought into operation forthwith. Any proposals for
later amendment which may be made after further detailed
examination and consideration will be sent by despatch.

AIR MAIL

KENYA

No. 200

RECEIVED
12 APR 1937
C. O. LECY



GOVERNMENT HOUSE

NAIROBI

KENYA

3 APRIL, 1937.

Sir,

(8) on 38240/37

With reference to correspondence terminating with your telegram No. 63 of the 19th March, I have the honour to forward two authenticated and twelve printed copies of Ordinance No. V of 1937 entitled "An Ordinance to Provide for the Establishment of the Kenya Defence Force" together with a Legal Report thereon with enclosures by the Attorney General.

2. This Ordinance passed its third reading in the Legislative Council on the 9th March and the Acting Governor assented to it in His Majesty's name on the 29th March.

A
(8) on 38240/37

3. An early opportunity will be taken to amend the Ordinance in accordance with the terms of your telegram of the 19th March, and it will therefore be appreciated if any additional amendments which the Army Council may have to propose can be communicated to this Government as early as possible.

4. In view of the fact that it is not the intention to bring the Ordinance into operation until an intimation is received that His Majesty will not be advised to exercise his powers of disallowance, I shall be grateful if that intimation could be communicated by telegram.

I have the honour to be,
Sir,
Your most obedient,
humble servant,
H. Morgan
ACTING GOVERNOR'S DEPUTY.

THE RIGHT HONOURABLE
W. ORMSBY GORE, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W. 1

LEGAL REPORT

THE KENYA DEFENCE FORCE BILL, 1937

This Bill, together with the Kenya Regiment (Territorial Force) Bill, 1937, is designed to give effect to the recommendations of the Committee appointed by His Excellency the Governor on the 4th April, 1936, to consider suggestions for the reorganization of the Defence Forces of the Colony.

This Bill is modelled on the Defence Force Ordinance, 1927, which it repeals and makes provision for the establishment of a Force to be known as the Kenya Defence Force, the main function of which will be to train all citizens not in the Kenya Regiment to defend the Colony in the event of Internal Disturbance.

The Bill, prior to its introduction into Legislative Council, was submitted to the Secretary of State, and was, subject to amendments suggested, approved by him in his telegram No.248 of the 28th October, 1936.

A copy of the Bill showing the amendments made during its passage in Legislative Council, together with a Comparative Table, is enclosed herewith for submission to the Secretary of State.

As the Bill was approved by the Secretary of State and as it is not intended to bring it into operation until he signifies that His Majesty will not be advised to exercise the powers of disallowance with regard to this Bill, I am of opinion that His Excellency the Governor may properly assent to this Bill in the name and on behalf of His Majesty.

Nairobi,
9th March, 1937.

W. Haney
ATTORNEY GENERAL

COMPARATIVE TABLE

THE KENYA DEFENCE FORCE BILL, 1937

Clause of the Bill.	Remarks.
1.	Short title and commencement.
2.	New.
3.	Cf.sections 2 and 3(2) of the Defence Force Ordinance,1927 (No.12 of 1928).
4.(1)	New.
(2)	Cf.section 3(3) -do-
5.	Cf.section 5 -do-
6.	Cf.section 8 -do-
7.	Cf.section 9 -do-
8.	New, but cf.section 10 -do-
9.	Cf.section 11 -do-
10.	Cf.section 12 -do-
11.	New.
12.	Cf.section 13 -do-
13.	Cf.section 14 -do-
14.	Cf.section 15 -do-
15.	Cf.section 16 -do-
16.	Cf.section 17 -do-
17.	New, but for sub-clause (2) cf.section 18(2) -do-
18.	Cf.section 20 -do-
19.	Cf.section 21 -do-
20.	Cf.section 22 -do-
21.	Cf.section 23 -do-
22.	Cf.section 25 -do-
23.	New, but cf.section 24 -do-
24.	Cf.section 26 -do-
25.	New.
26.	New.

Clause of
the Bill.

Remarks.

- | | | |
|-----|---|------|
| 27. | Cf. section 29 of the Defence Force Ordinance,
1927 (No.12 of 1928). | |
| 28. | New, but cf. section 8 of the South African Act
No.13 of 1912. | |
| 29. | Cf. section 30 of the Defence Force Ordinance,
1927 (No.12 of 1928). | |
| 30. | New. | |
| 31. | Cf. section 31 | -do- |
| 32. | New. | |
| 33. | New. | |
| 34. | New. | |
| 35. | New. | |



Colony and Protectorate of Kenya

IN THE FIRST YEAR OF THE REIGN OF
HIS MAJESTY KING GEORGE VI

ARMIGEL DE VINS WADE, C.M.G., O.B.E.,
Acting Governor.

Assented to in His Majesty's
name this 25th day of March,
1937.

Acting Governor.

AN ORDINANCE TO PROVIDE FOR THE
ESTABLISHMENT OF THE KENYA
DEFENCE FORCE

ORDINANCE No. V of 1937

An Ordinance to Provide for the Establishment of the Kenya Defence Force.

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

PART I.

ESTABLISHMENT, ORGANIZATION AND ADMINISTRATION.

1. This Ordinance may be cited as the Kenya Defence Force Ordinance, 1937, and shall come into operation on such date as the Governor may, by notice in the Gazette, appoint. Short title and commencement.

2. In this Ordinance unless the context otherwise requires, the following expressions have the following meanings :— Interpretation.

"active service"—every member of the Defence Force when called out for the purpose of repelling external aggression or for aiding the civil authority in the protection of life and property or for the prevention or the suppression of internal disorder in the Colony shall be deemed to be on active service ;

"Commander" means the Commander, Local Forces, Kenya and Uganda ;

"Defence Force" means the Force established under the provision of section 3 of this Ordinance ;

"peace training" means such training, other than training on active service, as may be prescribed ;

"prescribed" means prescribed by regulations ;

"regulations" means regulations made under the provisions of this Ordinance.

3. (1) There shall be established in the Colony a Kenya Defence Force to be known as the Kenya Defence Force which shall be under the supreme command of the Governor, and the members of which shall be liable, in accordance with the provisions of this Ordinance, to be called out for active service within the limits of the Colony and to undergo such peace training as may be prescribed. Kenya Defence Force.

ORDINANCE No. V of 1937

An Ordinance to Provide for the Establishment of the Kenya Defence Force.

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

PART I.

ESTABLISHMENT, ORGANIZATION AND ADMINISTRATION.

1. This Ordinance may be cited as the Kenya Defence Force Ordinance, 1937, and shall come into operation on such date as the Governor may, by notice in the Gazette, appoint. Short title and commencement.

2. In this Ordinance unless the context otherwise requires, the following expressions have the following meanings :— Interpretation.

