

1937

38222

C0533/483

38222

KENYA

NATIVE REGISTRATION LEGISLATION

Previous

1936

~~309~~ Mr. Parkin
 R. 297 6/4
 297 7/4
 Libram (lease) 8/4
 R. 297 11/4

Subsequent

1938

Libram (lease) 12/4
 R. 297 9/7
 M. Surrudge 25
 R. 297 ✓

R. 297

24/8/37

Mr. Surrudge 4/8

R. 309

27/8

303

17/8

Mr Flood

30

299

15/8

R. 297

98 ~~297~~

298

13/9

297

17/9

Mr. Flood

17

Sir C. Bottomley

297

20/10/37

Mr. Parkin

297

25/11

309

5/12

Mr. Parkin

19

Mr. Dale

22

Mr. Dawn

28.2

This Bill was sent to the Sgs in
draft form (38222/35). The
suggestions made in the 1st
copy of the 12th Oct 1936 have
been adopted in certain respects.

The suggestion as regards ~~the~~
increasing the alternative penalty
on employers (Clause 6 of the
Bill) to 3 months has not been
adopted.

The fcs has been asked to
furnish the Sgs with an account
of any debate on the Bill, do
? we can await the despatch.

A. Hornwell
27/7/37

No 2
30222/35

yes it has.
It was one month.
J

1.11.37
20.8.

This is an extract from the letter from Lord Francis Scott to Sir C. Parkinson, dealing with various Kenya matters, and Sir C. Parkinson has suggested that Lord Francis should come and discuss the various questions he has raised, on the 1st October, prior to his return to Kenya.

The "various agreements at Geneva" can only mean the various International Labour Conventions to which this country is a party and to which the Colonies are expected to conform so far as local circumstances permit. In the course of my six years in the General Department I was very actively concerned in the correspondence in regard to the application of these Conventions to the Colonies and I cannot recall that the existence of these Conventions was at any time held to be a reason for having three three Ordinances in Kenya instead of one combined Labour Ordinance; nor can I see that the Conventions affect this question in the very least.

I have looked through the papers back to 1926 when (on 15/2/26) three amending Bills were submitted by Kenya and I can find no indication of Kenya ~~ever~~ having expressed a preference for a single Ordinance, or of the Colonial Office ~~ever~~ having expressed a preference for three separate Ordinances; and I can think of no reasons, from the Colonial Office point of view, why there should be such a preference.

It hardly seems a matter on which one would wish to trouble Mr. Harrod in while on leave, but as Lord Francis Scott has suggested that we should ~~submit~~ ^{submit} his views, I submit a draft letter to him for your signature.

J. J. Parkin
9/9

3 To W. Harrod

* In fact rather the reverse. E.g. the Resident Native Labourers Ordinance requires the principal Secretaries in the Employment of Government Ordinance, so that if, as a result of a Convention, these Secretaries have to be modified, it will involve the amendment of the Ordinance instead of the reverse.

Sir C. Bottomley

Mr. Haragin called. He said as we expected that the three Bills had just given up that there was no direction from here & that the local impression was all wrong. He did not think one Bill would do since the matters dealt with were not really connected but though all affected natives. Anyhow the bills had all been discussed in local committees & these had all reached unanimous agreement.

"Agreements at Geneva" is of course wild nonsense. The I.L.O. would like to abolish most of the legislation.

The disconnected nature of the things is supported by the data:

The first Employment of Servants Ordinance was in 1910 & there were several amendments & additions in subsequent years.

The first Resident Labourers was in 1918

The Registration Ordinance was in 1921.

all grew out of local needs and a wicked Downing Sheet was not involved.

S.E.W. Wood
179.

4. Extract from Note of Discussion between Sir C. Bottomley & Lord James Scott on 29.9.37 (Orig. regd. on 38300/37)

5. To Sir D. Brock Popham (copy of case & note of Discussion) Sent on 38300/37 9.10.37

This can not be put by.
J.P. Curran
24/10/37

(3PN. regd. on 38221/37)

Spares to Library.

Spares to Library.

- 6. A/Col. Sec. 3PN. 25.10.37.
Tra. 12 copies of Report of Committee appointed to examine and report upon provisions of Native Registration Bill.
- 7. 12 copies of Report of Select Committee of Leg.Co. on Bill. (rec'd under 3PN. of 6.11.37 regd. on 38034/1/37)
- 8. Gov. Kenya 734 4.12.37.
Forwards Ordinance to amend Native Registration Ordinance and states that on the advice of the Attorney General it has been reserved for the signification of His Majesty's pleasure.

The Ordinance as passed differs from the draft Bill, which is at No.1 on the 1935 file, in several respects:-

Sections 2 and 14 of this Ordinance together alter ^{the} ~~the~~ application of ^{of the principal Ordinance} from natives and Somalis together to natives alone; in Section 14 the necessary amendment ^{is made} to the Definition of Natives Ordinance, and Section 2 alters the definition of employer to apply only to natives. The reason for this change is given in the Comparative Table, namely that, although the Principal Ordinance applied to Somalis as well as natives, Somalis were, in fact, never required to register.

* Copy in 3801/37 attached

Section 3 of this Ordinance amends Section 6 of the Principal Ordinance in such a way as to put upon the employer the duty of seeing that a native's registration certificate is in order, both when beginning and when ending a period of employment. This is a development of the suggestion made in the penultimate sentence of paragraph 4 of No.2 on the 1935 file. and It seems to be sound.

Sections 4 and 5 of this Ordinance raise the penalties under Sections 8 and 9 of the Principal Ordinance to £20 or three months in default. This conforms with the suggestion in paragraph 6 of No.2 on the 1935 file that the penalty should be

in both sections
made the same, but it does not conform with the
opinion expressed in paragraph 7 of the same
despatch that the penalty of employees under
Section 8 of the Principal Ordinance was
already as large as was ~~possible~~ desirable, namely £15.

The other changes from the draft
Bill embodied in the Ordinance do not appear
to require comment.

? In signifying non-disallowance
Kenya should be asked the reason for
the increase in penalties.

Clotheswhite
18/2

I am afraid that it will be
necessary to refer this back to
the Gov.

(1) As Mr. Cooley while has observed,
the maximum penalty on a native
has been raised to £20 in spite
of the fact that in para 7 of No 2 on -/35,
the S.G.S. suggested that these penalties
should be scaled down. I have
discussed this with Mr. Wilson (S.G.S. Kenya), who has pointed out that
the offence in § 8(6) of the Ord.
is tantamount to forging a
passport, for which a maximum
penalty of £20 is excessive. In
other offences, Mr. Wilson is satisfied
that only small penalties will be
imposed.

Nevertheless, in view of para 7
of 2 on -/35, it is I think necessary to
ask the Gov. for a justification of

the increase in maximum penalty.
(2) Under § 6(1) of the Bill as now
amended by § 3 of this Bill it is
an offence for an employer to
engage a native whose registration
certificate bears an endorsement of
engagement but not an endorsement
of discharge.

This is new, but there is not a
word of explanation — yet in the Bill
has been received the S.G.S. is
expected to appear it — so far — "blind".

I do not think this is good enough,
especially in relation to legal cases
to say legal cases

been the
subject of
much political
comment in
the press.

Subj. to say legal cases
new, in any other provisions of the Bill
I suggest that the Gov. attention should
be drawn to these points; that his
attention should be requested; &
that he should be informed that
the meantime S.G.S. proposes to defer
any advice with regard to this Bill.

J.P. Barrow
19/2

+ Now deleted
in view of
Mr. Dale's
minutes

(I have included some general observations
in the 5th S.G.S. letter to the Gov. on
38223/37.)

(1) I would not myself take a firm stand on the question of
penalties. They have been standardized at a £20 fine
and in default of payment 3 months in prison with. Perhaps
amount could be awarded in the first instance, and a second

G. O.

Mr. Costley-White 2/3/38
Mr. Paskin 25/3/38
Mr. Dale 25/3/38

Mr. Dawe 26.3

Sir H. Moore.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

Downing Street,

March, 1938.

5 APR 1938

Sir,

I have the honour to refer to my despatch No 1087 of 12 days date ~~acknowledge the receipt of your despatch on the subject.~~ No 734 of the 4th of December, 1937,

~~forwarding copies of the Native Registration (Amendment) Bill, 1937,~~

~~which has been reserved for the signification of His Majesty's pleasure~~

~~I now have it in command to inform you that it is His Majesty's pleasure to assent to the Bill and that it shall take effect accordingly.~~

2. I would ~~however~~ observe that

under Section 6 of the principal Ordinance as amended by this Bill, it will be an offence for any person to engage a native whose Registration Certificate bears an endorsement of engagement but not an endorsement of discharge. This Section, so amended,

would

DRAFT.

7 Numbered despatch as in effect with

KENYA.

Confidential (+)

GOVERNOR.

(Of. No. 9 on X772/30 Nigeria)

2 D/S

FURTHER ACTION.

would seem to conflict with Section 13 (3) of the Ordinance, under which it is not an offence to engage such a Native if the written permission of a Registration Officer has been obtained.

