

1927

KENYA

1927

X. 10417

X. 10417

CO 533/370

Stamp Ordinance

Previous

for D.F. 5253 LA
76

Subsequent

X 15444/20

5382 2/10

Room 4 1/10

1/10

Oriller 1/10

Whitman 3/5

Room 4 1/10

Room 3 1/10

Library 1/10

24/10

24/10

Room 1 25/10

Library 27/10

X 15444

1) --- O7A29, DEPT. M. 467 ----- 28 June, 1927

Stamp Ordinance, Cap. No. 13 of 1927

To be signed copies together with legal report.

(2)

The only point that occurs to me about the Ordinance of this kind is the desirability of uniformity between Kenya & the other Dependencies. The Attorney Gen's report Ord. shows that the achievement of this as far as possible is the object of this Ord.

Subject to legal draft.

put by G. J. Seal

no other signature on 27/6/27

19

The question of the uniformity of stamp legislation was considered by the Conference of Legal Officers, who agreed that uniformity was desirable, but considered that the Kenya and Uganda legislation is already sufficiently uniform, and recommended legislation on similar lines as suitable for adoption in Tanganyika Territory. These views were not intended to apply to the rates of duties imposed in these Dependencies under stamp legislation. Such rates must be governed largely by local revenue considerations which vary from time to time, and the Conference was, therefore, unable to recommend that the principle

as uniformity should be extended to rates of duty. The decision appeared to the Conference to be the same with regard to registration fees. I have compared the rates in the schedule in this Ordinance with the corresponding rates (it is not of course a complete schedule) in the principal Ordinance. There has been no revision of the rates except that in a few cases, there have been some changes of classification.

? Sanction if as proposed.

W. Allen

5/8/27

to C. S. ...

3557, ...

W. Allen

296 Gen. 653 (1 fund) - 6 AUG 1927 9/5

NOTED UNDER STATUTE - 29 July 1917

in 12 funded copies of the Statute (Amount)

Index, 41

*Put
J. W. Allen*

in balance

ka

*has been
Library*

(L.S.)

EDWARD B. DENHAM.

[25TH JUNE, 1927.]

No. XIII.

1927



Colony and Protectorate of Kenya.

IN THE SEVENTEENTH YEAR OF THE REIGN OF

HIS MAJESTY KING GEORGE V.

EDWARD B. DENHAM, C.M.G.,

Acting Governor.

[25TH JUNE, 1927.]

Date of Assent.

An Ordinance to Amend the Stamp Ordinance.

25th June, 1927.

Date of
enactment.

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 Stamp Amendment Ordinance, 1927" and shall be read as one with the Stamp Ordinance (Chapter 57 of the Revised Edition) hereinafter referred to as "the Principal Ordinance."

2. Paragraphs (2), (19) and (20) of section 2 of the Principal Ordinance are hereby repealed, and in lieu thereof shall be read the following

(2) 'Bill of exchange' means a bill of exchange as defined by the Bill of Exchange Ordinance, 1927, and includes also a draft, order, cheque, letter of credit, and any other document, entitling or purporting to entitle any person, whether named therein or not, to payment by any other person of, or to draw upon any other person for, any sum of money.

Amendment of interpretation of "Bill of exchange", "Policy of insurance" and "Promissory note."

(10) Policy of insurance includes

(a) Any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage, or liability arising from an unknown or contingent event.

(b) A policy of insurance upon any life or lives or upon any event or contingency relating to or depending upon any life or lives.

(c) A policy of insurance against accident, which expression means a policy of insurance for any payment agreed to be made upon the death of any person only from accident or violence or otherwise than from a natural cause, or as compensation for personal injury, or during the sickness of any person, or his incapacity from personal injury, or by way of indemnity against loss or damage to any property, and includes any notice or advertisement in a newspaper or other publication which purports to insure the payment of money upon the death of, or injury to, or sickness or incapacity of, or loss or damage to property of, the holder or bearer of the newspaper or publication containing the notice or advertisement only from accident or violence or otherwise than from a natural cause.

(2) Promissory note means a promissory note as defined by the Bills of Exchange Ordinance.

Sub-section (1) of section 3 of the Principal Ordinance is hereby amended by the insertion of the words "or officers" after the word "holders" in the second line.

The following shall be inserted in section 4 of the Principal Ordinance:

(a) (1) Where any person issuing policies of insurance against accident shall, in the opinion of the Senior Revenue Authority, so carry on the business of such insurance as to render it impracticable or inexpedient to require that the duty of twenty cents be charged and paid upon the policies, the Senior Revenue Authority may enter into an agreement with that person for the delivery to him of quarterly accounts of all sums received in respect of premiums on policies of insurance against accident.