"active service"—every member of the Defence Force when called out for the purpose of repelling external aggression or for aiding the civil authority in the protection of life and property or for the prevention or the suppression of internal disorder in the Colony shall be deemed to be on active service;

"Commander" means the Commander, Local Forces, Kenya and Uganda;

"Defence Force" means the Force established under the provision of section 3 of this Ordinance;

"peace training" means such training, other than training on active service, as may be prescribed;

"prescribed" means prescribed by regulations;

"regulations" means regulations made under the provisions of this Ordinance.

3. (1) There shall be established in the Colony a force to be known as the Kenya Defence Force which shall be under the supreme command of the Governor, and the members of which shall be liable, in accordance with the provisions of this Ordinance, to be called out for active service within the limits of the Colony and to undergo such peace training as may be prescribed. Kenya Defence Force.

(2) The Governor shall from time to time constitute for the Defence Force a permanent staff, consisting of such officers, warrant officers, non-commissioned officers and men as he may deem necessary.

Organization of the Defence Force.

4. (1) The Defence Force shall be under the command of the Commander, who shall be responsible to the Governor for the organization, administration, discipline and efficiency of the Defence Force.

(2) The headquarters of the Defence Force shall be in Nairobi, or at such other place as the Governor may from time to time appoint.

Defence Force Districts.

5. (1) For the purposes of this Ordinance the Governor shall divide the Colony into districts to be known as Defence Force Districts and shall designate the same respectively by such names as he may think fit, and may at any time alter or abolish such districts or designations and may appoint others in place thereof respectively.

(2) The Governor shall commission in each Defence Force District a District Commandant and such other officers as he may deem expedient.

(3) Every such District and the members of the Defence Force resident therein shall be organized in accordance with the provisions of this Ordinance and of the regulations.

Power of Governor to dispense with services.

6. The Governor may at any time dispense with the services of any officer or member of the Defence Force.

Power of Governor to delegate authority.

7. The Governor may, for all or any of the purposes of this Ordinance, by writing under his hand delegate all or any of the functions, powers and duties under this Ordinance or the regulations to such person or persons as he may deem expedient.

PART II.

CONSTITUTION AND ENROLMENT.

Division of the Defence Force into Classes.

8. Members of the Defence Force shall be divided into the following Classes, namely:—

Class I—Persons who have attained the age of eighteen years and have not attained the age of thirty years.

Class II—Persons who have attained the age of thirty years and have not attained the age of fifty-five years.

9. (1) Subject to the provisions of this Ordinance every male British subject, both of whose parents are of European origin or descent, who has attained the age of eighteen years and who has not attained the age of fifty-five years and who is ordinarily resident in the Colony shall attend at the office of the District Commissioner of his administrative district within one month after the commencement of this Ordinance or of attaining the age of eighteen years or of becoming so resident as aforesaid, as the case may be, and shall enrol himself as a member of the Defence Force in the Class appropriate to his age, and if such person fails so to enrol himself he shall nevertheless be deemed to be enrolled as a member of the Defence Force.

Compulsory enrolment of male British subjects between the ages of 18 and 55 years.

Any person failing to enrol himself as provided for in this sub-section shall be guilty of an offence, and shall be liable, on conviction, to a fine not exceeding ten pounds or to imprisonment for a term not exceeding one month, or to both such fine and such imprisonment.

(2) With the permission of the Governor, any male person, who is not a British subject but who has the other qualifications required by sub-section (1) of this section, may volunteer to serve in the Defence Force, and in such case such person shall attend at the office of the District Commissioner as aforesaid and upon taking the prescribed oath shall enrol himself as a member of the Defence Force in the Class appropriate to his age.

(3) Notwithstanding anything in this section contained, members of the Medical and Veterinary professions in actual practice shall only be enrolled or deemed to be enrolled and liable to serve in the Defence Force in their professional capacity.

(4) For the purpose of ascertaining what persons are liable to serve in the Defence Force and the best use which can be made of their services in time of emergency, regulations may be made requiring all or any persons to give, from time to time, such particulars regarding themselves as may be prescribed and requiring employers to give, from time to time, particulars of all persons in their employ and the nature of their employment.

Right of persons to elect as to Class in which they are enrolled.

10. Notwithstanding anything in the last preceding section contained, any person liable to be enrolled and to serve in the Defence Force or who volunteers for service therein may, with the permission of the Commander, elect to enrol as a member of the Class preceding the Class appropriate to his age.

Upon enrolment such person shall be liable to perform all the duties and shall be subject to all the obligations imposed by this Ordinance and by the regulations upon the members of the Class in which he is enrolled.

Exemptions.

11. Notwithstanding anything to the contrary in this Ordinance contained, the classes of persons set out in the First Schedule to this Ordinance shall be exempted from such of the obligations imposed by this Ordinance as are specified in such Schedule.

Other exemptions.

12. (1) All persons who are certified under the hand of a medical officer, specially appointed by the Governor, to be medically unfit for service under this Ordinance by reason of bodily or mental infirmity or unfitness shall be exempt from service in the Defence Force.

(2) The Governor in Council may by order exempt any person or any class of persons from all or any of the obligations imposed by this Ordinance or by the regulations.

Preparation of lists of persons liable to serve.

13. (1) The District Commissioner of each administrative district shall, within two months after the commencement of this Ordinance, and during the month of January in each succeeding year, prepare a list, in the form set out in the Second Schedule to this Ordinance, containing the names of all persons in the district who are liable for enrolment and service or who volunteer for service under the provisions of this Ordinance.

(2) When such list has been prepared the District Commissioner shall cause a copy thereof to be affixed in a conspicuous manner at his office and court-house, and shall cause to be inserted, in at least one newspaper, a notice of the day on which and the place at which he will hold a court for the purpose of hearing objections to such list, which day shall not be earlier than two weeks nor later than four weeks (unless for special reasons) after the date on which the copy of such list was affixed as aforesaid.

(3) Upon the date and at the place so notified the District Commissioner shall hold a court, and shall, on due proof by the oath of such person as he shall see fit to examine or by statutory declaration or affidavit, correct all errors in such list, either by adding thereto the names of persons liable to enrolment and service or by striking out the names of persons who have been exempted. Such court may be adjourned from day to day until all questions as to the correctness of the list have been determined. The decision of the District Commissioner upon any question arising in regard to the correction of the list shall be subject to appeal to the Court of a First Class Magistrate.

(4) As soon as all questions as to the correctness of the list have been determined as aforesaid, the District Commissioner shall forthwith transmit such corrected list to the Commander.

14. Any member of the Defence Force who leaves a Defence Force District to reside in another Defence Force District shall forthwith notify the District Commissioner and the District Commandant of each such District and any such member who fails to make such notification shall be guilty of an offence and shall be liable on conviction to a term of imprisonment not exceeding one month or to a fine not exceeding ten pounds.

Change of residence.

PART III.

ARMS, EQUIPMENT AND TRAINING.