You will no doubt wish, at some convenient opportunity to introduce a further amendment

to meet this point. *The penalties in the two cases are as follows*

3. I observe that the maximum fines prescribed in Sections 9 and 9 of the principal Ordinance, *(for breach of Section 8 and 9)* as now amended, have been raised to

200, whereas, in paragraph 7 of my despatch confidential (3) of the 12th of October, 1936, (2 on 1935 file)

I suggested that there was room for a considerable scaling down of the penalties for

~~these offences~~ under this and other Ordinances. I should be glad to be furnished with your observations on this point.

I have, etc.

(Signed) W. ORMSBY GORE

G.O.

Mr. Daws. 28 3.38. *J*

Mr.

Mr.

Sir H. Moore.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Shackburgh.

Perm. U.S. of S.

Parly. U.S. of S.

Secretary of State.

38222/37. Kenya.

Downing Street.



March, 1938.
5 APR 1938

Sir,

(8)

I have etc. to refer to your

despatch No. 734 of the 4th December,

1937, forwarding copies of the Native

Registration Amendment Bill, 1937, which

has been reserved for the signification

of His Majesty's pleasure.

2. I now have it in command to

inform you that it is His Majesty's

pleasure to assent to the Bill and

that it shall take effect accordingly.

I have, etc.

(Signed) W. ORMSBY GORE

2 drafts.

FURTHER ACTION.

AIR MAIL

KENYA

No. 734



GOVERNMENT HOUSE
NAIROBI
KENYA

RECEIVED
11 DEC 1937

11 December 1937.

Sir,

I have the honour to forward two authenticated and twelve printed copies of an Ordinance entitled "An Ordinance to Amend the Native Registration Ordinance", together with a Legal Report thereon by the Attorney General and a copy of the Bill showing the sections of the Principal Ordinance which are proposed to be amended or replaced.

This Ordinance passed its third reading in the Legislative Council on the 4th November, 1937, but on the advice of the Attorney General you will observe that I have reserved it for the signification of His Majesty's pleasure. The objects of this measure are set forth in the Legal Report.

I have the honour to be,

Sir,

Your most obedient, and devoted,

W. Brecker-Jephson

AIR MAIL

GOVERNMENT HOUSE

THE RIGHT HONOURABLE

W. GOMSEY GORE, P.C., M.P.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET,

LONDON, S. W. 1.

LEGAL REPORT

THE NATIVE REGISTRATION (AMENDMENT) BILL, 1937

This Bill is designed to improve the working of the Native Registration Ordinance (Chapter 127 of the Revised Edition.

The Bill as originally drafted was sent to the Secretary of State who approved of its introduction subject to certain amendments.

Additional amendments have been incorporated in the Bill since it was approved by the Secretary of State and, as the Bill contains no suspending Clause, it should, in my opinion, be reserved for the signification of His Majesty's pleasure.

A Comparative Table, together with a copy of the Bill showing where the Bill deviates from the original draft, together with copies of the sections of the Principal Ordinance affected by the amending legislation, is attached for transmission to the Secretary of State.

Nairobi,
8th November, 1937

W. B. M. G.
ATTORNEY GENERAL

COMPARATIVE TABLE

THE NATIVE REGISTRATION (AMENDMENT) BILL, 1937.

Clause of the Bill approved by the Secretary of State in a Conf. Despatch No. 3 dated the 12th October, 1936.	Clause of the Bill as passed in Legislative Council.	Remarks.
(2) on 38222/35		
1	1	
2	2	In the definition of "employer" the word "native" has been substituted for the word "servant", as the Principal Ordinance applies only to natives. The definition of "to engage or employ" has been related to the employment of Servants Ordinance, 1937.
3	3	
4.(1)	5	The whole of this Clause has been recast. The new sub-section (1) of section 6 makes it an offence to employ a native who fails to produce his certificate or whose certificate does not bear an endorsement of discharge.
5.(1)	5 (new sub-section (3) of section 8A)	
(2)	4	
	5 New.	This Clause is designed to overcome the evil of granting indefinite leave. It provides in effect that if a native is given more than one month's leave, unless the District Commissioner has given his consent to such leave, the certificate must bear an endorsement of discharge. The proviso to sub-clause (5) is designed to meet the Secretary of State's point in paragraph 3 of his despatch Conf. (No. 5) of the 12th October, 1937.
(2) on 38222/35		
	6(a) New.	Under the existing law returns have to be sent to the nearest Administrative Officer. It is now proposed that such returns should be sent to the Chief Registrar of Natives.

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Nairobi,
8th November, 1937

W. H. M. -
ATTORNEY GENERAL

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Nairobi,
8th November, 1937

W. H. M. M.
ATTORNEY GENERAL

COMPARATIVE TABLE
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Clause of the Bill approved by the Secretary of State in a Conf. Despatch No. 3 dated the 12th October, 1936.	Clause of the Bill as passed in Legislative Council.	Remarks.
(2) on 38222/35		
1	1	
2	2	<p>In the definition of "employer" the word "native" has been substituted for the word "servant", as the Principal Ordinance applies only to natives.</p> <p>The definition of "to engage or employ" has been related to the Employment of Servants Ordinance, 1937.</p>
	3	
4.(1)	3	<p>The whole of this Clause has been recast. The new subsection (1) of section 6 makes it an offence to employ a native who fails to produce his certificate or whose certificate does not bear an endorsement or discharge.</p>
5.(1)	5 (new subsection (3) of section 8A)	
(2)	4	
	5 New.	<p>This Clause is designed to overcome the evil of granting indefinite leave. It provides in effect that if a native is given more than one month's leave, unless the District Commissioner has given his consent to such leave, the certificate must bear an endorsement of discharge. The proviso to sub-clause (5) is designed to meet the Secretary of State's point in paragraph 5 of his despatch Conf. (No. 3) of the 12th October, 1937.</p>
(2) on 38222/35		
	6(a) New.	<p>Under the existing law returns have to be sent to the nearest Administrative Officer. It is now proposed that such returns should be sent to the Chief Registrar of Natives.</p>

Clause of the Bill approved by the Secretary of State in a Conf. Despatch No. 3 dated the 12th October, 1936.

Clause of the Bill as passed in Legislative Council.

Remarks.

6	6(b)	
7	7	
8	8	
	9	New.
9	10	
10	11	
11	12	The words "or of any Rules made thereunder" are new.
12	13	The new section 19B is new.
	14	New. Although Somalis are, under the Principal Ordinance required to be registered, the provision has never been enforced. It has, therefore, been considered desirable to omit Somalis from the orbit of the Ordinance, and, in consequence, an amendment to the Interpretation (Definition of "native") Ordinance, 1934, is necessary.

(3) n 380/35

COPY
OF

A BILL TO AMEND THE NATIVE REGISTRATION ORDINANCE
(CHAPTER 127 OF THE REVISED EDITION) SHOWING IN
RED INK WHERE THE BILL DEVIATES FROM THE ORIGINAL
BILL REFERRED TO THE SECRETARY OF STATE (WHICH IS
ATTACHED ON THE LEFT HAND SIDE) TOGETHER WITH THE
SECTIONS OF THE PRINCIPAL ORDINANCE (ATTACHED ON
THE RIGHT HAND SIDE) WHICH WILL BE AFFECTED BY
THE AMENDING BILL

A BILL TO AMEND THE NATIVE REGISTRATION
ORDINANCE.

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 Native Regis-
tration (Amendment) Ordinance, 1936, and shall be read as
one with the Native Registration Ordinance (Chapter 127 of
the Revised Edition), hereinafter referred to as the
Principal Ordinance.

2. Section 2 of the Principal Ordinance is hereby
amended -

- (1) by deleting the definition of "ink";
- (2) by deleting the definition of "employer" and
substituting therefor the following -

" '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."

and

- (3) by inserting the following new definition -

" 'employment or engagement' means the
employment or the engagement of a native
who, in return for his services, is paid
any money or is given any consideration

COPY OF THE BILL AS PASSED IN THE
LEGISLATIVE COUNCIL THE 4TH
NOVEMBER, 1937.

An Ordinance to Amend the Native Registration
Ordinance

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 Native Regis-
tration (Amendment) Ordinance, 1937, and shall be read as
one with the Native Registration Ordinance (Chapter 127 of
the Revised Edition), hereinafter referred to as the Principal
Ordinance.

Short title.
Chapter 127.

2. Section 2 of the Principal Ordinance is hereby
amended—

Amendment of
section 2 of the
Principal
Ordinance

- (a) by deleting the definition of "ink";
- (b) by deleting the definition of "employer" and sub-
stituting therefor the following:—

" 'employer' means any person or any firm,
corporation or company who or which
has entered into a contract of service
with any native, and the agent, foreman,
manager, or factor of such person, firm,
corporation or company, and where a
native has entered into a contract of service
with the Government of the Colony
or with any officer on behalf of such
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."

and

The definitions
of the Principal Ord
amend respectively:

2. In this
context:—

"ink"
"empl

(c) by inserting the following new definition:—

"to engage or employ' means to enter into a contract of service with a native within the meaning of the Employment of Servants Ordinance, 1937."

No. of

Repeal and replacement of section 6 of the Principal Ordinance

Endorsement of certificate of employer.