(2) The agreement shall be in such form and shall contain such terms and conditions as the Senior Revenue Authority may think proper, and the person with whom the agreement is entered into shall observe the rules in the Second Schedule to this Ordinance.

(3) After an agreement has been entered into between the Senior Revenue Authority and any person, and during the period for which the agreement is in force, no policy of insurance against accident issued by that person shall be chargeable with any duty, but in lieu of and by way of compensation for that duty there shall be charged on the aggregate amount of all sums received in respect of premiums on policies of insurance against accident a duty at the rate of five per centum as a stamp duty.

(4) If the duty charged is not paid upon the delivery of the account it shall be a debt due to the Senior Revenue Authority from the person by or on whose behalf the account is delivered.

(5) In the case of neglect to deliver such an account as is hereby required or to pay the duty in conformity with this section the person shall be liable to pay to the Senior Revenue Authority a sum equal to ten per centum upon the amount of duty payable, and a like penalty for every month after the first month during which the neglect continues.

5. Section 16 of the Principal Ordinance is hereby amended by the deletion of the words

"by instrument under the hand of the Government Authority or in such other manner as may be determined in Council" and by the insertion of the words

"in such manner as the Governor in Council may by rule prescribe."

6. The following shall be inserted in section 16 of the Principal Ordinance:

(16) The duplicate or counterpart of an instrument chargeable with duty (except the counterpart of an instrument chargeable as a lease, such counterpart not being executed by or on behalf of any lessor or grantor) is not to be deemed duly stamped unless it is stamped as an original instrument or unless it appears by some stamp impressed thereon that the full and proper duty has been paid upon the original instrument of which it is the duplicate or counterpart.

Amendment of section 17 of the Principal Ordinance

7. Section 17 of the Principal Ordinance is hereby amended by the deletion of the words "payable on demand or at not more than thirty days from sight or date" in the sixth and seventh lines thereof.

How transfer in consideration of debt or subject to future payment, etc. to be charged

8. Section 26 of the Principal Ordinance is hereby amended as follows:—

(a) By the insertion of the following proviso after the "Explanation":—

"Provided that where property subject to a mortgage is transferred to the mortgagee, he shall be entitled to deduct from the duty payable on the transfer the amount of any duty already paid in respect of the mortgage."

(b) By the insertion of the following additional illustration:—

(3) A mortgages a house of the value of one thousand pounds to B for five hundred pounds. B afterwards buys the house from A. Stamp duty is payable on one thousand pounds less the amount of stamp duty already paid for the mortgage."

Amendment of section 34 of the Principal Ordinance

9. Sub-section (3) of section 34 of the Principal Ordinance is hereby amended by the deletion of the proviso thereto, and by the substitution thereof of the following proviso:—

"Provided that nothing in this section shall authorize a court to order a stamp."

(a) Any instrument (other than instruments mentioned in paragraph (d) executed or first executed in the Colony and brought to him after the expiration of thirty days from the date of its execution or first execution in the Colony) may be stamped.

(b) Any instrument chargeable with duty of ten cents or twenty cents or promissory notes and bills of exchange drawn and executed in the Colony when brought to him after the drawing or execution thereof not duly stamped; or

(c) Any instrument (other than instruments mentioned in paragraph (d)) executed or first executed out of the Colony and brought to him after the expiration of thirty days after it has been received in the Colony; or

(d) Any promissory note or bill of exchange assigned, out of the Colony, when brought to him after the expiration of seven days after it has been first received in the Colony.

10. Section 37 of the Principal Ordinance is hereby amended by the insertion in paragraph (a) of the proviso thereto of the words "bill of exchange or" between the words "a" and "promissory" in the third line thereof.

11. Sub-section (1) of section 42 of the Principal Ordinance is hereby amended by the insertion of the words "bill of exchange or" between the words "a" and "promissory" in the fifth line thereof.

12. Section 43 of the Principal Ordinance is hereby amended by the insertion of the words "bill of exchange or" between the words "a" and "promissory" in the third line thereof.

13. Paragraph (1) of section 53 of the Principal Ordinance is hereby amended by the substitution of the words "six months" for the words "two months" in the second line thereof.

14. Section 57 of the Principal Ordinance is hereby amended by the deletion of the words:—

"upon application made within one month and the substitution thereof of the words:—

"upon production to him of the new debenture duly stamped upon one month from the date of the execution of such new debenture."

