

Vol 7

EAST AFR. PROT.

C. O.
36707

REC'D
20 NOV 12

36707

Governor
Belfield Conf
112

432

NON-NATIVE POLL TAX ORDINANCE No. 19 OF 1912

Date.
1912
18th October

The copies with usual legal report. Has assented to the Ordinance.

Last previous Paper.
No.
13634

Approved by Council 11/10/12
For the Council 25 April '13

Copies to Lib^y

M. J. J. 10/12

M. J. J.

Mr. G. Fiddes

A. J. R.

22/12

The variations from the draft sent us on 8/7/12 are explained in the A.G.'s report. They do not think raise any question.

I may perhaps call attention to s. 4. the end of which imposes no time limit for payment of tax of a person who comes into the Prot. after June 30th 1912.

No explanation has been given of the repeal of 15/100 in s. 10. However on both of them provisions

Next subsequent Paper
see No. 10233
1/11/12

were the same in the
app

he must not
interpose.

Sancti 4

(6 30/11)

H. J. R.

4/11

Along
Pr. 9

were the same in the
diff.

he need not
interpre

? Sanchez 4.

CG 307"

H. J. R.

4/811

Alouy
P. 12. 9

S-R

Colonial Office.

Whitehall Street, S. W.

433

Read.

x for the one
of Anderson at 3.13 ^{in the envelope}
below

Harcourt. 25. 3. 13

Harcourt. 25 3 13 (see over)

Mine from Mr Taylor.
I really think that in
answering these letters, I
had better say something
to the effect that the greatest
service he can render is to
make the best job he can

...inconsiderate
...which have already
been put at the disposal
of the Railway & that it
is impossible to see ^{how} ~~there~~
large additional sums
which he speaks can
be obtained ~~that~~ far less
will only cripple or
impair the dwellers

...in the larger plans,
...which is immediately
...which can be made to
...a first instalment of
...which will
...a report

Jas B

22 3 13

Lugree

25 3 13

...please
...like the
...Hollies
...road
...the

L. J. Anderson

With regard to Mr Taylor's remarks
in the Poll Tax. no $\frac{100}{86707}$ 1/12 S.A.P. +
435

P.P.:

Apart from what Mr Taylor says in his
letter we have no information as to
how the tax is working or what the
Govt views about it.

I think that the best plan would
be for Mr Butler to tell Mr J. that he
admits that he has placed before the
Govt his views as to the difficulties which
are likely to occur in the working of
the R.T. Dept. in consequence of the tax
& that if Mr Russell makes any
unjustified recovery, he will no doubt
communicate officially with the S. of S.
on the subject.

H. J. R.

25/11
97.3.13

627.3.13.

Yes, but I don't understand why the
Governor has paid no attention to our
instructions as to graduation.

27.3.13

written
leave

20.3.13

20.3.13

Sir J. Fiddes
Mr. B. B. B. B.

436

I enclose a somewhat modified draft of a memorandum,
as you will see from the ~~minutes~~ 13632/1912
that the Committee gave his name for abandoning
the principle of a graduated tax, and from
the minutes on the same paper that it was
decided not to commit on its abandonment,
but to see whether it was possible to introduce
graduation, since the conditions are in working
order.

W. B. B.
27.4.12

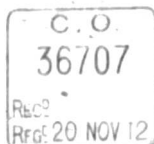
W. B. B.
27.4.12

GOVERNMENT HOUSE,
 NAIROBI,
 BRITISH EAST AFRICA.

EAST AFRICA PROTECTORATE

October 18th 1912.

CONFIDENTIAL (112)



Sir,

With reference to your Confidential despatch of the 27th March, I have the honour to transmit herewith two authenticated and ten printed copies of The Non-Native Poll Tax Ordinance No.19 of 1912 as passed by the Legislative Council on the 18th ultimo together with an explanatory Memorandum by the Attorney General.

2. I have assented to the Ordinance in the name of His Majesty.

I have the honour to be,

Sir,

Your humble, obedient servant,

A. Comay, B. Esq.

GOVERNOR.

THE RIGHT HONOURABLE

LEWIS HARCOURT, P.C., M.P.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET, LONDON, S.W.

4
80-18
Ordinance
Memorandum

INCLOSURE

in Despatch No. 12 of 18th 1912

C. O.
36707
Recd 20 NOV 12

THE NON-NATIVE POLL TAX ORDINANCE, 1912.

LEGAL OPINION.

The draft of the Bill for this Ordinance was submitted to the Secretary of State for his approval before the Bill was introduced.

I attach a comparative table showing in what respects the Ordinance as passed differs from the draft Bill submitted.

As no alteration affecting any principle approved by the Secretary of State has been made, I am of opinion that the Ordinance is one to which His Excellency may forthwith assent.

NAIROBI,
October, 1912.

V. K. ...

ATTORNEY GENERAL.

THE NON-NATIVE POLL TAX ORDINANCE, 1912.