3. Section 6 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

"6. (1) Any person who desires to engage or employ a native who under the provisions of this Ordinance is required to be registered shall, before entering into a contract of service with such native, demand from him his registration certificate and if such native fails on demand to produce his certificate or if the registration certificate when produced bears an endorsement of engagement but does not bear an endorsement of discharge it shall be an offence against the provisions of this Ordinance to engage such native.

(2) Every person who engages a native, who under the provisions of this Ordinance is required to be registered, for a longer period than twenty-four hours shall, within forty-eight hours of engaging such native, endorse his registration certificate and forthwith return the certificate to the native.

(3) An employer shall keep such records of natives engaged or employed by him as may be prescribed.

(4) Upon the termination of a contract of service the employer shall endorse legibly on the certificate such particulars relating to the discharge of the native as may be prescribed and shall return the certificate to the native. If at the date of discharge the native is in receipt of a rate of wages different from the rate endorsed on the certificate by the employer when he engaged the native the employer shall make any necessary alteration on the certificate and initial such alteration.

(5) If an employer refuses or omits to endorse a registration certificate on discharge the native shall forthwith report to the nearest Registration Officer who shall take steps to obtain a proper endorsement of discharge from the employer; or if the Registration Officer is satisfied that the endorsement has been omitted through ignorance or mistake and through no fault of the native he may

Endorsement of certificate by employer.

Duties of natives to employers.

Endorsement of certificate to be made in black ink.

Endorsement of section 6 of the Principal Ordinance.

3. Every endorsement required by this Ordinance or by the Principal Ordinance to be made on a registration certificate shall be made in black or blue-black ink.

4. (1) Sub-Section (1) of Section 6 of the Principal Ordinance is hereby amended by inserting the words "or employs" after the word "engages" in the first line thereof.

(2) Sub-Section (2) of Section 6 of the Principal Ordinance is hereby amended by deleting the first three lines thereof and substituting therefor the following words -

"(2) Every registered native shall, before leaving the service of an employer, request such employer to endorse his discharge upon his registration certificate and it shall be the duty of the employer forthwith to do so. In the event of the employer refusing or"

(1) by inserting the following new definition
to be inserted into a con-

A Bill to Amend the Native Registration Ordinance

BE IT ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council

3. Se thereof, as follows:

1. This Ordinance may be cited as the Native Registration (Amendment) Ordinance, 1937, and shall be read as one with the Native Registration Ordinance (Chapter 127 of the Revised Edition), hereinafter referred to as the Principal Ordinance.

2. Section 2 of the Principal Ordinance is hereby amended—

- (a) by deleting the definition of "ink";
- (b) by deleting the definition of "employer" and substituting therefor the following:

"employer" means any person or any firm, corporation or company who or which has entered into a contract of service to employ any native or Somali, and the agent, foreman, manager, or factor of such person, firm, corporation or company, and where a native or Somali has entered into a contract of service with the Government of the Colony or with any officer on behalf of such 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.

and

that the endorsement has been made in good faith or mistake and through the fault of the officer.

No. of
Repeal and replacement of section 6 of the Principal Ordinance.
Endorsement of certificate of employer.

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Endorsement to be made in black ink.

Amendment of Section 6 of the Principal Ordinance.

4/11/37

3. Every endorsement required by this Ordinance or by the Principal Ordinance to be made on a registration certificate shall be made in black or blue-black ink.

4.(1) Sub-Section (1) of Section 6 of the Principal Ordinance is hereby amended by inserting the words "or employs" after the word "engages" in the first line thereof.

(2) Sub-Section (2) of Section 6 of the Principal Ordinance is hereby amended by deleting the first three lines thereof and substituting therefor the following words -

"(2) Every registered native shall, before leaving the service of an employer, request such employer to endorse his discharge upon his registration certificate and it shall be the duty of the employer forthwith to do so. In the event of the employer refusing or"

after reference to the last employer endorse the discharge affixing such date as may appear to him consistent with the circumstances:

Provided that no such endorsement by a Registration Officer shall be an absolute defence to a prosecution for desertion if it be proved that such offence has been committed by the native.

(6) All endorsements required under the provisions of this section to be made on a registration certificate shall be in English and shall be made in blue or blue-black ink."

4. Section 8 of the Principal Ordinance is hereby amended by deleting the last three lines thereof and substituting therefor the following:—

Amendment of section 8 of the Principal Ordinance

"shall upon conviction be liable to a fine not exceeding twenty pounds or in default of payment to imprisonment for a term not exceeding three months."

5. The Principal Ordinance is hereby amended by inserting therein the following new section:—

Amendment of the Principal Ordinance Leave

8A. (1) Where an employer grants leave of absence to any native whom he has engaged, he shall furnish to such native a leave certificate in the prescribed form stating the number of days leave which he has granted to such native and the date upon which such native is due to return to his employment.

Provided that if an employer wishes to grant leave of absence to any native for a period in excess of one month he shall before granting such leave obtain the written consent of the district commissioner of the district in which he resides.

The granting of such consent shall be in the discretion of the district commissioner who, if he grants such consent, shall notify the Chief Registrar of Natives in writing specifying in such notification the name and registration number of such native, the number of days leave granted to such native and the name and address of the employer.

(2) Any employer who grants leave to a servant for a period in excess of one month without the prior consent in writing of the district commissioner of the district in which he resides shall be guilty of an offence

5. Section 8 of the Principal Ordinance is hereby amended -

(1) by the addition of the following new sub-section -

"(9) Having departed from the service of his employer, from whatever cause, is, after the expiration of the period of his employment, in possession of a certificate bearing an endorsement of employment but no endorsement of discharge."

(2) by deleting the last three lines of the Section and substituting therefor the words "shall upon conviction be liable to a fine not exceeding ten pounds or in default of payment to imprisonment for a term not exceeding three months."

See clause 1 (AB) opposite

See clause 4 (B) opposite

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3. Sub-Section (3) of Section 9 of the Principal Ordinance is hereby deleted and the following is

substituted therefor -

"(3) Failure to comply with the requirements of this section shall render the person liable to a fine not exceeding fifteen pounds or in default of payment to imprisonment for a term not exceeding one month."

7. Section 12 of the Principal Ordinance is hereby amended by deleting the last three lines thereof and substituting therefor the following words -

"of this section shall on conviction be liable to a fine not exceeding twenty pounds or in default of payment to imprisonment for a term not exceeding three months."

(3) Any native who—
 (a) on the termination of his contract of service; or
 (b) on the expiration of any period of leave granted to him under the provisions of this section, has not returned to the service of his employer and is without lawful excuse in possession of his registration certificate bearing an endorsement of employment but no endorsement of discharge, shall be liable on conviction to the penalties prescribed by section 8 of this Ordinance:

Provided that if in a prosecution for an offence against the provisions of this sub-section the Court is satisfied that the person charged is guilty of the offence but that he is in possession of a certificate bearing no endorsement in circumstances which constitute an offence against the Employment of Servants Ordinance, 1937, or of any Ordinance amending or replacing the same, the Court shall acquit the person charged if he has already been convicted of such other offence, but if such person has not already been convicted of such other offence then the Court may convict him of an offence under this sub-section and impose a penalty and such conviction shall operate as a bar to the institution of any proceedings for such other offence against the person so convicted.

No. of

Amendment of
 section 9 of the
 Principal
 Ordinance.

Amendment of
 section 12 of
 the Principal
 Ordinance.

8. Section 9 of the Principal Ordinance is hereby amended—

- (a) by deleting from sub-section (1) thereof the words "administrative officer in charge of the district in which the native is employed" and by substituting therefor the words "Chief Registrar of Natives";
 (b) by repealing sub-section (3) thereof and substituting therefor the following:—

"(3) Failure to comply with the requirements of this section shall render the person liable on conviction to a fine not exceeding twenty pounds or in default of payment to imprisonment for a term not exceeding three months."

7. Section 12 of the Principal Ordinance is hereby amended by deleting the last three lines thereof and substituting therefor the following words:—

"of this section shall on conviction be liable to a fine not exceeding twenty pounds or in default of payment to imprisonment for a term not exceeding three months."

8. Section 13 of the Principal Ordinance is hereby amended -

(1) by deleting sub-section (5) thereof, and substituting therefor the following -

"(5) Shall destroy, alter, imitate, mutilate, make a false entry in or in any way improperly tamper with any certificate or container belonging to a native whether such native is in his employ or not; or who shall knowingly engage or employ a native in possession of a registration certificate bearing any of the mutilations, dishonest erasures or additions mentioned in sub-section (6) of section 8 of this Ordinance;"

(2) by deleting sub-section (7) thereof, and substituting therefor the following -

"(7) Shall engage or employ any unregistered native or any native who does not first produce his registration certificate. (The provisions of this sub-section shall only apply to such persons or such districts as may be prescribed);"

(3) by deleting the last two lines of the section and substituting therefor the following -

"hundred pounds or in default of payment to imprisonment for a term not exceeding one year."

9. Section 15 of the Principal Ordinance is hereby amended -

(1) by substituting the words "police officer of or above the rank of Assistant Sub-Inspector" for the words "police officer" which occur in the first line of the section; and

(2) by substituting the words "in default of payment to imprisonment for a term not exceeding one month" for the words "imprisonment of either description for a period of one month or to both."

