

EAST AFR. PROT.

3 8 6 2 9

38629
REC'D
15 AUG 1916

Gov Belfield 376

1916
21 June

Last previous Paper.

Kings African R. fls Amendment Ordinance, 1916.

Submits, for assent, with explanatory memo. by Attorney General.

~~Captain Brooke~~
Mr. Tennyson. Mr. Butler

I am not surprised that Commanding Officers have construed the subsection as allowing multiple punishments, but on the face of it the AG's General appears to be right. (f) definitely contemplated combination with other punishment & the implication is that ⁱⁿ other cases do not contain that it.

I am by the Gold Coast W. N. 7. 7. Ord. There are some minor differences, but on the point the provision is the same as for the K. A. P. and it would be useful to know how that construction is put on the provision in G. Africa.

As the system of multiple punishment is in force and it seems that J. G. have been so recent to suppose that it has been abused.

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Next subsequent Paper.
Cr/594432/8ed

absolutely, I think ~~cannot~~ may be approved?
The other K.A.R. Ord. ~~was~~ ^{was} 19.8.16
should be brought into line

During the time I served with the Gold Coast
Regt, the Section in Question was used as
camping place to imply a combination of
the paratroopers ~~there~~ mentioned. This I
intended to be still the case

The wording of the amended
Section is rather unhappy -
The ~~existing~~ words of (D.A.H.)
should be struck out & it
would be better if the new
words were ~~written~~ after the
word "SA"
& the word
(H) were at
of B (b) -
There are
matters, in

I mention them
in ~~Section~~ ^{amendment}

cf. 24/10/16

W. Fiddian

I agree you may like to
consider whether it is worth while
amending the W.A.F.F. Ordinance

Similarly

J.A.B.

25.8.16

Mr Butler Thank you I have discussed it with Capt
Willis. The conclusion we came to was that a vote
might be made of it with a view to its being
suggested to the W.A. Govt next time there
any question of amending all the W.A.F.F. Ord.
in any particular. No difficulty is known to have
arisen with W.A. so far, & it hardly seems necessary to
direct amendment on the point above.

AT 29/8/16

W. Fiddian

Then approve of the Govt's ~~amendment~~
in the manner suggested by Mr Tompkins
to the E.A.P. Ordinance & direct
amendment of the other K.A.R. Ordinance

J.A.B.

29.8.16

G.S. 30.8.16
at once

abundant, I think almost any be approved?
The other K.A.R. Ord^s but 19.8.16
should be brought into line

During the time I spent with the East Coast
Reg^s, the Section in question was used as
compensating pairs to effect a combination of
the particular terms mentioned. This I
intended to be done in the case.

W. J. G. 29.8.16

The wording of the amended
Section is rather unhappy -
The existing words of (A) &
should be struck out & it
would be better if the
words were
words of
& then from
(A) were as
of B (b) -
There are
matters, in

mention them
in section

W. J. G. 24/8/16

W. J. G. 24/8/16

I agree. You may like to
consider whether it is worth while
amending the W.A.F.F. Ordinance

Similarly.

590
593

W. J. G.

25.8.16

Mr Butler Thank you I have discussed it with
Wills. The conclusion we came to was that a vote
might be made off it with a view to its being
suggested to the W.A. Garts next time there is
any question of amending all the W.A.F.F. Ord^s
in any particular. No difficulty is known to
arise in W.A. so far; it hardly seems necessary to
direct amendment on the point above.

W. J. G. 29/8/16

W. J. G.

Then approve of the Garts amendments
to the K.A.P. Ordinance in the manner supported by W. J. G.
amendment of the other K.A.P. Ordinance

W. J. G.

29.8.16

W. J. G. 30.8.16
at once

P.T.O.

W. S. S. Smith

DRAFT

Mr. Tennyson.

The Somaliland King's African Rifles Ordinance 1909 has been revived by the Somaliland Native Forces Ordinance 1915 for application to the Camel Constabulary. We ought therefore, for the sake of symmetry, to direct the amendment of the Somaliland King's African Rifles Ordinance on the lines approved in the previous minutes for the other three Protectorates, But I see that section 40 of that Ordinance, a copy of which is attached to Treas. 22405 in the bundle below, is not quite identical in terms with the same section of the other Ordinances, and it would appear that all that is necessary is, (1) to add after the words "where he deals with the case summarily he may", the words "impose on the offender any one or more of the following punishments", and (2) to delete the first nine words of sub-section 1 (f).

Do you agree?

H.A.B.

15. 9. 16

*I should be very
grateful if you
could deal with
this. 15. 9. 16*

next

Mr. Butler.

I agree. In 40 (1) (g) (h), the word "order" should be added at the beginning. In 40 (2), after "may" at end of first line add "and" "with the case summarily and may"

W. S. S. Smith

Direct amendment of the Somaliland R.A.R. Ordⁿ 1909 as proposed in Mr. S. S. Smith's minute above & in my minute of the 15th of Sept., writing as in the first two sentences of the despatch to Uganda & Nyasaland on this paper.

H.A.B.

20. 9. 16

at once

Room 3

595
592

WEST AFRICA PROTECTORATE
No. 376.

GOVERNMENT HOUSE,
NAIROBI,
BRITISH EAST AFRICA.

June 21st, 1916.