15. (1) Sub-section (2) of section 63 of the Principal Ordinance is hereby repealed and in lieu thereof shall be read the following:—

(2) (a) If such court, after such consideration, is of opinion that such instrument should not have been admitted in evidence as duly stamped or as not requiring a stamp, it shall exclude such instrument from the evidence in the suit or proceedings on the ground that the instrument has not been duly stamped.

Revision of decision of courts regarding the sufficiency of stamps

(4) If such court, after such consideration, is of opinion that such instrument should not have been admitted in evidence without the payment of duty and penalty under section 67 of this Ordinance, or without the payment of a higher duty and penalty than those paid, it shall record a declaration to that effect and determine the amount of duty with which such instrument is chargeable, and shall require any person in whose possession or power such instrument then is, to produce the same, and shall impose the same when produced.

(3) Section 38 of the Principal Ordinance is hereby repealed.

16. Section 67 of the Principal Ordinance is hereby repealed, and in lieu thereof shall be read the following—

67. Any person who—

(a) Gives a receipt liable to duty and not duly stamped; or

(b) In any case where a receipt would be liable to duty refuses or neglects to give a receipt duly stamped; or

(c) Upon a payment of money or delivery of property of two pounds or over in value gives a receipt for a sum not amounting to two pounds or separates or divides the amount paid or money delivered with the intent to evade the duty;

shall be punishable with a fine which may extend to ten pounds.

Section 68 of the Principal Ordinance shall be read with the addition of the following—

68. Any person who, in contravention of any provision of this Ordinance, issues or causes to be issued any instrument of which the composition or stamp duty has been entered and under section 68 of this Ordinance.

18. Section 69 of the Principal Ordinance is hereby repealed, and in lieu thereof shall be read the following—

69. Any person drawing or executing a bill of exchange or a policy of sea-insurance purporting to be drawn or executed in a set of two or more and not at the same time drawing or executing, on paper duly stamped, the whole number of bills

Penalty for offences in reference to receipts.

Penalty for the drawing of bills or sea policies purporting to be in sets.

or policies of which such bill or policy purports the act to consist, shall be punishable with a fine which may extend to one hundred pounds.

19. The Schedule to the Principal Ordinance is hereby amended as follows:—

(1) Article 4 is hereby amended by inserting the words "a statutory declaration and" after the word "including" in the first line thereof.

(2) Article 5 is hereby repealed, and in lieu thereof shall be read the following—

Description of Instrument	Proper Stamp-duty
<p>4. Agreement or Memorandum of an Agreement.</p> <p>(a) If relating to the sale of a Government security, or share in an incorporated company or other body corporate, or a bill of exchange.</p> <p>(b) If not otherwise provided for.</p> <p>EXCHANGES.</p> <p>Agreement or memorandum of an agreement.</p> <p>(a) For or relating to the sale of goods or merchandise exclusively, not with a sale or memorandum thereon, under Article 4.</p> <p>(b) Made in the form of tenders to the Government for or relating to any business.</p>	<p>Twenty cents.</p> <p>One shilling.</p>
<p>10. Agreements made with the Kenya and Uganda Railway for the conveyance of goods.</p> <p>(a) Such agreements made with the Kenya and Uganda Railway which purport to limit the responsibility of the Railway in any bill, form approved by the Governor in Council.</p>	

Amendment of the Schedule to the Principal Ordinance.

(4) If such court, after such consideration, is of opinion that such instrument should not have been admitted in evidence without the payment of duty and penalty under section 57 of this Ordinance, or without the payment of a higher duty and penalty than those paid, it shall record a declaration to that effect and determine the amount of duty with which such instrument is chargeable, and shall require any person in whose possession or power such instrument then is, to produce the same, and shall impose the same when produced.

(3) Section 38 of the Principal Ordinance is hereby repealed.

16. Section 37 of the Principal Ordinance is hereby repealed, and in lieu thereof shall be read the following:

37. Any person who—

(a) Gives a receipt liable to duty and not duly stamped; or

(b) In any case where a receipt would be liable to duty refuses or neglects to give a receipt duly stamped; or

(c) Upon a payment of money or delivery of property of two pounds or over in value gives a receipt for a sum not amounting to two pounds or separates or divides the amount paid of property delivered with the intent to evade the duty.

shall be punishable with a fine which may extend to ten pounds.

17. Section 36 of the Principal Ordinance shall be read with the addition of the following proviso:

Provided that this section shall not apply to postage stamps or postage stamps in respect of which an agreement for the conveyance of goods, duly lawfully entered into under section 54 of this Ordinance.