10. Section 16 of the Principal Ordinance is hereby amended -

5

8. Section 13 of the Principal Ordinance is hereby amended:-

(a) by deleting sub-section (5) thereof, and substituting therefor the following:-

"(5) Shall destroy, alter, imitate, mutilate, make a false entry in or in any way improperly tamper with any certificate or container belonging to a native whether such native is in his employ or not; or who shall knowingly engage or employ a native in possession of a registration certificate bearing any of the mutilations, dishonest erasure, or additions mentioned in sub-section (6) of section 8 of this Ordinance;"

(b) by deleting sub-section (7) thereof, and substituting therefor the following:-

"(7) Shall engage or employ any unregistered native or any native who does not first produce his registration certificate."

(c) by deleting the last two lines of the section and substituting therefor the following:-

"hundred pounds or in default of payment to imprisonment for a term not exceeding one year."

9. Section 14 of the Principal Ordinance is hereby amended by deleting from line nine thereof the words "Central Finger Print Bureau" and substituting therefor the words "office of the Chief Registrar of Natives".

10. Section 15 of the Principal Ordinance is hereby amended:-

(a) by substituting the words "police officer of or above the rank of Assistant Sub-Inspector" for the words "police officer" which occur in the first line of the section; and

(b) by substituting the words "in default of payment to imprisonment for a term not exceeding one month." for the words "imprisonment of either description for a period of one month or to both."

11. Section 16 of the Principal Ordinance is hereby repealed.

Amendment of section 13 of the Principal Ordinance.

Amendment of section 14 of the Principal Ordinance.

Amendment of section 15 of the Principal Ordinance.

Repeal of section 16 of the Principal Ordinance.

Officers in respect of certificates.

Admissibility of finger print records as evidence.

Powers given to magistrates, police, and registration officers, etc., to demand production of certificate.

Complaints.

11. Section 17 of the Principal Ordinance is hereby amended by deleting the last three lines thereof and substituting therefor the following -

"conviction shall be liable to a fine not exceeding fifty pounds or in default of payment to imprisonment for a term not exceeding three months."

12. The Principal Ordinance is hereby amended by inserting therein, as Section 19A, the following:-

'19A. Where proceedings are instituted against any person for an offence or for a number of offences against the provisions of this Ordinance, such person may, notwithstanding the provisions of the Criminal Procedure Code, if such offences are of the same kind be charged with and tried at the same time for any number of such offences'.

6

Repeal and replacement of section 17 of the Principal Ordinance.

Penalties.

Amendment of the Principal Ordinance.

No. 11 of 1930.

Amendment of Ordinance No. 55 of 1934.

Dist. Somalis call out to suspect & the provisions of Cap 117 amended by the amendment to Ord. No 55/1934 is necessary

12. Section 17 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

Penalties.

"17. Any person contravening any of the provisions of this Ordinance, for which no special penalty is provided, or of any rules made thereunder, shall on conviction be liable to a fine not exceeding fifty pounds or in default of payment to imprisonment for a term not exceeding three months."

18. The Principal Ordinance is hereby amended by inserting, immediately after section 19 thereof, the following new sections:—

"19A. Where proceedings are instituted against any person for an offence or for a number of offences against the provisions of this Ordinance, such person may, notwithstanding the provisions of the Criminal Procedure Code, if such offences are of the same kind, be charged with and tried at the same time for any number of such offences.

19b. (1) Where the Chief Registrar of Natives has reason to believe that an offence has been committed against the provisions of this Ordinance, he may institute proceedings in respect of such offence.

(2) Any document purporting to be a certificate under the hand of the Chief Registrar of Natives, certifying that any return required to be made to him under this Ordinance has not been made, may be given in evidence in any proceedings under this Ordinance unless the court having jurisdiction under this Ordinance shall require the Chief Registrar of Natives to be called as a witness."

14. The Interpretation (Definition of "Native") Ordinance, 1934, is hereby amended—

(a) by deleting from the First Column of the Second Schedule thereto the words, figures and brackets—"Sections 3, 4, 5, 6, 8, 9, 10, 11, 13, 15, 22 and 23 of the Native Registration Ordinance (Chapter 127 of the Revised Edition)"; and

(b) by deleting from the Second Column of the said Schedule the words "A Somali" where they appear opposite the words, figures and brackets hereinbefore referred to in this section.

No.

193



Colony and Protectorate of Kenya

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

HENRY ROBERT MOORE BROOKE-POPHAM
G.C.V.O., K.C.B., C.M.G., D.S.O., A.E.C. *Governor*

I reserve this Bill
for the signification of His
Majesty's pleasure.

This 30 NOV 1937
day of
November, 1937.

AN ORDINANCE TO AMEND THE NATIVE
REGISTRATION ORDINANCE

An Ordinance to Amend the Native Registration Ordinance

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 Native Registration (Amendment) Ordinance, 1937, and shall be read as one with the Native Registration Ordinance (Chapter 127 of the Revised Edition), hereinafter referred to as the Principal Ordinance.

Short title.
Cap. 127.

2. Section 2 of the Principal Ordinance is hereby amended—

Amendment of section 2 of the Principal Ordinance.

- (a) by deleting the definition of "ink";
(b) by deleting the definition of "employer" and substituting therefor the following:—

"'employer' means any person or any firm, corporation or company who or which has entered into a contract of service with any native, and the agent, foreman, manager, or factor of such person, firm, corporation or company, and where a native has entered into a contract of service with the Government of the Colony or with any officer on behalf of such 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."

and

(c) by inserting the following new definition:—

“to engage or employ’ means to enter into a contract of service with a native within the meaning of the Employment of Servants Ordinance, 1937.”

3. Section 6 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

“6. (1) Any person who desires to engage or employ a native who under the provisions of this Ordinance is required to be registered shall, before entering into a contract of service with such native, demand from him his registration certificate and if such native fails on demand to produce his certificate or if the registration certificate when produced bears an endorsement of engagement but does not bear an endorsement of discharge it shall be an offence against the provisions of this Ordinance to engage such native.

(2) Every person who engages a native, who under the provisions of this Ordinance is required to be registered, for a longer period than twenty-four hours shall, within forty-eight hours of engaging such native, endorse his registration certificate and forthwith return the certificate to the native.

(3) An employer shall keep such records of natives engaged or employed by him as may be prescribed.

(4) Upon the termination of a contract of service the employer shall endorse legibly on the certificate such particulars relating to the discharge of the native as may be prescribed and shall return the certificate to the native. If at the date of discharge the native is in receipt of a rate of wages different from the rate endorsed on the certificate by the employer when he engaged the native the employer shall make any necessary alteration on the certificate and initial such alteration.

(5) If an employer refuses or omits to endorse a registration certificate on discharge the native shall forthwith report to the nearest Registration Officer who shall take steps to obtain a proper endorsement of discharge from the employer; or if the Registration Officer is satisfied that the endorsement has been omitted through ignorance or mistake and through no fault of the native he may

No. of

Repeal and replacement of section 6 of the Principal Ordinance.

Endorsement of certificate of employer.

after reference to the last employer endorse the discharge, affixing such date as may appear to him consistent with the circumstances:

Provided that no such endorsement by a Registration Officer shall be an absolute defence to a prosecution for desertion if it be proved that such offence has been committed by the native.

(6) All endorsements required under the provisions of this section to be made on a registration certificate shall be in English and shall be made in blue or blue-black ink.”

4. Section 8 of the Principal Ordinance is hereby amended by deleting the last three lines thereof and substituting therefor the following:—

“shall upon conviction be liable to a fine not exceeding twenty pounds or in default of payment to imprisonment for a term not exceeding three months.”

5. The Principal Ordinance is hereby amended by inserting therein the following new section:—

“8A. (1) Where an employer grants leave of absence to any native whom he has engaged, he shall furnish to such native a leave certificate in the prescribed form stating the number of days leave which he has granted to such native and the date upon which such native is due to return to his employment:

Provided that if an employer wishes to grant leave of absence to any native for a period in excess of one month he shall before granting such leave obtain the written consent of the district commissioner of the district in which he resides.

The granting of such consent shall be in the discretion of the district commissioner who, if he grants such consent, shall notify the Chief Registrar of Natives in writing specifying in such notification the name and registration number of such native, the number of days leave granted to such native and the name and address of the employer.

(2) Any employer who grants leave to a servant for a period in excess of one month without the prior consent in writing of the district commissioner of the district in which he resides shall be guilty of an offence.

Amendment of section 8 of the Principal Ordinance.

Amendment of the Principal Ordinance. Leave.

(3) Any native who—

(a) on the termination of his contract of service; or

(b) on the expiration of any period of leave granted to him under the provisions of this section, has not returned to the service of his employer and

is without lawful excuse in possession of his registration certificate bearing an endorsement of employment but no endorsement of discharge, shall be liable on conviction to the penalties prescribed by section 8 of this Ordinance:

Provided that if in a prosecution for an offence against the provisions of this sub-section the Court is satisfied that the person charged is guilty of the offence but that he is in possession of a certificate bearing no endorsement in circumstances which constitute an offence against the Employment of Servants Ordinance, 1937, or of any Ordinance amending or replacing the same, the Court shall acquit the person charged if he has already been convicted of such other offence, but if such person has not already been convicted of such other offence then the Court may convict him of an offence under this sub-section and impose a penalty and such conviction shall operate as a bar to the institution of any proceedings for such other offence against the person so convicted."

