

1935

1935

38139

KENYA

C0533/459

38139

Police Ordinance.

Previous

28271/34

R 297

28/11

309

29/11

R 297

17/12

309

15/12

R 297/309

24/12

Man's Relation

Subsequent

1936

Ry 297

24/6

Room 309

12/7

The Director

15

The Date

2/11

The Head (name)

S. C. D. D. D.

16/7

R 309

297

25/9

Room 309

26

The Date

27/9/35

The Head

28

Room 309

29/9

991

1/10

R 297

2/10

Subsequent

2/10

→ Affairs Deputy Billing 15/10/34 ——— 29 May 35
Furnished above on various points raised regarding Ordinance
No. 227 of 1934 & submit the (Police Gratuities) Regs. 1935

Cf Police Ordinance

See No. 6
227/34

The objections raised with regard to certain features of Section 29 of the Police (Amendment) Ordinance, 1934, will be borne in mind when amendments to the Ordinance are under consideration. This is satisfactory.

The question of granting pensions to the African rank and file is not so satisfactory. The O.A.G. says that the attitude of the Kenya Govt. is that pensions should not be granted to Africans in general and that it is undesirable to make an exception in favour of the Police. The present Commissioner of Police is, however, no less insistent than his predecessor on the desirability of the payment of pensions to the African rank and file.

We know that the non-commissioned ranks of the Police have been included in the European and Asiatic Local Civil Services and these officers will have the benefits of the Local Civil Service provident funds. But there is no such provision for the ordinary African rank and file.

The European and ^{British} ~~African~~ Local Civil Services were instituted mainly to reduce the pension commitments of the Colony and insistence on the introduction of a pension scheme for the African Police would, I think, be tantamount to overruling the Governor and counter to the general conclusions of the Governors' Conference.

? Reply that in the circumstances the Secretary of State agrees to the retention of the arrangements for the award of gratuities to African

subordinate

Cf Police Ordinance

1. Afternoon Deputy Billing 15/5/34 _____ 29 May 35
Furnished below on various points raised regarding Ordinance
No. XXIV of 1934 & submit the (Blue Gratuities) Regs. 1935.

Sec No 6
25/7/34

The objections raised with regard to certain features of Section 29 of the Police (Amendment) Ordinance, 1934, will be borne in mind when amendments to the Ordinance are under consideration. This is satisfactory.

The question of granting pensions to the African rank and file is not so satisfactory. The O.A.C. says that the attitude of the Kenya Govt. is that pensions should not be granted to Africans in general and that it is undesirable to make an exception in favour of the Police. The present Commissioner of Police is, however, no less insistent than his predecessor on the desirability of the payment of pensions to the African rank and file.

We know that the non-commissioned ranks of the Police have been included in the European and Asiatic Local Civil Services, and these officers will have the benefits of the Local Civil Service provident funds. But there is no such provision for the ordinary African rank and file.

The European and ^{Asiatic} ~~Asiatic~~ Local Civil Services were instituted mainly to reduce the pension commitments of the Colony, and insistence on the introduction of a pension scheme for the African Police would, I think, be tantamount to overruling the Governor and counter to the general conclusions of the Governors' Conference.

? Reply that in the circumstances the Secretary of State agrees to the retention of the arrangements for the award of gratuities to African subordinate

subordinate Police Officers on discharge from the Service, and convey his approval of the Police (Gratuities) Regulations, 1935.

C. H. Prosser
12/7/35

Mr. Dale

X We can accept the assurance in para. 2; though it may be given before the introduction any further amendments.

Mr. Flood

S. of S. can hardly override the opinion of a British Resident on the question of pensioning African Police.

It appears that the Nigerian Govt substituted gratuities for pensions in 1930.

(There is a small point in Reg. 3 which is hardly worth comment. Why should a Sergeant, Grade 1, increase his gratuity by £10 after 21 years, while no other rank increases by more than £5? Perhaps £30 rather is a clerical error for £25.)