15. Such rifles, ammunition, equipment and uniform as Government is prescribed shall be provided by the Government for officers and members of the Defence Force and will be issued in accordance with the regulations.

Government to provide rifles and ammunition.

16. Every officer and member of the Defence Force in possession of a Government rifle, ammunition, equipment and uniform as hereinbefore provided shall be responsible for the same and for keeping the same in a good and efficient condition, and shall be liable for any loss of or damage to such rifle, ammunition, equipment or uniform, due to his act, neglect or default.

Duties in regard to Government rifles, etc.

17. (1) The peace training of each Class of the Defence Force shall be carried out in accordance with the regulations and every member of the Defence Force shall undergo such peace training in any year as shall be notified in accordance with the provisions of section 19 of this Ordinance.

Peace training.

(2) The time occupied in proceeding to or returning from a camp or place of assembly or instruction shall not be taken into account as part of the prescribed period of peace training.

Power to exempt from peace training.

18. A District Commandant may, with the approval of the Commander, exempt any member of the Defence Force in his District from the performance of the whole or any part of his compulsory peace training under the provisions of section 17 of this Ordinance.

Notification of time and place of peace training.

19. The date and place of every course of peace training shall be notified by the Commander and notice of such date and place published in the Gazette and in the Defence Force Orders and in such other manner as may be prescribed shall be sufficient notice to every member of the Defence Force.

Penalty for non-attendance at peace training.

20. If any member of the Defence Force without reasonable cause or excuse, after due publication of the notice prescribed by the last preceding section, fails to attend at the place mentioned in such notice for the purpose of undergoing the prescribed course of peace training, or fails to complete such course, then and in any such case such member shall be liable, on conviction before a magistrate of the first or second class, to a fine not exceeding ten pounds or to imprisonment for a term not exceeding one month or to both such fine and such imprisonment:

Provided that no such conviction shall be deemed to exempt the person convicted from all or any of his duties and obligations under this Ordinance or the regulations.

PART IV.

MOBILIZATION.

Calling out and mobilization of the Defence Force.

21. (1) Whenever in the opinion of the Governor it shall be necessary to repel external aggression, or to aid the civil authority in the protection of life and property and to prevent and suppress internal disorder in the Colony, the Governor may, by proclamation, call out and mobilize the Defence Force or such part or parts thereof as he may deem necessary for active service:

Provided that a proclamation under this sub-section may call out the members of either Class or both Classes mentioned in section 8 of this Ordinance, but so that the members enrolled in Class II shall not be called out until the members enrolled in Class I have been called out:

Provided further that the Governor may, by such proclamation, in lieu of calling out and mobilizing the Defence Force or any part thereof as aforesaid, order the Defence Force or such part or parts thereof as he may deem necessary to hold itself in readiness for immediate mobilization.

(2) In the case of sudden and imminent danger in any province or district, when it is not possible to obtain the authority of the Governor without undue delay, the civil officer in charge of such province or district may, for the defence of the province or district or any part thereof or for the protection of life and property therein, by proclamation in the name of the Governor call out the members of the Defence Force resident in such province or district, but in such case such officer shall forthwith report to the Governor such calling out and any subsequent step taken by him.

22. On the mobilization of the whole or any part of the Defence Force for active service every resident (whether he is or he is not a member of the Defence Force) shall be liable to provide transport and supplies in his possession if so required; and any person who without reasonable cause or excuse, fails to comply with the requirements of this section shall be liable on conviction before a magistrate of the first or second class, to a fine not exceeding one hundred pounds or to imprisonment for any term not exceeding six months or to both such fine and such imprisonment.

Liability of population to provide transport, etc.

PART V.

MISCELLANEOUS PROVISIONS.

23. The provisions of the Army Act, 44 and 45 Vict., Ch. 68, and all Acts amending or substituted for the same (hereinafter together referred to as the Army Act) shall apply to the permanent staff and officers of the Defence Force at all times and to members of the Defence Force when they are on active service, when they are called out for active service, during peace training, when they are engaged in any military exercise of drill or musketry, when they are carrying out any escort duty or guard of honour and when they are in uniform at any time or place, subject to the following modifications—

Discipline of the Defence Force on mobilization to be governed by Army Act, 44 and 45 Vict., Ch. 68.

(a) the words "the Defence Force" shall be read therein for the words "Regular Forces", the words "officer or member of the Defence Force" for the words

"officer or soldier", and the word "Governor" for the words "His Majesty" and "Secretary of State", and

- (b) no sentence of a court martial upon the trial of an officer or member of the Defence Force shall be carried into execution unless confirmed by the Governor or such officer as he may appoint on his behalf.

Defence Force not to be called out for ceremonial parades.

24. No officer or member of the Defence Force shall be liable to be called out for ceremonial parades or for any purpose other than as provided in this Ordinance.

Member not to be punished for same offence.

25. Notwithstanding the provisions of section 23 of this Ordinance no officer or member of the Defence Force shall be liable to be punished for any offence under the provisions of this Ordinance as well as under the provisions of the Army Act.

Temporary absence of members, exemptions from service of certain persons.
No. 4 of 1937.

26. The provisions of this Ordinance shall not apply to any member of the Defence Force during his temporary absence from the Colony, nor to any person while serving in the Kenya Regiment (Territorial Force) established under the Kenya Regiment (Territorial Force) Ordinance, 1937, or in the Reserve or Special Reserve thereof:

Provided that except as hereinafter provided every person on the date of the completion of his service with the Kenya Regiment (Territorial Force) or with the Reserve or Special Reserve thereof shall be deemed to be a member of the Defence Force in Class II thereof as provided for in section 8 of this Ordinance and to be subject in all respects to the provisions of this Ordinance:

Provided further that the provisions of the above proviso shall not apply to any officer or member of the Kenya Regiment (Territorial Force) (excluding the Reserve thereof) between the ages of eighteen and thirty who has been permitted, to resign therefrom before having completed the full term of his service therewith, nor to any such officer or member of the Kenya Regiment (Territorial Force) (excluding the Reserve thereof) whose service with the Regiment has been unsatisfactory. A certificate signed by the Commanding Officer of the unit to which such officer or member belongs to the effect that such officer or member was permitted to resign or a certificate signed by the Commanding Officer of such Unit

and approved by the Commander, to the effect that the service of any officer or member of the Kenya Regiment (Territorial Force) has been unsatisfactory shall be sufficient for the purposes of this proviso, provided that in the latter case the certificate shall be shown to the officer or member of the Defence Force concerned before being sent to the Commander. Any such officer or member who has been permitted to resign or whose service has been unsatisfactory shall be deemed to be a member of the Defence Force in Class I thereof and to be subject in all respects to the provisions of this Ordinance, except that the amount of peace training to be done by him shall be in the discretion of the Commander.