18. Section 50 of the Principal Ordinance is hereby repealed, and in lieu thereof shall be read the following:

50. Any person drawing or executing a bill of exchange or a policy of sea-insurance purporting to be drawn or executed in a set of two or more and not at the same time drawing or executing, on paper duly stamped, the whole number of bills

or policies of which such bill or policy purports to be a set, shall be punishable with a fine which may extend to one hundred pounds.

19. The Schedule to the Principal Ordinance is hereby amended as follows:—

(1) Article 4 is hereby amended by inserting the words "a statutory declaration and" after the word "including" in the first line thereof.

(2) Article 5 is hereby repealed, and in lieu thereof shall be read the following:

Description of Instrument.	Proper Stamp-duty.
4. Agreement or Memorandum of an Agreement.	
(a) If relating to the sale of a Government security, or share in an incorporated company or other body corporate, or a bill of exchange.	Twenty shillings.
(b) If not otherwise provided for.	One shilling.
EXEMPTIONS	
Agreement or memorandum of an Agreement.	
(a) For instruments relating to the sale of goods or merchandise assembly not being a sale or memorandum chargeable under Article 4.	
(b) Made in the form of tenders to the Government for or relating to any work.	
(c) Made in the form of tenders to the Government of any work.	
(d) Made in the form of tenders to the Government of any work.	
(e) Made in the form of tenders to the Government of any work.	
(f) Made in the form of tenders to the Government of any work.	
(g) Made in the form of tenders to the Government of any work.	
(h) Made in the form of tenders to the Government of any work.	
(i) Made in the form of tenders to the Government of any work.	
(j) Made in the form of tenders to the Government of any work.	
(k) Made in the form of tenders to the Government of any work.	
(l) Made in the form of tenders to the Government of any work.	
(m) Made in the form of tenders to the Government of any work.	
(n) Made in the form of tenders to the Government of any work.	
(o) Made in the form of tenders to the Government of any work.	
(p) Made in the form of tenders to the Government of any work.	
(q) Made in the form of tenders to the Government of any work.	
(r) Made in the form of tenders to the Government of any work.	
(s) Made in the form of tenders to the Government of any work.	
(t) Made in the form of tenders to the Government of any work.	
(u) Made in the form of tenders to the Government of any work.	
(v) Made in the form of tenders to the Government of any work.	
(w) Made in the form of tenders to the Government of any work.	
(x) Made in the form of tenders to the Government of any work.	
(y) Made in the form of tenders to the Government of any work.	
(z) Made in the form of tenders to the Government of any work.	

Amendment of the Schedule to the Principal Ordinance.

Penalty for offence in reference to receipt.

Penalty for offence in reference to receipt.

Penalty for offence in reference to receipt.

(3) The following shall be inserted after Article 4—

Description of Instrument	Proper Stamp-duty
AGREEMENT TO LEASE. See Lease (No. 53).	
AGREEMENT TO MORTGAGE. See Mortgage (No. 56).	
AGREEMENT FOR PARTITION. See Partition (No. 42).	
AGREEMENT FOR PARTNERSHIP. See Partnership (No. 43).	

(4) The following Article shall be inserted as Article 9A—

Description of Instrument	Proper Stamp-duty
2a. Assent to Request (whether under hand or seal)	Ten shillings

(5) Article 11 is hereby repealed, and in lieu thereof shall be read the following—

Description of Instrument	Proper Stamp-duty
11. Bill of Exchange (including a promissory note or currency-note) —	Taxable costs.

(a) Where payable on demand or at sight on presentation or within three calendar months after date

Drawn	if drawn	if drawn
and	in full	in part
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0

(b) Where payable three calendar months after date

Drawn	if drawn	if drawn
and	in full	in part
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0

(c) Where payable more than three calendar months after date

Drawn	if drawn	if drawn
and	in full	in part
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0

(d) Where payable at any other time

Drawn	if drawn	if drawn
and	in full	in part
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0

(e) Where payable at more than one year after date or at sight

Twice the duty on a Mortgage (No. 56) for the amount.

(6) Paragraph 1(b) of Article 13 is hereby repealed, and in lieu thereof shall be read the following—

Description of Instrument	Proper Stamp-duty.
(3) By way of collateral security, for every sum of 1000 or part thereof secured.	Two shillings, but not exceeding ten shillings.