No. of

Amendment of section 9 of the Principal Ordinance.

6. Section 9 of the Principal Ordinance is hereby amended—

(a) by deleting from sub-section (1) thereof the words "administrative officer in charge of the district in which the native is employed" and by substituting therefor the words "Chief Registrar of Natives";

(b) by repealing sub-section (3) thereof and substituting therefor the following:—

"(3) Failure to comply with the requirements of this section shall render the person liable on conviction to a fine not exceeding twenty pounds or in default of payment to imprisonment for a term not exceeding three months."

Amendment of section 12 of the Principal Ordinance.

7. Section 12 of the Principal Ordinance is hereby amended by deleting the last three lines thereof and substituting therefor the following words

"of this section shall on conviction be liable to a fine not exceeding twenty pounds or in default of payment to imprisonment for a term not exceeding three months"

8. Section 13 of the Principal Ordinance is hereby amended:—

Amendment of section 13 of the Principal Ordinance.

(a) by deleting sub-section (5) thereof, and substituting therefor the following:—

"(5) Shall destroy, alter, imitate, mutilate, make a false entry in or in any way improperly tamper with any certificate or container belonging to a native whether such native is in his employ or not; or who shall knowingly engage or employ a native in possession of a registration certificate bearing any of the mutilations, dishonest erasures or additions mentioned in sub-section (6) of section 8 of this Ordinance;"

(b) by deleting sub-section (7) thereof, and substituting therefor the following:—

"(7) Shall engage or employ any unregistered native or any native who does not first produce his registration certificate."

(c) by deleting the last two lines of the section and substituting therefor the following:—

"hundred pounds or in default of payment to imprisonment for a term not exceeding one year."

9. Section 14 of the Principal Ordinance is hereby amended by deleting from line nine thereof the words "Central Finger Print Bureau" and substituting therefor the words "office of the Chief Registrar of Natives"

Amendment of section 14 of the Principal Ordinance.

10. Section 15 of the Principal Ordinance is hereby amended:—

Amendment of section 15 of the Principal Ordinance.

(a) by substituting the words "police officer of or above the rank of Assistant Sub-Inspector" for the words "police officer" which occur in the first line of the section; and

(b) by substituting the words "in default of payment to imprisonment for a term not exceeding one month." for the words "imprisonment of either description for a period of one month or to both."

11. Section 16 of the Principal Ordinance is hereby repealed.

Repeal of section 16 of the Principal Ordinance.

Repeal and replacement of section 17 of the Principal Ordinance.

12. Section 17 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

Penalties.

"17. Any person contravening any of the provisions of this Ordinance, for which no special penalty is provided, or of any rules made thereunder, shall on conviction be liable to a fine not exceeding fifty pounds or in default of payment to imprisonment for a term not exceeding three months."

Amendment of the Principal Ordinance.

13. The Principal Ordinance is hereby amended by inserting, immediately after section 19 thereof, the following new sections:—

No 11 of 1930

"19A. Where proceedings are instituted against any person for an offence or for a number of offences against the provisions of this Ordinance, such person may, notwithstanding the provisions of the Criminal Procedure Code, if such offences are of the same kind, be charged with and tried at the same time for any number of such offences.

19B. (1) Where the Chief Registrar of Natives has reason to believe that an offence has been committed against the provisions of this Ordinance, he may institute proceedings in respect of such offence.

(2) Any document purporting to be a certificate under the hand of the Chief Registrar of Natives, certifying that any return required to be made to him under this Ordinance has not been made, may be given in evidence in any proceedings under this Ordinance unless the court having jurisdiction under this Ordinance shall require the Chief Registrar of Natives to be called as a witness."

Amendment of Ordinance No. 55 of 1934

14. The Interpretation (Definition of "Native") Ordinance, 1934 is hereby amended

(a) by deleting from the First Column of the Second Schedule thereto the words, figures and brackets— "Sections 3, 4, 5, 6, 8, 9, 10, 11, 13, 15, 22 and 23 of the Native Registration Ordinance (Chapter 127 of the Revised Edition)" and

(b) by deleting from the Second Column of the said Schedule the words "A Somali" where they appear opposite the words, figures and brackets hereinbefore referred to in this section

Passed in the Legislative Council the fourth day of November, 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-BEALL

Acting Clerk to the Legislative Council

Encl. to 3rd. of 6.11.37 (regd. no. 38034/1/37)



COLONY AND PROTECTORATE OF KENYA

**Report of the Select Committee of the Legislative
Council Appointed to Consider and Report
upon the Provisions of a Bill to Amend
the Native Registration Ordinance**

NAIROBI
PRINTED BY THE GOVERNMENT PRINTER
1937

**Report of the Select Committee of the Legislative
Council Appointed to Consider and Report
upon the Provisions of a Bill to Amend
the Native Registration Ordinance**

Report of the Select Committee of the Legislative Council Appointed to Consider and Report upon the Provisions of a Bill to Amend the Native Registration Ordinance

YOUR EXCELLENCY,

We, the members of the Select Committee appointed to consider and report upon the provisions of a Bill to amend the Native Registration Ordinance, have the honour to submit our report.

We met at the Attorney General's Office on the afternoon of the 1st November, and we recommend that the Bill be amended in the following respects:—

1. That Clause 2 be amended:—

(a) by deleting the words "to employ any native or Somali" which occur in the third and fourth lines of the definition of "employer" and substituting therefor the words "with any native";

(b) by deleting the words "or Somali" which occur in the seventh line of the definition of "employer";

(c) by deleting paragraph (c) thereof and substituting therefor the following paragraph:—

"(c) by inserting the following new definition:—
"to engage or employ" means to enter into a contract of service with a native within the meaning of the Employment of Servants Ordinance, 1937."

2. That Clause 3 be deleted and the following Clause be substituted therefor:—

3. Section 6 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

6. (1) Any person who desires to engage or employ a native who under the provisions of this Ordinance is required to be registered shall, before entering into a contract of service with such native, demand from him his registration certificate and if such native fails on demand to produce his certificate or if the registration certificate when produced bears an endorsement of engagement but does not bear an endorsement of discharge it shall be an offence against the provisions of this Ordinance to engage such native.

No. OF 1937

Repeal and replacement of section 6 of the Principal Ordinance.

Endorsement of certificate of employer.

(2) Every person who engages a native, who under the provisions of this Ordinance is required to be registered, for a longer period than twenty-four hours shall, within forty-eight hours of engaging such native, endorse his registration certificate and forthwith return the certificate to the native.

(3) An employer shall keep such records of natives engaged or employed by him as may be prescribed.

(4) Upon the termination of a contract of service the employer shall endorse legibly on the certificate such particulars relating to the discharge of the native as may be prescribed and shall return the certificate to the native. If at the date of discharge the native is in receipt of a rate of wages different from the rate endorsed on the certificate by the employer when he engaged the native the employer shall make any necessary alteration on the certificate and initial such alteration.

(5) If an employer refuses or omits to endorse a registration certificate on discharge the native shall forthwith report to the nearest Registration Officer who shall take steps to obtain a proper endorsement of discharge from the employer, or if the Registration Officer is satisfied that the endorsement has been omitted through ignorance or mistake and through no fault of the native he may alter reference to the last employer endorse the discharge, affixing such date as may appear to him consistent with the circumstances:

Provided that no such endorsement by a Registration Officer shall be an absolute defence to a prosecution for desertion if it be proved that such offence has been committed by the native.

(6) All endorsements required under the provisions of this section to be made on a registration certificate shall be in English and shall be made in blue or blue-black ink.

3. That Clause 4 be deleted and the following Clause be substituted therefor:

"4 Section 8 of the Principal Ordinance is hereby amended by deleting the last three lines thereof and substituting therefor the following:

"shall upon conviction be liable to a fine not exceeding twenty pounds or in default of payment to imprisonment for a term not exceeding three months."

4. That Clauses 5 to 12 inclusive be renumbered as Clauses 6 to 13 inclusive, and that the following new Clause be inserted as Clause 5:—

"5. The Principal Ordinance is hereby amended by inserting therein the following new section:—

Amendment of the Principal Ordinance.

Leave

8a. (1) Where an employer grants leave of absence to any native whom he has engaged, he shall furnish to such native a leave certificate in the prescribed form stating the number of days leave which he has granted to such native and the date upon which such native is due to return to his employment:

Provided that if an employer wishes to grant leave of absence to any native for a period in excess of one month he shall before granting such leave obtain the written consent of the district commissioner of the district in which he resides.

The granting of such consent shall be in the discretion of the district commissioner who, if he grants such consent, shall notify the Chief Registrar of Natives in writing specifying in such notification the name and registration number of such native, the number of days leave granted to such native and the name and address of the employer.

(2) Any employer who grants leave to a servant for a period in excess of one month without the prior consent in writing of the district commissioner of the district in which he resides shall be guilty of an offence.