27. Nothing in this Ordinance contained shall be deemed to prevent any member of the Defence Force from volunteering to serve in any of His Majesty's Regular or other Forces.

Right of members to volunteer service in His Majesty's Forces.
Co-operation of employers.

28. Any employer who—

- (a) by dismissing an employee or by reducing his wages or in any other manner whatever penalizes him for entering upon or carrying out any service or training under this Ordinance; or
- (b) by words, conduct, or otherwise directly or indirectly compels, induces, or prevails upon, or attempts to compel, induce, or prevail upon, any person in or seeking his employ to do or refrain from doing any service or peace training under this Ordinance for which he is liable.

shall be guilty of an offence and shall be liable, on conviction before a first or second class magistrate, to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

29. (1) If any officer or member of the Defence Force is temporarily or permanently disabled by reason of any wound or injury received or sickness contracted by him during peace training or when on active service the Governor may award to such officer or member such compensation, gratuity or yearly pension as to him may seem fit.

Governor may award gratuity or pension in certain events

(2) The Governor may grant to the widow or family of any such officer or member who may be killed in action or on active service a pension or allowance of such amount as may be prescribed.

(3) No gratuity or compensation granted under this section shall exceed two hundred and fifty pounds and no pension granted under this section shall exceed one hundred pounds per annum except with the sanction of the Legislative Council.

(4) No pension or gratuity payable under this Ordinance shall be assignable or transferable, nor shall the same be attached or levied upon for or in respect of any debt due from, or any claim against, the recipient of such pension or gratuity, or his wife.

Penalty.

30. Any person who contravenes or fails to comply with any of the provisions of this Ordinance for which no other penalty is provided shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty pounds.

Power to make regulations.

31. (1) The Governor may from time to time make regulations providing for all or any purposes whether general or to meet particular cases that may be convenient for the administration of this Ordinance or that may be necessary or expedient for carrying out the objects or purposes of this Ordinance and where there may be in this Ordinance no provision or no sufficient provision in respect of any matter or thing necessary or expedient for giving full effect to this Ordinance, providing for or supplying such omission or insufficiency and without prejudice to the foregoing powers, providing for all or any of the following matters—

- (a) the general government, discipline, peace training and management of the Defence Force;
- (b) the establishment of units of the Defence Force and the various grades, numerical establishment, ranks and appointments therein;
- (c) the attendance at drills, inspection, classes and courses of instruction of members of the Defence Force and the examination of members of the Defence Force as to proficiency in military professional subjects, and the granting of certificates of proficiency in military professional subjects;
- (d) the establishment of a permanent staff for the Defence Force;
- (e) the appointment to, seniority of, promotion in and tenure of commissioned or non-commissioned ranks in the Defence Force;

- (f) the leave of absence, suspension, reduction and discharge of members of the Defence Force;
- (g) the condition as to physical fitness for service in the various units of the Defence Force;
- (h) the fixing of rates of pay and allowances and issues of rations to members of the Defence Force when called out under section 21 of this Ordinance;
- (i) the enrolment of all persons liable for service in the Defence Force;
- (j) the convening, composition, procedure and power of boards of officers and courts of inquiry;
- (k) the provision of medical treatment at camps;
- (l) the requisitioning of means of conveyance and transport for service with the Defence Force when called out under section 21 of this Ordinance;
- (m) the conveyance by air, road, rail, or water of members of the Defence Force and their transport and equipment when travelling on duty;
- (n) the requisitioning of goods, provisions, supplies and accommodation for members of the Defence Force when called out under section 21 of this Ordinance;
- (o) the issue and care of arms, accoutrements, ammunition, supplies, animals and transport, clothing and equipment for the Defence Force;
- (p) the compiling of registers of transport and the duties of members of the Defence Force in connection therewith;
- (q) the establishment and conduct of camp, regimental, or district institutions for providing recreation and refreshment to members of the Defence Force;
- (r) the returns, books, forms and correspondence relating to the Defence Force; and
- (s) all matters which are by this Ordinance required or permitted to be prescribed.

(2) Such regulations may provide as a penalty in respect of any breach thereof for a fine not exceeding fifty pounds which may be recovered in any court of competent jurisdiction at the instance of the District Commandant of the Defence Force District in which the person infringing the same resides.

No. V

Kenya Defence Force

1937

Passed in the Legislative Council the ninth day of March, in the year of our Lord one thousand nine hundred and thirty-seven.

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

R. W.

BAKER-DALL

Acting Clerk of the Legislative Council.

Original regd. n 38240/2/37

D/Leg.Co.26/3/5/5

16 February, 1937

The Acting Colonial Secretary of the Colony and Protectorate of Kenya presents his compliments to the Under Secretary of State for the Colonies, and has the honour to forward twelve copies each of the undermentioned publications:

Report of Select Committee of Legislative Council on the Kenya Regiment (Territorial Force) Bill

Report of Select Committee of Legislative Council on the Kenya Auxiliary Force Bill

Copy to W.O. (A) on 38240/2/37

38240/2/37

R E P O R T
O F
THE SELECT COMMITTEE OF LEGISLATIVE COUNCIL
APPOINTED TO CONSIDER AND REPORT ON THE
PROVISIONS OF A BILL TO PROVIDE FOR THE
ESTABLISHMENT OF THE KENYA AUXILIARY
FORCE

Your Excellency,

We, the members of the above Committee, recommend that the Kenya Auxiliary Force Bill, 1936, be amended in the following respects -

1. That the Bill and the marginal notes thereto be amended by the deletion of the words "Auxiliary Force" wherever those words occur therein and the substitution therefor of the words "Defence Force".

2. That Clause 1 be amended by substituting the figures "1937" for the figures "1936" which occur in the second line thereof.

3. That Clause 2 be amended -

(a) by deleting the definition of "active service" and by substituting therefor the following -

"'active service' - every member of the Defence Force when called out for the purpose of repelling external aggression or for aiding the civil authority in the protection of life and property or for the prevention or the suppression of internal disorder in the Colony shall be deemed to be on active service;"

(b) by adding immediately after the definition of "active service" the following new definitions -

"'Commander' means the Commander, Local Forces, Kenya and Uganda;

"'Defence Force' means the force established under the provision of section 3 of this Ordinance;"

(c) by deleting the definition of "peace training" and by substituting therefor the following -

"'peace training' means such training, other than training on active service, as may be prescribed."

4. That Clause 3 be amended -

- (a) by deleting the first four lines of sub-clause (1) and by substituting therefor the following -

"3.(1) There shall be established in the Colony a force to be known as the Kenya Defence Force";

- (b) by substituting the word "shall" for the word "may" which occurs in the first line of sub-clause (2).

5. That clause 4 be amended by deleting sub-clause (1) and by substituting therefor the following -

"Organization of the Defence Force.

4.(1) The Defence force shall be under the command of the Commander, who shall be responsible to the Governor for the organization, administration, discipline and efficiency of the Defence force."