(7) Article 23 is hereby amended by the addition of the following proviso before the word "Exemptions" —

Description of Instrument	Proper Stamp-duty.
Provided that where in the case of a decree or order for, or having the effect of an order for, foreclosure, the order shall not exceed the duty on a sum equal to the value of the property to which the decree or order relates, and where the decree or order states that value that statement shall be conclusive for the purpose of determining the amount of the duty; and where, of a mortgage, Stamp Duty is paid upon each decree or order, any conveyance following upon such decree or order shall be liable with four shillings under the provisions of section 6 of this Ordinance.	

(8) The following shall be inserted as Article 26A—

Description of Instrument	Proper Stamp-duty.
26A. Deed Poll, if attested and not otherwise provided for.	Two shillings.

(9) Article 38 is hereby amended as follows—

(a) By the addition of the following paragraph—

Description of Instrument	Proper Stamp-duty.
(a) Memorandum of mortgage	One shilling

Provided that where the memorandum is accompanied by a properly stamped mortgage deed the duty chargeable upon the memorandum shall be reduced by the amount of duty paid in respect of the mortgage deed.

20. The following shall be inserted as the Second Schedule to the Principal Ordinance:—

SECOND SCHEDULE.

(SEE SECTION 8A).

Rules as to Composition for Stamp Duties.

1. Every account shall be made in such form and shall contain all such particulars as the Senior Revenue Authority shall require.

2. Every account shall be a full and true account of all unstamped policies of insurance against accident issued during the quarter of a year ending on the quarterly day next preceding the delivery thereof, and of all sums of money received for or in respect of such policies so issued during that quarter, and of all sums of money received and not already accounted for in respect of any other unstamped policies of insurance against accident issued at any time before the commencement of that quarter.

3. Accounts shall be delivered to the Senior Revenue Authority within twenty days after the first day of January, the first day of April, the first day of July, and the first day of October in each year.

4. The duty shall be paid upon the delivery of the account.

Passed in the Legislative Council the eighteenth day of May in the year of Our Lord one thousand nine hundred and twenty-seven.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council and found by me to be a true and correct printed copy of the said Bill.

G. L. SANDFORD

Clerk of the Legislative Council.

Presented for authentication and signed as a correctly and fully printed copy of the Bill as passed by the Legislative Council.

G. A. S. NORTHCOTE,

Acting Colonial Secretary

W. C. HUGGARD,

Attorney General

KENYA.

No. 467



GOVERNMENT HOUSE
NAIROBI,
KENYA

29 June, 1927.

RECEIVED
25 JUL 1927
COL. OFFICE

AS.

183 - 6 AUG 1927
Ordinance.
Legal Report.

Sir,

I have the honour to transmit herewith two authenticated copies of "An Ordinance to Amend the Stamp Ordinance", together with a copy of the Legal Report by the Attorney General.

2. This Ordinance passed its third reading in the Legislative Council on the 18th day of May, 1927, and I assented to it in the name of His Majesty on the 25th day of June, 1927.

3. Twelve printed copies of the Ordinance will be sent to you in due course.

I have the honour to be,

Sir,

Your most obedient, humble servant,

ACTING GOVERNOR

THE RIGHT HONOURABLE
LIEUTENANT COLONEL L.C.M.S. AMERY, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W.

RECEIVED
GOVERNMENT OFFICE LONDON

NH/AP.

LEGAL REPORT

THE STAMP (AMENDMENT) BILL, 1927.

The main object of this Bill is to co-ordinate the law in Kenya relating to Stamps and Stamp Duties with the law in force in Uganda and Tanganyika Territory as completely as local conditions at present permit.

A Comparative Table is attached which explains the various amendments in detail.

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

Nairobi,
18th June, 1927.

[Sd] W. C. HUGGARD

ATTORNEY GENERAL.

10

1	2	3	4	5	6

PUBLIC RECORD OFFICE

CO. 553

370

NOT TO BE REPRODUCED WITHOUT THE PERMISSION OF THE PUBLIC RECORD OFFICE, LONDON.

COMPARATIVE TABLE OF SECTIONS.

THE STAMP (AMENDMENT) BILL, 1927.