(3) Any native who—

(a) on the termination of his contract of service; or

(b) on the expiration of any period of leave granted to him under the provisions of this section, has not returned to the service of his employer and

is without lawful excuse in possession of his registration certificate bearing an endorsement of employment but no endorsement of discharge, shall be liable on conviction to the penalties prescribed by section 8 of this Ordinance:

Provided that if in a prosecution for an offence against the provisions of this sub-section the Court is satisfied that the person charged is guilty of the offence but that he is in possession of a certificate bearing no endorsement in circumstances which constitute an offence against the Employment of Servants Ordinance, 1937, or of any Ordinance amending or replacing the same, the Court shall acquit the person charged if he has already been convicted of such

other offence, but if such person has not already been convicted of such other offence then the Court may convict him of an offence under this sub-section and impose a penalty and such conviction shall operate as a bar to the institution of any proceedings for such other offence against the person so convicted."

5. That Clause 7 (now Clause 8) be amended by deleting therefrom the brackets and words "(The provisions of this sub-section shall not apply to such persons or such districts as may be prescribed)" which occur in the fifth, sixth, seventh and eighth lines of paragraph (b) thereof.

6. That the following new Clause be added as Clause 14:—

"14. The Interpretation (Definition of "Native") Ordinance, 1934, is hereby amended—

- (a) by deleting from the First Column of the Second Schedule thereto the words, figures and brackets—
"Sections 3, 4, 5, 6, 8, 9, 10, 11, 13, 15, 22 and 23 of the Native Registration Ordinance (Chapter 127 of the Revised Edition)"; and
- (b) by deleting from the Second Column of the said Schedule the words "A Somali" where they appear opposite the words, figures and brackets hereinbefore referred to in this section."

We have the honour to be,

Your Excellency's obedient servants,

H. C. WILLAN (Chairman).

E. B. HOSKING (Member).

G. H. BOULDERSON "

S. H. LA FONTAINE "

CONWAY HARVEY "

J. G. KIRKWOOD "

GEORGE BURNS "

M. MAXWELL "

ISHER DASS "



COLONY AND PROTECTORATE OF KENYA

Report of the Committee Appointed by His
Excellency the Governor in Council to
Examine and Report upon the
Provisions of a Bill to Amend the
Native Registration Ordinance

NAIROBI

PRINTED BY THE GOVERNMENT PRINTER

1937

Report of the Committee Appointed by His Excellency the Governor in Council to Examine and Report upon the Provisions of a Bill to Amend the Native Registration Ordinance

Report of the Committee Appointed by His Excellency the Governor in Council to Examine and Report upon the Provisions of a Bill to Amend the Native Registration Ordinance

YOUR EXCELLENCY,

We, the members of the Committee appointed by Your Excellency in Executive Council to examine the provisions of a Bill to amend the Native Registration Ordinance and report what amendments, if any, should be made to the Bill, have the honour to submit our report.

2. We met at the Attorney General's Office on the 27th, 28th and 29th of September and we recommend that the Bill be amended in the following respects:—

1. That Clause 2 be amended:—

(a) by deleting the words "to employ any native or Somali" which occur in the third and fourth lines of the definition of "employer" and substituting therefor the words "with any native";

(b) by deleting the words "or Somali" which occur in the seventh line of the definition of "employer";

(c) by deleting paragraph (c) thereof and substituting therefor the following paragraph:—

"(c) by inserting the following new definition:—

"to engage or employ means to enter into a contract of service with a native within the meaning of the Employment of Servants Ordinance, 1937."

2. That Clause 3 be deleted and the following Clause be substituted therefor:—

3. Section 6 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

6. (1) Any person who desires to engage or employ a native who under the provisions of this Ordinance is required to be registered shall, before entering into a contract of service with such native, demand from him his registration certificate and if such native fails on demand to produce his certificate or if the registration certificate when produced bears an endorsement of engagement but does not bear an endorsement of discharge it shall be an offence against the provisions of this Ordinance to engage such native.

No. 1037

Repeal and replacement of section 6 of the Principal Ordinance.

Endorsement of certificate of employer.

(2) Every person who engages a native who under the provisions of this Ordinance is required to be registered for a longer period than twenty-four hours shall, within forty-eight hours of engaging such native, endorse his registration certificate and forthwith return the certificate to the native.

(3) An employer shall keep such records of natives engaged or employed by him as may be prescribed.

(4) Upon the termination of a contract of service the employer shall endorse legibly on the certificate such particulars relating to the discharge of the native as may be prescribed and shall return the certificate to the native. If at the date of discharge the native is in receipt of a rate of wages different from the rate endorsed on the certificate by the employer when he engaged the native the employer shall make any necessary alteration on the certificate and initial such alteration.

(5) If an employer refuses or omits to endorse a registration certificate on discharge the native shall forthwith report to the nearest Registration Officer who shall take steps to obtain a proper endorsement of discharge from the employer, or if the Registration Officer is satisfied that the endorsement has been omitted through ignorance or mistake and through no fault of the native he may after reference to the last employer endorse the discharge, affixing such date as may appear to him consistent with the circumstances.

Provided that no such endorsement by a Registration Officer shall be an absolute defence to a prosecution for desertion if it be proved that such offence has been committed by the native.

(6) All endorsements required under the provisions of this section to be made on a registration certificate shall be in English and shall be made in blue or blue-black ink.

3. That Clause 4 be deleted and the following Clause be substituted therefor:

4. Section 8 of the Principal Ordinance is hereby amended by deleting the last three lines thereof and substituting therefor the following

shall upon conviction be liable to a fine not exceeding twenty pounds or in default of payment to imprisonment for a term not exceeding three months.

4. That Clauses 5 to 12 inclusive be renumbered as Clauses 6 to 13 inclusive and that the following new Clause be inserted as Clause 5.

"5. The Principal Ordinance is hereby amended by inserting therein the following new section:

Amendment of
the Principal
Ordinance.

Leave.

8A. (1) Where an employer grants leave of absence to any native whom he has engaged, he shall furnish to such native a leave certificate in the prescribed form stating the number of days leave which he has granted to such native and the date upon which such native is due to return to his employment.

Provided that if an employer wishes to grant leave of absence to any native for a period in excess of thirty days he shall before granting such leave obtain the written consent of the district commissioner of the district in which he resides.

The district commissioner shall upon giving any such consent notify the Chief Registrar of Natives in writing specifying in such notification the name and registration number of such native, the number of days leave granted to such native and the name and address of the employer.

(2) Any employer who grants leave to a servant for a period in excess of thirty days without the prior consent in writing of the district commissioner of the district in which he resides shall be guilty of an offence.

(3) Any native who—

- (a) on the termination of his contract of service, or
- (b) on the expiration of any period of leave granted to him under the provisions of this section, has not returned to the service of his employer, and

is without lawful excuse in possession of his registration certificate bearing an endorsement of employment but no endorsement of discharge, shall be liable on conviction to the penalties prescribed by section 8 of this Ordinance.

Provided that if in a prosecution for an offence against the provisions of this sub-section the Court is satisfied that the person charged is guilty of the offence but that he is in possession of a certificate bearing no endorsement in circumstances which constitute an offence against the Employment of Servants Ordinance, 1937, or of any Ordinance amending or replacing the same, the Court shall acquit the person charged if he has already been convicted of such other offence, but if such person has not ~~also been~~ been

convicted of such other offence then the Court may convict him of an offence under this sub-section and impose a penalty and such conviction shall operate as a bar to the institution of any proceedings for such other offence against the person so convicted."

5. That Clause 7 (now Clause 8) be amended by deleting therefrom the brackets and words "(The provisions of this sub-section shall not apply to such persons or such districts as may be prescribed)" which occur in the fifth, sixth, seventh and eighth lines of paragraph (b) thereof.

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

Nairobi

11th October, 1937.

This Report was considered by His Excellency the Governor in Council on the 15th day of October, 1937, and the recommendations of the Committee were accepted *in toto*.

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

The three Labour Ordinances.

Lord Francis Scott said that the question of making these three Ordinances into one had been discussed with the legal people locally, but that they had been understood to say that the Colonial Office were opposed to it. I said that there was nothing in that. The three principal Ordinances came into being at different dates, and when we received proposals for amending each of them at the same time, we accepted the position as it ~~was~~ came before us and the question of combining them did not arise. If Kenya wished to combine them, I did not see any objection.

copy sent to J. P. Brindley on 1/10/37
(No. 38300/37)

3

C. O.

Mr. Paskin 9/9/37

Mr. Flood 9/9/37

Mr.

Downing Street,

15 September, 1937.

Sir H. Mfore.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

s.o. for Mr. Flood's signature.

C. D.
R 9-SEP
D

DRAFT.

W. HARRISON, ES.

FURTHER ACTION.

one Ordinance dealing with these subjects
and not three Ordinances. He says that it
is understood in Kenya that it is by
direction of the Colonial Office that there
are three separate Ordinances instead of
one.

We have looked through the papers
back to 1936, when three amending Bills were
submitted and we have not been able to find
^{statement}
any ~~indication~~ that Kenya would prefer one
single Ordinance, or that the Colonial Office
has expressed any views on the matter.

Scott is under the impression that the
Colonial Office preference for three separate
Ordinances has something to do with "various
agreements at Geneva", by which I presume he
means the various International Labour
Conventions. I can not, however, see how the
existence of these Conventions can affect the
question, nor can I think of any other reason
why the Colonial Office should be thought to
prefer

C. O.

Mr.
Mr.
Mr.