COMPARATIVE TABLE.

The Ordinance.	Draft Bill.	Remarks.
Section 1. Short Title.	Clause 1.	
Section 2. Definitions.	Clause 2.	
Section 3. Rate of assessment Tax and Amount of Tax.	Clause 3.	
Section 4. When payable.	Clause 4.	A proviso has been added reducing the amount of the tax payable in the case of a Non-Native coming to the Protectorate after June 30th in any year.
Section 5. Where and to whom tax is to be paid.	Clause 5.	
Section 6. Where the collector is to issue receipt in the prescribed form.	Clause 6.	"give" substituted for "grant."

The Ordinance.	Draft Bill.	Remarks.
<p>Section 7.</p> <p>Person paying to provide information required in preparing the receipt, and required shall attend at the office for such purpose.</p>	<p>Clause 7.</p>	
<p>Section 8.</p> <p>Penalty for refusing to attend or give information when required.</p>	<p>Clause 8.</p>	
<p>Section 9.</p> <p>Magistrate may call on defaulter to appear and show cause why he should not pay the tax.</p>	<p>Clause 9.</p>	
<p>Section 10.</p> <p>Magistrate may order person in default to pay amount of tax and costs into court.</p>	<p>Clause 10.</p>	<p>The words "to order him" inserted after the word "adjourned."</p>
<p>Section 11.</p> <p>Penalty for failure to obey.</p>	<p>Clause 11.</p>	<p>Some alteration has been made in Sub-sections (2) and (3) the effect of which is to prescribe that the proceeding under this</p>

Reference.	Draft Bill.	Remarks.
		<p>Section shall be in the nature of civil proceedings whilst retaining their summary character.</p> <p>The provisions of this Section as inserted, together with the provisions of the Civil Procedure Code relating to the imprisonment of a Judgment-debtor provide a simple and summary method of enforcing payment of the tax without having recourse to criminal proceeding.</p>
<p>Section 12. or paying of amount to be</p>	<p>Clause 12.</p>	
<p>Section 12. District Commissioner require production of for</p>	<p>Clause 12.</p>	<p>In (2) "for" substituted for "with" in the last line but one.</p> <p>A new Sub-section (4) has been inserted providing that the non-production of a tax on demand shall be prima facie evidence of the non-payment of the tax.</p> <p>This is necessary since as the tax may be paid at the office of any District Commissioner it is not possible to call any particular officer who can prove non-payment of a tax.</p>

Ordinance.	Draft Bill.	Remarks.
		In (5) the fine has been increased to Rs.450 as the alternative punishment to six months' imprisonment.
Section 14. General power Governor to cancel or refund tax.	Clause 14.	This Section has been altered to permit of the Governor remitting the tax "for good cause" other than the poverty of the person liable to pay the tax.
Section 15. Persons exempt.	Clause 15.	
Section 16. Burden of proof of exemption.	Clause 16.	Provision added requiring that persons claiming exemption under Clause (b) of Section 15 shall obtain a certificate from the Governor.
Section 17. Power to make rules.	Clause 17.	
Section 18. Appeal.		This repeals the Ordinance which defined the term "Swahili."

Gov / 36707 / 15 / EAT
R. 24 APR 1913
B. 26

443

And. 21/13

DRAFT. E.A.T. 1913
Command. Gunny Belfield Esq., C.M.S.,

5 April, 1913.

MINUTE.

- Mr. Stevenson 22.4.13.
- Mr. Bostwick, 22.4.13
- Sir G. Fiddes, 25
- Sir H. Just.
- Sir J. Anderson. 23/
- Lord Emmott.
- Mr. Harcourt.

26/707/13.

for Wilson
R. de Stevenson
Further comments.

1. I have the honour to invite you to the comf^{ce}, and to draw your attention to my despatch No. 26 of December 11th, 1912, ^{on the} ~~concerning~~ Subject ~~the~~ introduction of the hon. Native Poll Tax Ordinance, No. 19 of 1912, and to request that you will now consider whether the introduction of some principle of graduation in regard to incidence of the tax is practicable.

2. You will observe from paragraph 4 of my confidential despatch

26/707/13

of July 13th, 1911, to Sir Percy

Freemant that I attach much
importance to such a principle;

but although I subsequently
agreed in my despatch of
January 25th 1912 to Sir Percy's

proposal for a simple bifurcation
between non-action of European
divines and other non-actives,
as such provision was ultimately

included in the Ordinance for
the reason given in ^{Mr. Dorrings} my

despatch No 161 of April 6th,
1912.

3. It has usually been thought
to my regret that the principle of
gradualism has been introduced
into the Sudan Native Tax
Ordinance 1913, a copy of which

I enclose for your information.
I shall be glad to learn from you
in due course whether the adoption
of any analogous principle is

38524/11

13626/11

Ordinance
34797/11

the case of the Poll Tax Ordinance
if practicable.

444

I am etc.

(Signed) L. HARGREAVES