Section.	Remarks.
1.	Short title.
2.	<p>Substitution of new definition of the terms "Bill of exchange", "Policy of insurance" and "Promissory note".</p> <p>New definitions of the terms "Bill of exchange" and "Promissory note" are required in consequence of the introduction of a local Bills of Exchange Ordinance.</p> <p>The new definition of "Policy of insurance" is intended to cover a class of insurance not contemplated or provided in the present Stamp Ordinance, and which local insurance companies are now prepared to introduce. (Cf. Stamp Act, 1891, section 98, as amended by the Finance Act, 1895, section 13, and the Finance Act, 1907, section 8 (1)). This new definition should be read in conjunction with the new section 8A (vide clause 4 of the Bill).</p>
3.	<p>Amendment of section 12 of the Principal Ordinance.</p> <p>It is desired by the Stamp Commissioners to strengthen their powers by making provision which will enable the Commissioner of Lands, as head of the department to which the central revenue authority belongs, to be appointed a Commissioner.</p>
4.	<p>Composition for Stamp Duty on policies of insurance against accidents.</p> <p>Cf. Stamp Act, 1891, 54 and 56 Vic. c. 39 s. 116. The necessity for this new clause is explained in the note against section 2 supra.</p>
5.	<p>Amendment of section 16 of Principal Ordinance. This is required to agree with the new section 16A.</p> <p>Cf. the Stamp Act, 1891, 54 and 55 Vic. c. 39 s. 11. Provision is being made in the rules intended to govern the over-embossing system whereby a proper denoting stamp will be brought into use.</p>
6.	<p>Addition of a new section 16A to the Principal Ordinance.</p> <p>Cf. the Stamp Act, 1891, 54 and 55 Vic. c. 39 s. 72. The provisions of section 16 of the Principal Ordinance render the counterpart of an instrument chargeable as a lease, though executed by the lessee only, dutiable as an "original" unless both "original" and "counterpart" are produced for stamping at the same time.</p>

PUBLIC RECORD OFFICE

Reference: C.O. 533

370

© BRIGHT PRINTING WORKS, LTD. TO BE REPRODUCED BY ANY PERSON WITHOUT PERMISSION OF THE PUBLIC RECORD OFFICE. MADE IN ENGLAND. 11:00 AM

Section.

Remarks.

- 6. The adoption of this proposed new section will remove this disability while at the same time strengthening the application of section 16.
- 7. Repeal of part of section 17 of the Principal Ordinance.
The Stamp Ordinance, as originally drafted, provided that all instruments executed in the Colony had to be stamped at or before execution. Section 17 as finally passed permits such instruments to be stamped within thirty days. The proposed amendment will bring our Ordinance into line with that of neighbouring territories.
- 8. Amendment of section 26 of the Principal Ordinance.
A proviso to the "Explanation" and an illustration which appear in the corresponding section (24) of the Indian Stamp Act are inserted.
- 9. Substitution of new clauses (a), (b), (c) and (d) in section 34 subsection (3) of the Principal Ordinance.
These amendments are consequential upon the deletion of the words "payable on demand or at not more than thirty days from sight or date" appearing in the proviso to section 17.
- 10, 11 and 12. In sections 37, 42 and 43 of the Principal Ordinance, the words "bill of exchange or" were - due to an unobserved typographical error - omitted.
- 13. In the Principal Ordinance application law allowance for smaller stamps is limited to two months. The extension to six months brings our law into line with English law.
- 14. Amendment of section 57 of the Principal Ordinance. Under the Stamp Ordinance, 1933, the "new debenture" referred to in this section may be stamped within thirty days of execution and a refund of the stamp on the old debenture might conceivably be applied for and made before the new debenture was actually stamped. The words "within one month" in the section are ambiguous, and it is now sought to make quite clear from what date the "one month" is to be calculated so as to insure the new debenture being stamped before the refund is made.
- 15. Amendment of section 63 (2) of the Principal Ordinance.
The object of the amendment is to extend the powers of an Appellate Court in regard to the exclusion of inadequately stamped instruments which in the opinion of that Court have been improperly admitted in evidence.

PUBLIC RECORD OFFICE
1
2
3
4
5
6
7
8
9

Reference -
C.O. 533

370

COPYRIGHT PHOTOGRAPH—NOT TO BE REPRODUCED PHOTOGRAPHICALLY WITHOUT PERMISSION OF THE PUBLIC RECORD OFFICE, LONDON

LEGAL REPORTTHE STAMP (AMENDMENT) BILL, 1927.

The main object of this Bill is to co-ordinate the law in Kenya relating to Stamps and Stamp Duties with the law in force in Uganda and Tanganyika Territory as completely as local conditions at present permit.

A Comparative Table is attached which explains the various amendments in detail.

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

(Sd) W. C. HUGGARD

Nairobi.

18th June, 1927.

ATTORNEY GENERAL.

1	2	3	4	5	6	7	8	9	10

PUBLIC RECORD OFFICE

Reference No.