6. That Clause 5 be amended by substituting the words "shall commission" for the words "may appoint" which occur in the first line of sub-clause (2).

7. That Clause 9 be amended -

- (a) by substituting the word "Class" for the word "class" which occur in the tenth line;
- (b) by substituting a full-stop for the colon which occurs in the thirteenth line of sub-clause (1);
- (c) by substituting the word "Any" for the words "Provided that any" which occur in the fourteenth line of sub-clause (1);
- (d) by substituting the word "sub-section" for the word "section" in the fifteenth line of sub-clause (1);
- (e) by inserting the word "such" between the word "and" and the word "imprisonment" which occur in the eighteenth line of sub-clause (1); and
- (f) by substituting the word "With" for the words "Subject to" which occur in the first line of sub-clause (2).

8. That Clause 10 be amended -

- (a) by substituting a full stop for the colon which occurs in the sixth line thereof;
- (b) by substituting the word "Upon" for the words "Provided that upon such" which occur in the seventh line thereof.

9. That Clause 11 be amended by substituting the word "classes" for the word "Classes" which occurs in the second line thereof.

10. That Clause 12 be amended by inserting commas after the word "officer" which occurs in the second line thereof and after the word "Governor" which occurs in the second line thereof.

11. That Clause 13 be amended -

- (a) by substituting the words "set out" for the words "given in" which occur in the fourth line of sub-clause (1);

- (b) by deleting the fourth line of sub-clause (2) and by substituting therefor the following -

"to be inserted, in at least one newspaper, a notice of the day".

12. That Clause 15 be amended by deleting the third and the fourth lines thereof and by substituting therefor the following -

"officers and members of the Defence Force and will be issued in accordance with the regulations."

13. That Clause 16 be amended by inserting the words "officer and" between the word "every" and the word "member" which occur in the first line.

14. That Clause 17 be amended -

- (a) by substituting the words "the regulations" for the words "regulations made under this Ordinance" which occur in the second and the third lines of

sub-clause (1);

(b) by substituting the words "taken into account" for the word "reckoned" which occurs in the second line of sub-clause (2).

15. That Clause 20 be amended by inserting the word "such" between the word "and" and the word "imprisonment" which occur in the tenth line.

16. That after Clause 21 there be inserted the following Clause -

"Liability of population to provide transport, etc.

22. On the mobilization of the whole or any part of the Defence Force for active service every resident (whether he is or he is not a member of the Defence Force) shall be liable to provide transport and supplies in his possession if so required; and any person who without reasonable cause or excuse, fails to comply with the requirements of this section shall be liable on conviction before a magistrate of the first or second class, to a fine not exceeding one hundred pounds or to imprisonment for any term not exceeding six months or to both such fine and such imprisonment."

17. That the following heading be inserted immediately after new Clause 22 -

"PART V MISCELLANEOUS PROVISIONS"

18. That Clause 22 be deleted and the following Clause be substituted therefor -

"Discipline of the Defence Force on mobilization to be governed by Army Act, 44 and 45 Vict. Ch. 58

23. The provisions of the Army Act, 44 and 45 Vict. Ch. 58 and all Acts amending or substituted for the same (hereinafter together referred to as the Army Act) shall apply to the permanent staff and officers of the Defence Force at all times and to members of the Defence Force when they are on active service, when they are called out for active service, during peace training, when they are engaged in any military exercise of drill or musketry, when they are carrying out any escort duty or guard of honour and when they are in uniform at any time or place, subject to the following modifications -

(a) the words "the Defence Force" shall be read therein for the words "Regular Forces", the words "officer or member of the Defence Force" for the words "officer or soldier", and the word "Governor" for the words "His Majesty" and "Secretary of State" and

(b) no sentence of a court martial upon the trial of an officer or member of the Defence Force shall be carried into execution unless confirmed by the Governor or such officer as he may appoint on his behalf."

19. That Clause 23 be deleted.

20. That Clause 25 be deleted and that Clauses 26 to 35 be renumbered 25 to 34.

21. That the heading -

"PART V
MISCELLANEOUS PROVISIONS"

which occurs immediately after old Clause 25 be deleted.

22. That Clause 26 (now Clause 25) be amended by substituting the figures "25" for the figures "22" which occur in the first line thereof.

23. That Clause 27 (now Clause 26) be amended -

(a) by substituting the figures "1937" for the figures "1936" which occur in the fifth line thereof.

(N.B. - The marginal note requires similar alteration)

(b) by substituting the word "or" for the word "of" which occurs, after the word "officer", in the thirtieth line thereof.

24. That Clause 29 (now Clause 28) be amended -

(a) by deleting paragraph (a) and by substituting therefor the following -

"(a) by dismissing an employee or by reducing his wages or in any other manner whatever penalized him for entering upon or carrying out any service or training under this Ordinance;"

(b) by deleting the words "or eligible" which occur in the last line of paragraph (b).

25. That Clause 30 (now Clause 29) be deleted

and the following Clause be substituted therefor -

"Governor may award gratuity or pension in certain events.

29. (1) If any officer or member of the Service force is temporarily or permanently disabled by reason of any wound or injury received or sickness contracted by him during peace training or when on active service the Governor may award to such officer or member such compensation, gratuity or yearly pension as to him may seem fit.

(2) The Governor may grant to the widow or family of any such officer or member who may be killed in action or on active service a pension or allowance of such amount as may be prescribed.

(3) No gratuity or compensation granted under this section shall exceed two hundred and fifty pounds and no pension granted under this section shall exceed one hundred pounds per annum except with the sanction of the Legislative Council.

(4) No pension or gratuity payable under this Ordinance shall be assignable or transferable, nor shall the same be attached or levied upon for or in respect of any debt due from, or any claim against, the recipient of such pension or gratuity, or his wife."

26. That clause 32 (now Clause 31) be amended -

(a) by inserting after paragraph (c) the following paragraph -

"(d) the establishment of a permanent staff for the Defence Force;"

(b) by relettering paragraphs (d) to (r) as paragraph (e) to (s);

(c) by deleting paragraph (j) (now paragraph (k)) and by substituting therefor the following -

"(k) the provision of medical treatment at camps;"

27. That the first Schedule be deleted and the following substituted therefor -

"FIRST SCHEDULE

(1) The following persons are exempted from all the obligations imposed by the Ordinance -

Ministers of Religion who have under one a ceremony of ordination in a recognized church;

Judges of the Supreme Court;

Members of the Executive and Legislative Councils;

Officers and British warrant and non-commissioned officers of the King's African Rifles;

Officers of the King's African Rifles Reserve of Officers;

Officers of the regular reserves of the Royal Navy, Army and Royal Air Force;

Officers of the Territorial Army Reserve;

Officers, warrant officers, non-commissioned officers and men of the regular Army, Navy and Air force who are serving in the Colony;

Officers and personnel of the Royal Naval Reserves or the Reserve of the Royal Marines;

Officers on the Emergency List of the Royal Navy;

Serving officers and men of the Kenya Royal Naval Volunteer Reserve;

All European members of the Kenya Police force;

European officers of the Prisons Service.