Sir H. Moore.
Sir G. Tomlinson.
Sir C. Bottomley.
Sir J. Shuckburgh.
Perm. U.S. of S.
Parly. U.S. of S.
Secretary of State.

DRAFT.

FURTHER ACTION.

prefer that there should be three
Ordinances instead of one single
Ordinance.

Scott will be coming to see
Parkinson before he returns to Kenya
at the beginning of October and I
should be ^{glad} ~~pleased~~ to know whether
you have any particular views on the
matter. ~~The point is that~~

~~course sincerely,~~
Ordinance to deal with three things
like this, which are not really
connected at all except that they all
deal with natives, would be a bit
complicated. On the other hand if there
was only one Ordinance there would be
less risk of a man being hit in for
double penalties.

Yours sincerely

(Signed) I

Extract from a letter from Lord Francis Scott to
Sir Cosmo Parkinson, dated
September 1st, 1937.

x

x

x

(a) Three very contentious bills came up, all dealing with the relations between masters and servants. These were the Resident Native Labourers Ordinance, Employment of Servants Ordinance, Registration Ordinance. Of these the first went through all its stages, and was agreed to after various different points of view had been met. The other two were postponed for the next session as they had only been published a very short time. Now the point I want to make is that the feeling is strongly held in Kenya by both officials and unofficials, that there should be only one ordinance dealing with these subjects, and not three. Out there it is believed that these three Ordinances are produced at the orders of the Colonial Office, chiefly to conform with various agreements at Geneva etc. Could you get this question gone into, and if possible have one comprehensive but simple Ordinance devised to deal with the question? As Harrigin is at home perhaps you could get his views on this.

Extract from Gazette No. 30 of 1937

July 6, 1937

Colony and Protectorate of Kenya

GOVERNMENT NOTICE No. 544

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

R W BAKER-BEAU

Acting Clerk to the Legislative Council

A Bill to Amend the Native Registration Ordinance

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 Native Registration (Amendment) Ordinance, 1937, and shall be read as one with the Native Registration Ordinance (Chapter 127 of the Revised Edition), hereinafter referred to as the Principal Ordinance. Short title.
Cap 127.

2. Section 2 of the Principal Ordinance is hereby amended— Amendment of section 2 of the Principal Ordinance

- (a) by deleting the definition of "employer" and substituting therefor the following:

"'employer' means any person or any firm, corporation or company who or which has entered into a contract of service to employ any native or Somali, and the agent, foreman, manager, or factor of such person, firm, corporation or company, and where a native (or Somali) has entered into a contract of service with the Government of the Colony or with any officer on behalf of such 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."

and

Section 6 of the Principal Ordinance which it is proposed to amend:—

Endorsement of certificate by employer.

6. (1) Every person who engages a native for a longer period than twenty-four hours shall within forty-eight hours of his engaging such native demand from him his certificate and shall make and keep a record containing such particulars as shall be prescribed and shall endorse legibly in ink on such certificate such particulars as shall be prescribed whereupon the certificate shall be returned to the native. The employer shall also at the time of discharge endorse legibly in ink on the certificate such particulars as shall be prescribed, and return the certificate to the native.

Duties of natives as to endorsements.

(2) Every registered native shall before leaving the service of an employer request his employer to endorse his discharge on his certificate and in the event of the employer refusing or omitting to do so he shall forthwith report to the nearest registration officer and on its coming to the knowledge of the registration officer by the hereinbefore mentioned or any other means that such native is in possession of a registration certificate incomplete in any particular as hereinbefore mentioned the registration officer shall take steps to obtain a proper endorsement of discharge from such employer or if he is satisfied from the information at his disposal that the endorsement of discharge has been omitted through ignorance or mistake and through no fault of such native may himself endorse the discharge or complete the endorsement thereof on the certificate affixing such date as may appear to him consistent with the circumstances: Provided that no such endorsement of a registration officer shall be an absolute defence to a prosecution for desertion if it be proved that such offence has been committed by the native. If at the date of discharge the native is in receipt of a rate of wages different to that agreed upon when he was engaged the employer shall make and initial the alteration on the certificate.

(c) by inserting the following new definition:—

“employment” or “engagement” means the employment or the engagement of a native of Somali who, in return for his services, is paid any money or is given any consideration whatsoever.”

3. (1) Sub-section (1) of section 6 of the Principal Ordinance is hereby amended—

Amendment of section 6 of the Principal Ordinance.

(a) by inserting the words “or employs” after the word “engages” in the first line thereof;

(b) by deleting the words “in ink” from lines five and eight thereof.

(2) Sub-section (2) of section 6 of the Principal Ordinance is hereby amended by deleting the first three lines thereof and substituting therefor the following words:—

“(2) Every registered native shall, before leaving the service of an employer, request such employer to endorse his discharge upon his registration certificate and it shall be the duty of the employer forthwith to do so. In the event of the employer refusing or”.

(3) Sub-section (3) of section 6 of the Principal Ordinance is hereby amended—

(a) by deleting the full stop at the end thereof,

(b) by adding, immediately after the word “English”, the words “and shall be made in blue or blue-black ink”.

(3) All endorsements made under this section shall be in English.

Section 8 of the Principal Ordinance which it is proposed to amend:—

8. Any person who:—

(1) Shall be in unlawful possession of or shall make use of any certificate belonging to another native; or

(2) Falsely state that he has not previously been registered or shall make any other false statement or commit any act or omission with the object of deceiving a registration officer; or

(3) Hand over his own certificate to any other native to be used by such other native; or

(4) Shall be found in any district without a certificate issued in pursuance of the provisions of this Ordinance; or

(5) Shall refuse or neglect to produce his certificate when required to do so by any police officer or other person lawfully entitled to demand the production of such certificate; or

(6) Shall mutilate any certificate issued to him or shall add thereto or erase therefrom any material particular; or shall knowingly be in possession of a certificate containing false entries or from which dishonest erasures or excisions have been made; or

(7) Shall obtain or attempt to obtain a new certificate from a registration officer without first reporting to such registration officer the loss, mutilation or destruction of any such certificate which may previously have been issued to him or the fact that he has been previously registered; or

(8) Shall become registered more than once and omit to give up to the registration officer any certificate issued to him on previous registration which remains in his possession;

shall upon conviction be liable to a fine not exceeding fifteen pounds or to imprisonment of either description for a period not exceeding three months or to both.

4. Section 8 of the Principal Ordinance is hereby amended:—

Amendment of section 8 of the Principal Ordinance.

(a) by the addition of the following new sub-section:—

"(9) Having departed from the service of his employer, from whatever cause, is, after the expiration of the period of his employment, in possession of a certificate bearing an endorsement of employment but no endorsement of discharge" and

(b) by deleting the last three lines of the section and substituting therefor the words:—

"shall upon conviction be liable to a fine not exceeding twenty pounds or in default of payment to imprisonment for a term not exceeding three months: Provided that if in a prosecution for an offence against the provisions of sub-section (9) of this section the court is satisfied that the person charged is guilty of the offence but that he is in possession of a certificate bearing no endorsement in circumstances which constitute an offence under the provisions of the Employment of Servants Ordinance, 1937, or of any Ordinance amending or replacing the same, the Court shall acquit the person charged if he has already been convicted of such other offence, but if such person has not already been convicted of such other offence then the court may convict him of an offence under sub-section (9) of this section and impose a penalty under this section and such conviction shall operate as a bar to the institution of any proceedings for such other offence against the person so convicted."

No. of 1937.

Section 9 of the Principal Ordinance which it is proposed to amend:—

Returns.

9. (1) Every person employing a native registered under the provisions of this Ordinance shall render to the administrative officer in charge of the district in which the native is employed returns at such intervals of time and containing such particulars as may be prescribed.

Certificate of deceased native.

(2) Every person shall within such period as may be prescribed forward to the administrative officer in charge of the district the certificate and container of any native who may have died in his employ or on land or premises under his control.

(3) Failure to comply with the requirements of this section shall render the person liable to a fine not exceeding ten pounds or to imprisonment of either description for a period not exceeding one month, or to both.

Section 12 of the Principal Ordinance which it is proposed to amend:—

Disposal of Certificates.

12. Any person who shall come into possession of a certificate issued under this Ordinance other than the certificate issued to him or shall be in possession of more than one certificate issued to him under this Ordinance shall at the earliest opportunity deliver or forward the certificate which was not issued to him or which he has retained in addition to the one last issued to him or of which he has come into possession by any other means to the nearest magistrate or to the nearest registration officer. Any person who contravenes the provisions of this section shall on conviction be liable to a fine not exceeding fifteen pounds or to imprisonment of either description for a period not exceeding three months or to both.

Section 13 of the Principal Ordinance which it is proposed to amend:—

Offences in respect of certificates.

13. Any person who:—

(1) Shall withhold a certificate from any native entitled thereto except for such reasonable time to enable him to examine such certificate or to make any lawful entries thereon; or

(2) Shall refuse or wilfully fail to enter any engagement or discharge on the certificate as required under section six hereof or when legally demanded by the native; or

5. Section 9 of the Principal Ordinance is hereby amended:—

Amendment of section 9 of the Principal Ordinance.