C.O. 533

370

COPYRIGHT PHOTOGRAPHS—NOT TO BE REPRODUCED, PHOTOGRAPHICALLY, WITHOUT PERMISSION OF THE PUBLIC RECORD OFFICE, LONDON.

11

COMPARATIVE TABLE OF SECTIONS.

THE STAMP (AMENDMENT) BILL, 1927.

Section.

Remarks.

1. Short title.

2. Substitution of new definitions of the terms "Bill of exchange", "Policy of insurance" and "Promissory note".

New definitions of the terms "Bill of exchange" and "Promissory note" are required in consequence of the introduction of a local Bills of Exchange Ordinance.

The new definition of "Policy of insurance" is intended to cover a class of insurance not contemplated or provided in the present Stamp Ordinance, and which local insurance companies are now prepared to introduce. (Cf. Stamp Act, 1891, section 98, as amended by the Finance Act, 1895, section 13, and the Finance Act, 1907, section 8 (1)). This new definition should be read in conjunction with the new section 8A (vide clause 4 of the Bill).

3. Amendment of section 3 of the Principal Ordinance.

It is desired by the Stamp Commissioners to strengthen their numbers by having provision which will enable the Commissioner of Lands, as head of the department to which the Senior Revenue Authority belongs, to be appointed a Commissioner.

4. Composition for Stamp Duty on policies of insurance against accident.

Cf. Stamp Act, 1891, 54 and 55 Vic. c. 39 s. 116. The necessity for this new clause is explained in the note against section 2 supra.

5. Amendment of section 16 of Principal Ordinance. This is required to agree with the new section 16A.

Of the Stamp Act, 1891, 54 and 55 Vic. c. 39 s. 11. Provision is being made in the rules intended to govern the over-embossing system whereby a proper denoting stamp will be brought into use.

6. Addition of a new section 16A to the Principal Ordinance.

Of the Stamp Act, 1891, 54 and 55 Vic. c. 39 s. 72. The provisions of section 16 of the Principal Ordinance render the counterpart of an instrument chargeable as a lease, though executed by the lessee only, dutiable as an "original" unless both "original" and "counterpart" are produced for stamping at the same time.

Section.

Remarks.

The adoption of this proposed new section will remove this disability while at the same time strengthening the application of section 16.

7. Repeal of part of section 17 of the Principal Ordinance.

The Stamp Ordinance, as originally drafted, provided that all instruments executed in the Colony had to be stamped at or before execution. Section 17 as finally passed permits such instruments to be stamped within thirty days. The proposed amendment will bring our Ordinance into line with that of neighbouring territories.

8. Amendment of section 26 of the Principal Ordinance.

A proviso to the "Explanation" and an Illustration which appear in the corresponding section (24) of the Indian Stamp Act are inserted.

9. Substitution of new clauses (a), (b), (c) and (d) in section 34 subsection (3) of the Principal Ordinance.

These amendments are consequential upon the deletion of the words "payable on demand or at not more than thirty days from sight or date" appearing in the proviso to section 17.

10, 11 and 12. In sections 37, 42 and 43 of the Principal Ordinance, the words "bill of exchange or" were - due to an unobserved typographical error - omitted.

13. In the Principal Ordinance application for Allowance for spoiled stamps is limited to two months. The extension to six months brings our law into line with English law.

14. Amendment of section 57 of the Principal Ordinance. Under the Stamp Ordinance, 1931, the "new debenture" referred to in this section may be stamped within thirty days of execution and a refund of the stamp on the old debenture might conceivably be applied for and made before the new debenture was actually stamped. The words "within one month" in the section are ambiguous, and it is now sought to make quite clear from what date the "one month" is to be calculated so as to insure the new debenture being stamped before the refund is made.

15. Amendment of section 63 (2) of the Principal Ordinance.

The object of the amendment is to extend the powers of an Appellate Court in regard to the exclusion of inadequately stamped instruments which in the opinion of that Court have been improperly admitted in evidence.

1	2	3	4	5	6

PUBLIC RECORD OFFICE
Reference -
C.O. 533

37

COMPONENT PHOTOGRAPH - NOT TO BE REPRODUCED PHOTOGRAPHICALLY WITHOUT PERMISSION OF THE PUBLIC RECORD OFFICE, LONDON

Section.	Remarks.
----------	----------

This clause also provides for the repeal of section 39 of the Principal Ordinance which becomes inoperative in consequence of the amendment to section 63.

16. Repeal and re-enactment of section 67 of the Principal Ordinance.
 Of the Stamp Act, 1891, 54 and 55 Vict. 39 s. 103. Experience has proved the necessity of constituting the giving of a receipt chargeable with duty, unstamped, an offence, and in order to make the intention perfectly clear s. 103 of the Stamp Act, 1891, has been adopted as being more suitable than s. 67 of the 1923 Ordinance.