(2) duly accredited members of missionary bodies are exempted from the obligations imposed by the Ordinance except from the liability to perform after mobilization services of a non-combatant nature.

(3) Administrative officers and resident magistrates are exempted from all the obligations imposed by the Ordinance except where specified duties are assigned to them under the Ordinance."

28 That the Second Schedule be deleted and the following substituted therefor -

SECOND SCHEDULE
REGISTRATION LIST

Date

Administrative District

Defence Force District

No.	Name and Initials.	Age	Residence and Postal Address	Calling	Nationality	Previous Military Service (if any) and Technical Qualifications.	Class in which Enrolled.

The amendments recommended are so numerous that, for facility of reference, the Bill (attached hereto) incorporating the amendments has been reprinted.

We do not wish to postpone the enactment of this measure and have therefore made no recommendation with regard to the amendment of Clause 8 but we would like the arguments with reference to this Clause which were adduced before the Committee and which have been forwarded to the Colonial Secretary by the Chairman to be placed before the Secretary of State for his further consideration.

We have the honour to be,
Your Excellency's most obedient servants,

- SD. E. G. MORRIS (CHAIRMAN)
- SD. H. H. BRASSEY EDWARDS (MEMBER)
- SD. T. D. WALLACE (MEMBER)
- SD. FRANCIS SCOTT (MEMBER)
- SD. F. W. CAVENDISH BENTINCK (MEMBER)
- SD. R. DE V. SHAW (MEMBER)

Nairobi,
8th February, 1937

COLONY AND PROTECTORATE OF KENYA



A BILL TO PROVIDE FOR THE ESTABLISHMENT
OF THE KENYA DEFENCE FORCE

1149-75c. C.C.-26-1-37

PRINTED BY THE GOVERNMENT PRINTER, NAIROBI

A Bill to Provide for the Establishment of the Kenya Defence Force.

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

PART I.

ESTABLISHMENT, ORGANIZATION AND ADMINISTRATION.

1. This Ordinance may be cited as the Kenya Defence Force Ordinance, 1937, and shall come into operation on such date as the Governor may, by notice in the Gazette, appoint.

Short title and commencement.

2. In this Ordinance unless the context otherwise requires, the following expressions have the following meanings :—

Interpretation.

"active service"—every member of the Defence Force when called out for the purpose of repelling external aggression or for aiding the civil authority in the protection of life and property or for the prevention or the suppression of internal disorder in the Colony shall be deemed to be on active service;

"Commander" means the Commander, Local Forces, Kenya and Uganda;

"Defence Force" means the Force established under the provision of section 3 of this Ordinance;

"peace training" means such training, other than training on active service, as may be prescribed;

"prescribed" means prescribed by regulations;

"regulations" means regulations made under the provisions of this Ordinance.

3. (1) There shall be established in the Colony a force to be known as the Kenya Defence Force which shall be under the supreme command of the Governor, and the members of which shall be liable, in accordance with the provisions of this Ordinance, to be called out for active service within the limits of the Colony and to undergo such peace training as may be prescribed.

Kenya Defence Force.

(2) The Governor shall from time to time constitute for the Defence Force a permanent staff, consisting of such officers, warrant officers, non-commissioned officers and men as he may deem necessary.

Organization of the Defence Force.

4. (1) The Defence Force shall be under the command of the Commander, who shall be responsible to the Governor for the organization, administration, discipline and efficiency of the Defence Force.

(2) The headquarters of the Defence Force shall be in Nairobi, or at such other place as the Governor may from time to time appoint.

Defence Force Districts.

5. (1) For the purposes of this Ordinance the Governor shall divide the Colony into districts to be known as Defence Force Districts and shall designate the same respectively by such names as he may think fit, and may at any time alter or abolish such districts or designations and may appoint others in place thereof respectively.

(2) The Governor shall commission in each Defence Force District a District Commandant and such other officers as he may deem expedient.

(3) Every such District and the members of the Defence Force resident therein shall be organized in accordance with the provisions of this Ordinance and of the regulations.

Power of Governor to dispense with services.

Power of Governor to delegate authority.

6. The Governor may at any time dispense with the services of any officer or member of the Defence Force.

7. The Governor may, for all or any of the purposes of this Ordinance, by writing under his hand delegate all or any of the functions, powers and duties under this Ordinance or the regulations to such person or persons as he may deem expedient.

PART II.

CONSTITUTION AND ENROLMENT.

Division of the Defence Force into Classes.

8. Members of the Defence Force shall be divided into the following Classes, namely:—

Class I—Persons who have attained the age of eighteen years and have not attained the age of thirty years.

Class II—Persons who have attained the age of thirty years and have not attained the age of fifty-five years.

9. (1) Subject to the provisions of this Ordinance every male British subject, both of whose parents are of European origin or descent, who has attained the age of eighteen years and who has not attained the age of fifty-five years and who is ordinarily resident in the Colony shall attend at the office of the District Commissioner of his administrative district within one month after the commencement of this Ordinance or of attaining the age of eighteen years or of becoming so resident as aforesaid, as the case may be, and shall enrol himself as a member of the Defence Force in the Class appropriate to his age, and if such person fails so to enrol himself he shall nevertheless be deemed to be enrolled as a member of the Defence Force.

Compulsory enrolment of male British subjects between the ages of 18 and 55 years.

Any person failing to enrol himself as provided for in this sub-section shall be guilty of an offence, and shall be liable, on conviction, to a fine not exceeding ten pounds or to imprisonment for a term not exceeding one month, or to both such fine and such imprisonment.

(2) With the permission of the Governor, any male person, who is not a British subject but who has the other qualifications required by sub-section (1) of this section, may volunteer to serve in the Defence Force, and in such case such person shall attend at the office of the District Commissioner as aforesaid and upon taking the prescribed oath shall enrol himself as a member of the Defence Force in the Class appropriate to his age.

(3) Notwithstanding anything in this section contained, members of the Medical and Veterinary professions in actual practice shall only be enrolled or deemed to be enrolled and liable to serve in the Defence Force in their professional capacity.

(4) For the purpose of ascertaining what persons are liable to serve in the Defence Force and the best use which can be made of their services in time of emergency, regulations may be made requiring all or any persons to give, from time to time, such particulars regarding themselves as may be prescribed and requiring employers to give, from time to time, particulars of all persons in their employ and the nature of their employment.

Right of persons to elect as to Class in which they are enrolled.

10. Notwithstanding anything in the last preceding section contained, any person liable to be enrolled and to serve in the Defence Force or who volunteers for service therein may, with the permission of the Commander, elect to enrol as a member of the Class preceding the Class appropriate to his age.