A. Duncanson
15/7

Yes

(cc.)

16. vii.

and we observe on the Regs. (cc.)

As proposed. I see no use in pressing them further. There would be much to be said in Council.

Wes

16.7.35

a council

2 To Kenya, Conf (1 hour) 23/7/35

S. 11/Governor Wade HCO

31st Aug 35
3 copies & 12 plain copies of the Rules (A.M.H.)

12 plain copies to the Hon. Secy. No 36 of 1935

DESTROYED UNDER STATUTE

They have not taken the opportunity of amending S. 29 - see para 2 of O.

? by

A. Duncanson
26/7

Noted observations.

Perhaps in the general pressure of work they have forgotten about section 29.

We might enquire so, whether the objections in question were considered when this Ordinance (S. No. XXXVI of 1935) was under discussion.

27/9/35

A. Duncanson

No. I don't think they have got to the point raised in our dep. of 7 Feb.

G.S. J.C.O. 1935

Noted
to Librarian
2/10/35

H To Kenya 794 (3 enclosed) G/B 30 Sept 1935

Library (Legal) G/B

Extract from Kenya Gazette Suppl. No 38 d. 24.9.35.
Attached in acc. with min. n 18040/35.

DESTROYED UNDER STATUTE

Revised for news

Put by

C. G. ...

29.11.35

at ...

[Handwritten mark]

6 Col Secy (containing)

22-11-35

DESTROYED UNDER STATUTE

(origin 38008/35-1936)

span to
Lib.

The 12 copies of Police Instructions No. 1935
under number 116 Police (Kenya) 1935.

This is the same as No. 35

Put by

C. G. ...

29.11.35

at ...

[Handwritten mark]

Noted
to Lib
Library
7/10/35

H Kenya 794 (3 enclosed) & 13 30 Sept 1935

Legal copy

5

Extract from Kenya Gazette Suppl. No 38 d. 24.9.35.
Attached in acc. with min. n 3804/35.

DESTROYED UNDER STATUTE

Revised for record

Putty

C. J. ...

29.11.35
at ...

[Handwritten signature]

6 Col Secy (3) -

22.11.35

DESTROYED UNDER STATUTE

(orig. n 3800/35-1936)

Spans to
Lib

The 12 copies of Police Statistics Agency 1935
under cover of Police Order 1930

This is the same as No 5

Putty

C. J. ...

29.11.35
at ...

[Handwritten signature]

Mr. Grossmith.

Mr. *Newton*Mr. *17/2*

Sir C. Parkinson.

Sir G. Tomkinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Perms. U.S. of S.

Parly. U.S. of S.

Secretary of State.

DOWNING STREET,

23 July, 1935.

R 17 JUL 1935

D *m*DRAFT.KENYA.CONFIDENTIAL

I have, etc., to acknowledge the receipt of your confidential despatch No. 75 of the 29th of May, on the subject of the Police (Amendment) Ordinance, 1934, and to inform you that, in the circumstances, I agree to the retention of the arrangements for the award of gratuities to African subordinate officers on discharge from the Police force.

2. I accordingly approve the Police (Gratuities) Regulations, 1935, copies of which accompanied your despatch,

I have, etc.,

(Sgd.) MALCOLM MacDONALD

FURTHER ACTION.

KENYA

No. 75

CONFIDENTIAL



GOVERNMENT HOUSE,
NAIROBI,
KENYA

RECEIVED
19 JUN 1955
C. O. REGY

15
29th May, 1955

Sir,

Nob

232/11

I have the honour to refer to your despatch, Confidential (2), of the 7th February on the subject of the Police Ordinance, No. XLIV of 1934.

Amended (2)

2. In regard to the first paragraph of your despatch, I am advised that sub-sections (9) and (11) of the Ordinance are similar to sections 127 and 128(2) of the now repealed Criminal Procedure Ordinance (Chapter 7 of the Revised Edition of the Laws of this Colony) and to sections 160 and 161 of the Indian Criminal Procedure Code which was in force in this Colony before the enactment of Chapter 7.

