

EAST AFR. PROT.
313 $\frac{12}{13}$

C. O.
313
REC?
REGD 4 JAN 13

Governor
Field 858

195

Date.
1912
December
previous Paper.

THE WAYLEAVES ORDINANCE
NO. 29 OF 1912

Trs with usual Legal Report.

copies to Lib?

Notes on 20/2

W. Keel

*N.S.R.
6/1*

*This order is rather loosely
banded, but I suppose it
is sufficient for its
purpose? - auct. only.*

C.S. 7/1

Li. J. Anderson

*See marked passage in para 3 of
the A.G.'s report.*

*at once as proposed?
W.D. 1.13
N.S.R.
8/1*

R
subsequent Paper

EAST AFRICA PROTECTORATE.

GOVERNMENT HOUSE,
NAIROBI,
BRITISH EAST AFRICA.

No. 858.

December 11th, 1912.

313
RECT
REGD 4 JAN 1913

Sir,

I have the honour to transmit herewith two authenticated and ten printed copies of The Wayleaves Ordinance, 1912, as passed by the Legislative Council on the 27th ultimo together with an explanatory memorandum by the Attorney General.

Ordinance
2 copiesMemorandum by
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,

Alonzo B. ...

GOVERNOR.

THE RIGHT HONOURABLE

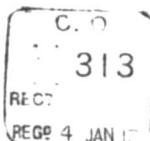
LEWIS HARCOURT, P.C., M.P.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET,

LONDON, S.W.

LEGAL REPORT.



THE WAY/LEAVES ORDINANCE, 1912.

1. The purpose of this Ordinance is to confer powers upon the Government to carry sewers, drains and water pipes through privately owned land (land within the Sultan's Dominions title to which has been acquired otherwise than under a grant from the Crown).
2. The powers conferred and which are immediately required in connection with the work which the Government is now undertaking to provide Mombasa Island and the ports of Kilindini and Mombasa with a water supply, are similar to the powers granted to a local authority in England by the Public Health Act 1875.
3. The duty is imposed on the Government to make good damage done in the execution of any work, but the obligation of the Government to pay compensation is, however, limited to paying for trees and cultivation damaged by the works executed under the powers conferred. A very considerable portion of the privately owned land on Mombasa Island which now is either under cultivation or undeveloped will before long be put on the market as building land. As no roads have been laid out by the owners of the land, it is not possible for the Government to carry drains and water pipes under roads as would be done were the lands now laid out as building estates.

IN CHARGE
in District No. 22 of ...

REC'D
313
JAN 4 1913

REPORT

THE WATER SUPPLY ...

1. The purpose of this Ordinance is to confer powers upon the Government to carry sewers, drains and water pipes through privately owned land (land within the Urban's boundaries title to which has been acquired) (of greater than under a grant from the Crown).

2. The powers conferred and which are immediately required in connection with the work of the Government in now undertaking to provide Mombasa Island and the port of Mombasa with a water supply, are similar to the powers granted to a local authority in England by the Public Health Act 1875.

3. The duty is imposed on the Government to make good damage done in the execution of any work, but the obligation of the Government to pay compensation is, however, limited to paying for trees and cultivation damaged by the works executed under the powers conferred. A very considerable portion of the privately owned land on Mombasa Island which now is either under cultivation or undeveloped will before long be put on the market as building land. As no roads have been laid out by the owners of the land, it is not possible for the Government to carry drains and water pipes under roads as would be done were the lands now laid out as building estates.

It is considered that under the conditions now prevailing on Mombasa Island the obligation of the Government to pay compensation should be limited as stated above, provided that opportunity is given to all land owners affected by any proposed work to lay before the Government any objections to the proposed line of the drain or water pipe and any suggestions for an alteration in the line so as to cause the minimum of disturbance to land owners.

4. In my opinion the Ordinance is a necessary and proper measure.

NAIROBI,
December, 1912.

J. P. ...

ATTORNEY GENERAL.

(c)

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-Ilavoy wot paititihoo aft robar fa...
 -Imarvoo: aft to notititido aft hual...
 ,ovoda hatafe aa haitail ed hlinof notititidoo...
 avomo hual lfa of avoy at vititititoo...
 -ruvoo aft avofed val of hrow hanoqoy...
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[Handwritten signature]

JANUARY 1912

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 EAP

INCLOSURE

In Despatch No. 558 of Dec. 11/1912

THE WAY/LEAVES ORDINANCE, 1912.

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Section 1.	
Section 2.	<p>The last part of the first paragraph of Section 16 of The Public Health Act 1875.</p> <p>The word "over" has been inserted as the Director of Public Works has advised that it will be necessary in laying the water pipe between the intake and Mombasa Island, at some points to carry the pipes on tressels or embankments.</p> <p>Sub-sections (2), (3) and (4) are based on Sections 32, 33 and 34 of the Public Health Act which relate to the exercise of powers by a local authority outside the District, and have been inserted so as to ensure that land owners shall have an opportunity of laying any objections to proposed works before the Governor.</p>
Section 3.	
Section 4.	<p>Under this Section powers are given to the Government to enter upon land for the purposes of any proposed work or to inspect or repair any pipe or drain.</p>
Section 5.	<p>Section 26 of The Public Health Act 1875.</p> <p>As the compensation paid to owners is limited to compensation for crops and trees damaged, the words in brackets have been inserted.</p>
Section 6.	<p>Power is reserved to the Government to lay sewers and water pipes across lands sold or leased under the Crown Lands Ordinance 1912.</p>