Upon enrolment such person shall be liable to perform all the duties and shall be subject to all the obligations imposed by this Ordinance and by the regulations upon the members of the Class in which he is enrolled.

Exemptions.

11. Notwithstanding anything to the contrary in this Ordinance contained, the classes of persons set out in the First Schedule to this Ordinance shall be exempted from such of the obligations imposed by this Ordinance as are specified in such Schedule.

Exemptions for health reasons.

12. (1) All persons who are certified under the hand of a medical officer, specially appointed by the Governor, to be medically unfit for service under this Ordinance by reason of bodily or mental infirmity or unfitness shall be exempt from service in the Defence Force.

(2) The Governor in Council may by order exempt any person or any class of persons from all or any of the obligations imposed by this Ordinance or by the regulations.

Preparation of lists of persons liable to serve.

13. (1) The District Commissioner of each administrative district shall, within two months after the commencement of this Ordinance, and during the month of January in each succeeding year, prepare a list, in the form set out in the Second Schedule to this Ordinance, containing the names of all persons in the district who are liable for enrolment and service or who volunteer for service under the provisions of this Ordinance.

(2) When such list has been prepared the District Commissioner shall cause a copy thereof to be affixed in a conspicuous manner at his office and court-house, and shall cause to be inserted, in at least one newspaper, a notice of the day on which and the place at which he will hold a court for the purpose of hearing objections to such list, which day shall not be earlier than two weeks nor later than four weeks (unless for special reasons) after the date on which the copy of such list was affixed as aforesaid.

(3) Upon the date and at the place so notified the District Commissioner shall hold a court, and shall, on due proof by the oath of such person as he shall see fit to examine or by statutory declaration or affidavit, correct all errors in such list, either by adding thereto the names of persons liable to enrolment and service or by striking out the names of persons who have been exempted. Such court may be adjourned from day to day until all questions as to the correctness of the list have been determined. The decision of the District Commissioner upon any question arising in regard to the correction of the list shall be subject to appeal to the Court of a First Class Magistrate.

(4) As soon as all questions as to the correctness of the list have been determined as aforesaid, the District Commissioner shall forthwith transmit such corrected list, to the Commander.

14. Any member of the Defence Force who leaves a Defence Force District to reside in another Defence Force District shall forthwith notify the District Commissioner and the District Commandant of each such District and any such member who fails to make such notification shall be guilty of an offence and shall be liable on conviction to a term of imprisonment not exceeding one month or to a fine not exceeding ten pounds.

Change of residence.

PART III.

ARMS, EQUIPMENT AND TRAINING.

15. Such rifles, ammunition, equipment and uniform as may be prescribed shall be provided by the Government for officers and members of the Defence Force and will be issued in accordance with the regulations.

Government to provide rifles and ammunition.

16. Every officer and member of the Defence Force in possession of a Government rifle, ammunition, equipment and uniform as heretofore provided shall be responsible for the same and for keeping the same in a good and efficient condition, and shall be liable for any loss of or damage to such rifle, ammunition, equipment or uniform, due to his act, neglect or default.

Duties in regard to Government rifles, etc.

17. (1) The peace training of each Class of the Defence Force shall be carried out in accordance with the regulations and every member of the Defence Force shall undergo such peace training in any year as shall be notified in accordance with the provisions of section 19 of this Ordinance.

Peace training.

(2) The time occupied in proceeding to or returning from a camp or place of assembly or instruction shall not be taken into account as part of the prescribed period of peace training.

Power to exempt from peace training.

18. A District Commandant may, with the approval of the Commander, exempt any member of the Defence Force in his District from the performance of the whole or any part of his compulsory peace training under the provisions of section 17 of this Ordinance.

Notification of time and place of peace training.

19. The date and place of every course of peace training shall be notified by the Commander and notice of such date and place published in the Gazette and in the Defence Force Orders and in such other manner as may be prescribed shall be sufficient notice to every member of the Defence Force.

Penalty for non-attendance at peace training.

20. If any member of the Defence Force without reasonable cause or excuse, after due publication of the notice prescribed by the last preceding section, fails to attend at the place mentioned in such notice for the purpose of undergoing the prescribed course of peace training, or fails to complete such course, then and in any such case such member shall be liable, on conviction before a magistrate of the first or second class, to a fine not exceeding ten pounds or to imprisonment for a term not exceeding one month or to both such fine and such imprisonment:

Provided that no such conviction shall be deemed to exempt the person convicted from all or any of his duties and obligations under this Ordinance or the regulations.

PART IV. MOBILIZATION.

Calling out and mobilization of the Defence Force.

21. (1) Whenever in the opinion of the Governor it shall be necessary to repel external aggression, or to aid the civil authority in the protection of life and property and to prevent and suppress internal disorder in the Colony, the Governor may, by proclamation, call out and mobilize the Defence Force or such part or parts thereof as he may deem necessary for active service:

Provided that a proclamation under this sub-section may call out the members of either Class or both Classes mentioned in section 8 of this Ordinance, but so that the members enrolled in Class II shall not be called out until the members enrolled in Class I have been called out:

Provided further that the Governor may, by such proclamation, in lieu of calling out and mobilizing the Defence Force or any part thereof as aforesaid, order the Defence Force or such part or parts thereof as he may deem necessary to hold itself in readiness for immediate mobilization.

(2) In the case of sudden and imminent danger in any province or district, when it is not possible to obtain the authority of the Governor without undue delay, the civil officer in charge of such province or district may, for the defence of the province or district or any part thereof or for the protection of life and property therein, by proclamation in the name of the Governor call out the members of the Defence Force resident in such province or district, but in such case such officer shall forthwith report to the Governor such calling out and any subsequent step taken by him.

22. On the mobilization of the whole or any part of the Defence Force for active service every resident (whether he is or he is not a member of the Defence Force) shall be liable to provide transport and supplies in his possession if so required; and any person who without reasonable cause or excuse, fails to comply with the requirements of this section shall be liable on conviction before a magistrate of the first or second class, to a fine not exceeding one hundred pounds or to imprisonment for any term not exceeding six months or to both such fine and such imprisonment.

Liability of population to provide transport, etc.

PART V.

MISCELLANEOUS PROVISIONS.

23. The provisions of the Army Act, 44 and 45 Vict., Ch. 58, and all Acts amending or substituted for the same (hereinafter together referred to as the Army Act) shall apply to the permanent staff and officers of the Defence Force at all times and to members of the Defence Force when they are on active service, when they are called out for active service, during peace training, when they are engaged in any military exercise of drill or musketry, when they are carrying out any escort duty or guard of honour and when they are in uniform at any time or place, subject to the following modifications—

Discipline of the Defence Force on mobilization to be governed by Army Act, 44 and 45 Vict. Ch. 58.