The proviso to sub-section (9) of section 29 was taken from section 41(2) of the Tanganyika Police Ordinance, 1933, which has not, so far as the Attorney General is aware, been amended.

The objections to the provisions of the section will, however, be borne in mind when amendments to the Ordinance are under consideration.

3. In regard to paragraph 2; in reaching a decision on this question, not only in this Colony, but also at the Governors' Conference, every consideration has been given to the opinions expressed

in the

MAJOR THE RIGHT HONOURABLE

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

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET,

LONDON, S.W. 1

in the correspondence referred to in your despatch.

I should add that, in view of the objections which had subsequently arisen to a free pension scheme, the possibilities of the substitution of a contributory scheme were examined by the Conference, and, for facility of reference, I enclose a copy of the relative extract from the proceedings of the Conference.

While the arguments in favour of this provision are appreciated, the attitude of this Government is that pensions should not be granted to Africans in general and that it is undesirable to make an exception in favour of the Police, and no reason is seen for varying the decision which was only reached after an exhaustive consideration of all the circumstances which include those relative to the decisions regarding the European and Asiatic Local Civil Services, the fact that the great majority of the African rank and file of the Police Force retire to their homes and land in the Native Reserves and the existing pension commitments of this Colony.

Mr. Cavendish, the present Commissioner of Police, has, throughout the discussions on this subject, been no less insistent than his predecessor, Mr. Spicer, on the desirability of the payment of pensions to the African rank and file, and, when the question was again discussed with him, as suggested in your despatch, he adhered to his views.

4. I trust that in all the circumstances you will agree to the retention of the arrangement now reached,

8.

reached, and I enclose for your sanction under Section 56(1) of the Police Ordinance, 1950, as amended by Ordinance No. XLIV of 1954, copies of the Police (Gratuities) Regulations, 1955, which have been approved on the advice of Executive Council.

I have the honour to be,

Sir,

Your most obedient, humble servant,



ACTING GOVERNOR'S DEPUTY.

EXTRACT from MINUTES OF MEETING OF CONFERENCE OF GOVERNORS HELD AT NAIROBI FROM 1st-6th MAY, 1954.

XV. PENSIONS FOR AFRICAN RANKS OF THE POLICE.

The Conference had under consideration a memorandum by the Government of Kenya. Paper No. GC(54)55.

SIR BERNARD BOURDILLON said that he could not agree to considering a Pensions Scheme for African Police. At present Uganda was considering the question of a contributory pensions scheme for all Africans and until this was settled he was not ready to consider any question of non-contributory pensions to the Police. For the time being the existing Gratuity Scheme was adequate.

SIR HAROLD MacMICHAEL said that Tanganyika could not agree to a Pensions Scheme. Tanganyika had considered bringing African ranks of the Police into the Provident Fund, but a conclusion had been reached that the present system of gratuities (which arise after nine years) was quite satisfactory, was cheaper and more suitable than a Provident Fund.

MR McELDERRY said that the present system of Good Conduct Pay and Gratuities for Police in Zanzibar served to keep men longer in the Police Force and, in his opinion, this was a better arrangement than a Pensions Scheme.

THE CONFERENCE

AGREED that it was undesirable to introduce a free pensions scheme for the African ranks of the Police.

THE POLICE ORDINANCE, 1930.

REGULATIONS.

IN EXERCISE of the powers conferred upon him by section 56 of the Police Ordinance, 1930, His Excellency the Governor in Council has, with the sanction of the Secretary of State, been pleased to make the following Regulations:-

1. These Regulations may be cited as the Police (Gratuities) Regulations, 1935.

2. In these Regulations -

"officer" means any person serving as an African subordinate police officer but excludes any such person serving under the conditions of service ordinarily applicable to Asiatics;

"the Ordinance" means the Police Ordinance, 1930, as amended by the Police (Amendment) Ordinance, 1934; and any subsequent amendments thereto;

"Service" means service in the Kenya Police and includes previous service, in accordance with section 20(5) of the Ordinance, in a similarly constituted Police Service of the Uganda Protectorate or the Nyasaland Protectorate or the Tanganyika Territory, and service under the provisions of the Police Ordinance (Chapter 56 of the Revised Edition).