17. Amendment of section 68 of the Principal Ordinance.
 The insertion of the proviso is consequential upon the addition of section 84.

18. Repeal and re-enactment of section 69 of the Principal Ordinance.
 Penalty for not drawing full number of bills or sea policies purporting to be in sets.
 It is now proposed to follow section 67 of the Indian Stamp Act, 1899, and Articles 13 and 47 of the Schedule thereto which permit of bills of exchange and policies of sea insurance being drawn in sets. The Stamp Ordinance, 1923, makes the duplicate of a bill of exchange or policy of sea insurance dutiable as a counterpart or duplicate under Article 24 of the schedule. It has been represented that this constitutes a hardship in the case of bills of exchange or low values, as in these cases the duplicates would bear the same duty as the original. Articles 11 and 44 have accordingly been amended and section 69 re-enacted.

19. (1) Amendment of Article 4.
 This amendment is inserted to make it clear that a Statutory Declaration is liable to the stamp duty as an affidavit.

19. (2). Amendment of Article 5.
 Contracts of service under the Employment of Natives Ordinance are exempt from duty and there appears to be no good reason why contracts under the Resident Native Labourers' Ordinance, 1926, should not be exempted also.

19. (3). The rearrangement of titles of four classes of instruments following Article 5 is to facilitate reference and make it clear that these are not included in the "Exemptions".

PUBLIC RECORD OFFICE					
1	2	3	4	5	6
Reference —					
C.O. 533					
370					
COPYRIGHT PHOTOGRAPH—NOT TO BE REPRODUCED PHOTOGRAPHICALLY WITHOUT PERMISSION OF THE PUBLIC RECORD OFFICE, LONDON.					

Section.	Remarks.
19.(4).	Insertion of new Article 9A. No specific provision exists for this class of instrument. The present amendment remedies the omission and is a clear guide to the public who might otherwise be in doubt.
19.(5).	Repeal and re-enactment of Article 11. The necessity for this amendment is explained in the note against clause 16 supra.
19.(6).	Amendment of Article 13. Under the Stamp Ordinance (Chap. 57) where a mortgage is collateral to a bill of sale both instruments are chargeable with duty at the same rate as a mortgage, i.e., one-quarter per centum. Where, however, a bill of sale is collateral to a mortgage the former is only chargeable with two shillings. This ambiguity is removed by the amendment and subjects a bill of sale to a duty of one-tenth per centum on the amount involved, subject to a maximum duty of ten shillings.
19.(7).	Amendment of Article 22. The proviso added is the outcome of a report by a Select Committee of Legislative Council which was adopted in Legislative Council on the 19th of September, 1954.
19.(8).	Insertion of a new Article 24A. This provision is added to cover a class of instrument not infrequently met with.
19.(9).	Amendment of Article 30. The amendment is inserted to make dutiable a class of instrument which has thus far escaped duty.
19.(10).	Repeal and re-enactment of Division A of Article 44. See note against Clause 13 supra. Repeal and re-enactment of Division C of Article 44. See note against Clause 2 supra.
19.(11).	Amendment of Article 49. This makes clear the difference between proxies and powers of attorney.
19.(12).	Repeal and re-enactment of Article 59. When this Article was drafted it had to be in a form differing from that in the Indian Stamp Act, 1899, where the words "whether with or without consideration" were correctly placed at the head of

PUBLIC RECORD OFFICE					
1	2	3	4	5	6
Reference —					
C.O. 533					
370					
COPYRIGHT PHOTOGRAPH—NOT TO BE REPRODUCED PHOTOGRAPHICALLY WITHOUT PERMISSION OF THE PUBLIC RECORD OFFICE, LONDON					

15
END

Section.

Remarks.

the Article. The present method of charging duty on share transfers makes the retention of these words elsewhere than indicated incongruous. There is no material alteration otherwise.

20.

Schedule II. Rules as to Composition for Stamp Duties.

Nairobi.

18th June, 1927.

W. C. HUGOARD

ATTORNEY GENERAL.

1	2	3	4	5	6
7	8	9	10	11	12

PUBLIC RECORD OFFICE
C.O. 933

37

COPYRIGHT PHOTOGRAPH—NOT TO BE REPRODUCED PHOTOGRAPHICALLY WITHOUT PERMISSION OF THE PUBLIC RECORD OFFICE, LONDON