- (a) by deleting from sub-section (1) thereof the words "administrative officer in charge of the district in which the native is employed" and by substituting therefor the words "Chief Registrar of Natives";
- (b) by repealing sub-section (3) thereof and substituting therefor the following:—

"(3) Failure to comply with the requirements of this section shall render the person liable on conviction to a fine not exceeding twenty pounds or in default of payment to imprisonment for a term not exceeding three months."

6. Section 12 of the Principal Ordinance is hereby amended by deleting the last three lines thereof and substituting therefor the following words:—

Amendment of section 12 of the Principal Ordinance.

"of this section shall on conviction be liable to a fine not exceeding twenty pounds or in default of payment to imprisonment for a term not exceeding three months."

7. Section 13 of the Principal Ordinance is hereby amended:—

Amendment of section 13 of the Principal Ordinance.

- (a) by deleting sub-section (5) thereof, and substituting therefor the following:—

"(5) Shall destroy, alter, imitate, mutilate, make a false entry in or in any way improperly tamper with any certificate or container belonging to a native whether such native is in his employ or not; or who shall knowingly engage or employ a native in possession of a registration certificate bearing any of the

(3) Shall engage or employ any native whose certificate bears an endorsement of employment but does not bear an endorsement of discharge from that employment without the permission of a registration officer first had and obtained in writing;

(4) Shall unlawfully or improperly deprive any native of any certificate or container in his possession; or

(5) Shall destroy, alter, imitate, mutilate, make a false entry or in any way improperly tamper with any certificate or container belonging to a native whether in his employ or not; or

(6) Shall unlawfully issue any certificate; or

(7) Shall engage or employ any unregistered native, provided the provisions of this sub-section shall only apply to such persons or such districts as may be prescribed;

(8) Shall make any entry whatsoever on the certificate of a native with whom he has not entered into a contract of service; or

(9) Shall wilfully fail to render any return required to be rendered under section nine hereof or shall knowingly furnish any false particulars therein;

shall upon conviction be liable to a fine not exceeding one hundred pounds or to imprisonment of either description for a period not exceeding one year, or to both

Section 14 of the Principal Ordinance which it is proposed to amend:—

14 Notwithstanding anything in the Law of Evidence or any other law or ordinance to the contrary any finger print or thumb print shall at the trial of any person accused of any offence under this Ordinance or any amendments thereof be admissible as evidence of identity against such accused person, if the said finger print or thumb print is certified under the hand and seal of an officer appointed by the Governor who shall have compared the finger print or thumb print with that filed in the Central Finger Print Bureau, and the certificate of such officer shall be evidence that the finger print or thumb print is identical with the finger print or thumb print record with which it is certified to have been compared.

Admissibility
of finger print
records as
evidence.

mutilations, dishonest erasures or additions mentioned in sub-section (6) of section 8 of this Ordinance;"

(b) by deleting sub-section (7) thereof, and substituting therefor the following:—

"(7) Shall engage or employ any unregistered native or any native who does not first produce his registration certificate. (The provisions of this sub-section shall not apply to such persons or such districts as may be prescribed);"

(c) by deleting the last two lines of the section and substituting therefor the following:

"hundred pounds or in default of payment to imprisonment for a term not exceeding one year."

8. Section 14 of the Principal Ordinance is hereby amended by deleting from line nine thereof the words "Central Finger Print Bureau" and substituting therefor the words "office of the Chief Registrar of Natives".

Amendment of
section 14 of the
Principal
Ordinance

Section 15 of the Principal Ordinance which it is proposed to amend:—

Powers given to magistrates, police, and registration officers, etc., to demand production of certificate.

15. Any magistrate, justice of the peace, police officer, registration officer, employer of labour or his agent on his own farm or premises, or any other person authorized thereto by the Governor may at any time demand from any native the production of the certificate issued to him under this Ordinance. Failure or refusal to produce a certificate when demanded in accordance with the provisions of this section shall be an offence punishable with a fine not exceeding three pounds or imprisonment of either description for a period of one month or to both.

Section 16 of the Principal Ordinance which it is proposed to repeal:—

Complaints.

16. A notification by the chief registrar of natives to any magistrate or police officer of any desertion shall be treated as a complaint made by the employer.

Section 17 of the Principal Ordinance which it is proposed to replace:—

Penalties.

17. Any person contravening any provision of this Ordinance for which no special penalty is provided shall on conviction be liable to a fine not exceeding thirty pounds, or to imprisonment of either description not exceeding three months or to both.

9. Section 15 of the Principal Ordinance is hereby amended—

Amendment of section 15 of the Principal Ordinance.

- (a) by substituting the words "police officer of or above the rank of Assistant Sub-Inspector" for the words "police officer" which occur in the first line of the section and
- (b) by substituting the words "in default of payment to imprisonment for a term not exceeding one month" for the words "imprisonment of either description for a period of one month or to both."

10. Section 16 of the Principal Ordinance is hereby repealed

Repeal of section 16 of the Principal Ordinance.

11. Section 17 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

Repeal and replacement of section 17 of the Principal Ordinance.

"17. Any person contravening any of the provisions of this Ordinance, for which no special penalty is provided, or of any rules made thereunder, shall on conviction be liable to a fine not exceeding fifty pounds or in default of payment to imprisonment for a term not exceeding three months."

Penalties.

12. The Principal Ordinance is hereby amended by inserting, immediately after section 19 thereof, the following new sections:—

Amendment of the Principal Ordinance.

"19A. Where proceedings are instituted against any person for an offence or for a number of offences against the provisions of this Ordinance such persons may, notwithstanding the provisions of the Criminal Procedure Code, if such offences are of the same kind, be charged with and tried at the same time for any number of such offences.

No. 11 of 1937.

19B. (1) Where the Chief Registrar of Natives has reason to believe that an offence has been committed against the provisions of this Ordinance, he may institute proceedings in respect of such offence.

(2) Any document purporting to be a certificate under the hand of the Chief Registrar of Natives, certifying that any return required to be made to him under this Ordinance has not been made, may be given in evidence in any proceedings under this Ordinance unless the court having jurisdiction under this Ordinance shall require the Chief Registrar of Natives to be called as a witness."

OBJECTS AND REASONS

The objects of this Bill are to improve the working of the Principal Ordinance and to bring certain definitions, penalties and methods of procedure into line with those in the new Employment of Servants Bill.

2. *Clause 2.*—The definition of "employer" conforms to that contained in the Employment of Servants Bill.

3. *Clause 3.*—All endorsements on a registration certificate must be permanent, and it is considered desirable to make the use of blue or blue-black ink compulsory, as cases have occurred in which red ink has been used to indicate displeasure with a native's services.

Clause 3 (1).—This is a corollary to clause 2 (c).

Clause 3 (2).—This makes it obligatory for an employer to make an endorsement of discharge on the registration certificate of an employee who requests him to do so on leaving his service.

4. *Clause 4 (a).*—This is intended to obviate the granting of indefinite leave by employers and the taking of indefinite leave by employees.

Clause 4 (b).—This ensures that a native shall not be punished twice for the same offence.

5. *Clauses 5 and 6.*—These increase the fines which may be imposed, but imprisonment can only be inflicted in default of payment of a fine.

6. *Clause 7.*—This prohibits the engagement of a native with a mutilated certificate, makes production of a registration certificate to the prospective employer prior to engagement compulsory and imposes imprisonment only as an alternative punishment in default of payment of a fine.

7. *Clause 8* provides for the submission of labour returns direct to the Chief Registrar of Natives instead of to District Commissioners.

8. *Clause 9* is intended to limit the powers conferred on the Police to demand the production of a registration certificate, to Police Officers of or above the rank of Assistant Sub-Inspector.

9. *Clause 10* repeals section 46 of the Principal Ordinance which, as the offence of desertion is now non-cognisable and action can only be taken on a complaint by the employer, ceases to have any value.

10. *Clause 11.*—Under this clause the amount of the fine is increased but imprisonment is made an alternative punishment only in default of payment of a fine.

11. *Clause 12* is designed to simplify the procedure in cases of multiple offences against any particular provision of the Ordinance, to empower the Chief Registrar of Natives to institute criminal proceedings, and to provide that a certificate issued under the hand of the Chief Registrar of Natives may be admitted as evidence of failure to submit labour returns.

No expenditure of public moneys will be involved if the provisions of this Bill become law.

Instruments chargeable with duty.

Section 4 of the Principal Ordinance which it is proposed to amend:

4. Every instrument described in the schedule hereto shall, save as to the exemptions in this Ordinance and in that schedule specified, be severally subject to the duties prescribed in the schedule in respect of such instrument, whether the instrument be executed in the Colony or whether it be executed outside the Colony and relates to the transfer or hypothecation of any property situate therein or to any matter or thing to be performed or done therein:

Provided that no duty shall be chargeable in respect of any instrument executed by, or, on behalf of, or in favour of the Government in cases where, but for this exemption, the Government would be liable to pay the duty chargeable in respect of such instrument.

Section 55 of the Principal Ordinance which it is proposed to amend:—

55. In any case in which allowance is made for spoiled or misused stamps, the revenue authority may give in lieu thereof:

- (a) Other stamps of the same description and value; or
- (b) If required, and he thinks fit, stamps of any other description to the same amount in value; or
- (c) At his discretion, the same value in money.

Allowance for spoiled or misused stamps how to be made.