3. On the recommendation of the Commissioner, and with the approval of the Treasurer, gratuities at the following rates may be granted to officers on discharge after continuous service of twelve years, viz:-

| | |
|--|-----|
| to Sub-Inspectors and Assistant Sub-Inspectors | £25 |
| to Sergeants, 1st Grade | £20 |
| to Sergeants, 2nd Grade | £15 |
| to Sergeants, 3rd Grade | £10 |
| to Corporals | £ 7 |
| to Constables | £ 5 |

and at the following rates after continuous good service of twenty-one years, viz:-

| | |
|--|-----------|
| to Sub-Inspectors and Assistant Sub-Inspectors | £ 30 |
| to Sergeants, 1st Grade | £ 25 |
| to Sergeants, 2nd Grade | £ 20 |
| to Sergeants, 3rd Grade | £ 15 |
| to Corporals | £ 10.00 |
| to Constables | £ 7.10.00 |

4. (1) Subject to the provisions of sub-sections (4) and (5) of section 20 of the Ordinance and of this Regulation, service in respect of which a gratuity may be granted shall be unbroken.

(2) For the purpose of computing the amount of service of an officer -

/(a) the

- (a) the following periods shall be included as service -
- (i) any period during which he has been on duty;
 - (ii) any periods during which he has been absent from duty on leave with full or half salary;
- (b) the following periods shall not be included as service -
- (i) any periods during which he has been absent, other than those specified in paragraph (a) of this Regulation;
 - (ii) any period during which he has been absent from the Kenya Police between the date on which he received his discharge and the date of his re-engagement;
 - (iii) any period between the date on which he received his discharge from the appropriate authority in a similarly constituted Police Force in the Uganda Protectorate or the Nyasaland Protectorate or the Tanganyika Territory and the date of his enlistment in the Kenya Police.

5. Where an officer, whose continuous period of service exceeds twelve years, is dismissed for misconduct, he may be paid the whole or such proportion of the gratuity, for which he would have been eligible if he had taken his discharge at the termination of the period of re-engagement immediately preceding the period of service in which the misconduct occurs as the Commissioner may, in his discretion and subject to the approval of the Treasurer, determine.

6. In the event of an officer re-engaging for a further term of service and dying in the service before the completion of such further term, any gratuity that might have been payable under these Regulations to him had he taken his discharge under the provisions of the Ordinance shall, subject to the recommendation of the Commissioner and to the approval of the Treasurer, be deemed for the purpose of these Regulations to be the personal property of such deceased officer in the charge of the Treasurer and shall be paid out and distributed by the Treasurer, or such other person as he may appoint, in accordance with the provisions of the Ordinance.

7. (1) No officer shall have an absolute right to a gratuity; nor shall anything in these Regulations contained limit the right of the Commissioner to dismiss or discharge an officer without compensation or gratuity.

(2) No officer shall be granted a gratuity unless the Commissioner certifies that such officer has discharged the duties of his office with such diligence, fidelity and good conduct as to justify the grant to him of a gratuity.

(3) When it is established to the satisfaction of the Commissioner that an officer has been guilty during the course of his service of negligence, irregularity or misconduct, the gratuity may, in the discretion of the Commissioner, be reduced or altogether withheld.

8. There shall be charged upon and paid out of the revenues

revenues of the Colony all such sums of money as may from time to time be granted by way of gratuity in accordance with these Regulations.

BY Command of His Excellency the Governor in Council.

Nairobi,

This

day of

CLERK TO THE EXECUTIVE COUNCIL.

1935.