(a) the words "the Defence Force" shall be read therein for the words "Regular Forces", the words "officer or member of the Defence Force" for the words

"officer or soldier", and the word "Governor" for the words "His Majesty" and "Secretary of State", and

- (b) no sentence of a court martial upon the trial of an officer or member of the Defence Force shall be carried into execution unless confirmed by the Governor or such officer as he may appoint on his behalf.

Defence Force not to be called out for ceremonial parades.

24. No officer or member of the Defence Force shall be liable to be called out for ceremonial parades or for any purpose other than as provided in this Ordinance.

Member not to be punished for same offence.

25. Notwithstanding the provisions of section 23 of this Ordinance no officer or member of the Defence Force shall be liable to be punished for any offence under the provisions of this Ordinance as well as under the provisions of the Army Act.

Temporary absence of members, exemptions from service of certain persons. No. of 1937.

26. The provisions of this Ordinance shall not apply to any member of the Defence Force during his temporary absence from the Colony, nor to any person while serving in the Kenya Regiment (Territorial Force) established under the Kenya Regiment (Territorial Force) Ordinance, 1937, or in the Reserve or Special Reserve thereof:

Provided that except as hereinafter provided every person on the date of the completion of his service with the Kenya Regiment (Territorial Force) or with the Reserve or Special Reserve thereof shall be deemed to be a member of the Defence Force in Class II thereof as provided for in section 8 of this Ordinance and to be subject in all respects to the provisions of this Ordinance:

Provided further that the provisions of the above proviso shall not apply to any officer or member of the Kenya Regiment (Territorial Force) (excluding the Reserve thereof) between the ages of eighteen and thirty who has been permitted to resign therefrom before having completed the full term of his service therewith, nor to any such officer or member of the Kenya Regiment (Territorial Force) (excluding the Reserve thereof) whose service with the Regiment has been unsatisfactory. A certificate signed by the Commanding Officer of the unit to which such officer or member belongs to the effect that such officer or member was permitted to resign or a certificate signed by the Commanding Officer of such Unit

and approved by the Commander, to the effect that the service of any officer or member of the Kenya Regiment (Territorial Force) has been unsatisfactory shall be sufficient for the purposes of this proviso, provided that in the latter case the certificate shall be shown to the officer or member of the Defence Force concerned before being sent to the Commander. Any such officer or member who has been permitted to resign or whose service has been unsatisfactory shall be deemed to be a member of the Defence Force in Class I thereof and to be subject in all respects to the provisions of this Ordinance, except that the amount of peace training to be done by him shall be in the discretion of the Commander.

27. Nothing in this Ordinance contained shall be deemed to prevent any member of the Defence Force from volunteering to serve in any of His Majesty's Regular or other Forces.

Right of members to volunteer service in His Majesty's Forces. Co-operation of employers.

28. Any employer who—

- (a) by dismissing an employee or by reducing his wages or in any other manner whatever penalizes him for entering upon or carrying out any service or training under this Ordinance; or
- (b) by words, conduct, or otherwise directly or indirectly compels, induces, or prevails upon, or attempts to compel, induce, or prevail upon, any person in or seeking his employ to do or refrain from doing any service or peace training under this Ordinance for which he is liable,

shall be guilty of an offence and shall be liable, on conviction before a first or second class magistrate, to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

29. (1) If any officer or member of the Defence Force is temporarily or permanently disabled by reason of any wound or injury received or sickness contracted by him during peace training or when on active service the Governor may award to such officer or member such compensation, gratuity or yearly pension as to him may seem fit.

Governor may award gratuity or pension in certain events

(2) The Governor may grant to the widow or family of any such officer or member who may be killed in action or on active service a pension or allowance of such amount as may be prescribed.

(3) No gratuity or compensation granted under this section shall exceed two hundred and fifty pounds and no pension granted under this section shall exceed one hundred pounds per annum except with the sanction of the Legislative Council.

(4) No pension or gratuity payable under this Ordinance shall be assignable or transferable, nor shall the same be attached or levied upon for or in respect of any debt due from, or any claim against, the recipient of such pension or gratuity, or his wife.

Penalty.

30. Any person who contravenes or fails to comply with any of the provisions of this Ordinance for which no other penalty is provided shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty pounds.

Power to make regulations.

31. (1) The Governor may from time to time make regulations providing for all or any purposes whether general or to meet particular cases that may be convenient for the administration of this Ordinance or that may be necessary or expedient for carrying out the objects or purposes of this Ordinance and where there may be in this Ordinance no provision or no sufficient provision in respect of any matter or thing necessary or expedient for giving full effect to this Ordinance, providing for or supplying such omission or insufficiency and without prejudice to the foregoing powers, providing for all or any of the following matters—

- (a) the general government, discipline, peace training and management of the Defence Force;
- (b) the establishment of units of the Defence Force and the various grades, numerical establishment, ranks and appointments therein;
- (c) the attendance at drills, inspection, classes and courses of instruction of members of the Defence Force and the examination of members of the Defence Force as to proficiency in military professional subjects, and the granting of certificates of proficiency in military professional subjects;
- (d) the establishment of a permanent staff for the Defence Force;
- (e) the appointment to, seniority of, promotion in and tenure of commissioned or non-commissioned ranks in the Defence Force;

- (f) the leave of absence, suspension, reduction and discharge of members of the Defence Force;
 - (g) the condition as to physical fitness for service in the various units of the Defence Force;
 - (h) the fixing of rates of pay and allowances and issues of rations to members of the Defence Force when called out under section 21 of this Ordinance;
 - (i) the enrolment of all persons liable for service in the Defence Force;
 - (j) the convening, composition, procedure and power of boards of officers and courts of inquiry;
 - (k) the provision of medical treatment at camps;
 - (l) the requisitioning of means of conveyance and transport for service with the Defence Force when called out under section 21 of this Ordinance;
 - (m) the conveyance by air, road, rail, or water of members of the Defence Force and their transport and equipment when travelling on duty;
 - (n) the requisitioning of goods, provisions, supplies and accommodation for members of the Defence Force when called out under section 21 of this Ordinance;
 - (o) the issue and care of arms, accoutrements, ammunition, supplies, animals and transport, clothing and equipment for the Defence Force;
 - (p) the compiling of registers of transport and the duties of members of the Defence Force in connection therewith;
 - (q) the establishment and conduct of camp, regimental, or district institutions for providing recreation and refreshment to members of the Defence Force;
 - (r) the returns, books, forms and correspondence relating to the Defence Force; and
 - (s) all matters which are by this Ordinance required or permitted to be prescribed.
- (2) Such regulations may provide as a penalty in respect of any breach thereof for a fine not exceeding fifty pounds which may be recovered in any court of competent jurisdiction at the instance of the District Commandant of the Defence Force District in which the person infringing the same resides.