38629

REC^d
REC^d 15 JUN 16

Sir,

Ordinance
Memorandum

I have the honour to transmit herewith for favour of assent two copies of "The King's African Rifles Amendment Ordinance 1916" as passed by the Legislative Council on the 5th instant, together with an explanatory memorandum by the Attorney General.

2. I have nothing to add to the remarks expressed by Mr. Barth.

I have the honour to be,

Sir,

Your humble, obedient servant,

H. Lawry, Resident.

GOVERNOR.

THE RIGHT HONOURABLE
ANDREW BONAR LAW, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S. W.



East Africa Protectorate.

IN THE SEVENTH YEAR OF THE REIGN
HIS MAJESTY KING GEORGE V.
SIR HENRY CONWAY BELFIELD, K.C.M.G.,

Governor.

An Ordinance to amend the Law
 Relating to the King's African
 Rifles.

[1916.]

Date of
Assent and
Commence-
ment.

BE it enacted By the Governor of the East Africa Protectorate with the advice and consent of the Legislative Council thereof:—

1. This Ordinance may be cited as "The King's African Rifles Amendment Ordinance, 1916", and shall be read as one with the King's African Rifles Ordinance, 1912, hereinafter referred to as the Principal Ordinance.

2. In Clause 1 of section 40 of the Principal Ordinance after the words "Where he deals with the case summarily he may" shall be inserted the words "impose on the offender any one or more of the following punishments"

Amendment
to section
40 of the
Principal
Ordinance.

Passed in the Legislative Council the fifth day of June, in the year of Our Lord one thousand nine hundred and sixteen.

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.

T. S. Thomas

Clerk of the Legislative Council.

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

J. B. B. B.

Chief Secretary.

J. M. M.

Attorney General.

Assented to in His Majesty's name this _____ day
 of _____ 1916.

Governor.

INCLOSURE No. 2

In Gazette No. 376 of June 21st 1916

THE KING'S AFRICAN RIFLES AMENDMENT ORDINANCE, 1916.

STATEMENT OF OBJECTS AND REASONS.

The object of the Bill to amend the King's African Rifles Ordinance, 1912, is to give a Commanding Officer power to inflict one or more of the punishments provided by Section 40 of the Ordinance if he deal with a case summarily. The provisions of Section 41 of the Ordinance give the Officer Commanding a detachment power to inflict a combination of the sentences provided by that Section and there seems no reason why the Commanding Officer should not have the same power in respect to the sentences he can inflict under Section 40 of the Ordinance especially as it is desirable that the summary powers of a Commanding Officer should be extensive in view of the great difficulty frequently experienced in finding the requisite number of officers to form a Court Martial under the Ordinance.

2. The late Lieutenant Colonel Graham in a note on Section 41 of the Ordinance is satisfied that every Commanding Officer of the King's African Rifles has read the Section as conferring power to inflict a combination of the punishments provided and that no Inspector General has, in checking punishment returns, objected to such a reading on the ground of illegality. I am of opinion that such a reading is not supported by the provisions of the Ordinance and that it is advisable to enact the Bill to give the power which has up to the present been assumed.

In view of Article XXVIII (b) of the Royal Instructions I am of opinion it is advisable that the Bill should be submitted to the Secretary of State before assent is given. There appears to be no urgent necessity within the meaning of the aforesaid Article.

SO J W BARTH
ATTORNEY GENERAL.

Nairobi,
The 16th day of June, 1916.

598

~~595~~

THE KING'S AFRICAN RIFLES AMENDMENT ORDINANCE, 1916.

Section.	Remarks.
Section 1.	Short Title.
Section 2.	Amendment of Section 40 of the King's African Rifles Ordinance, 1912.

SO J W BARTH
ATTORNEY GENERAL.

Revised form of Sec. 40 (1) of ~~600~~ 599
Hertford's African Rifles Ordinance 1912

~~DRAFT~~

(1) Where he deals with the case summarily, he may

(A) Save in the case of absence without leave or drunkenness, if the offender is a soldier, impose on the offender any one or more of the following punishments :-

(a) Award to the offender imprisonment, with or without hard labour, for any period not exceeding forty-two days.

(b) Reprimand, severely reprimand, or reduce any non-commissioned officer to a lower rank or to the rank of a private.

(c) Award corporal punishment not exceeding twentyfour lashes. The Governor shall by regulation prescribe the instrument with which such punishment shall be inflicted.

(d) Dismiss the offender from the regiment.

(e) Impose a fine not exceeding twenty-one days' pay, to be levied by stoppage from the offenders' pay.

(f) Order the offender to suffer any deduction from his ordinary pay to make good the amount of any loss or damage he may have caused.

Ed 626
Wm 228
Thy 178
2 Sept 16
Copy

RECORD OFFICE, LONDON

- (g) Order confinement to barracks for any period not exceeding twenty-eight days, such confinement involving the taking of all duties in regular turn, attending parades and punishment drills, not exceeding one hour at a time nor four hours in all on the same day, inclusive of ordinary parades, and also liability to employment on duties of fatigue.
- (h) Order extra guards and piquets, but only for minor offences or irregularities when on or parading for guard or piquet.
- (B) In the case of any offence under this Ordinance, if the offender is a follower :-
- (a) Award to the offender any of the punishments described in sub-sections (a) (c) or (d) of Section 40 (1) (A) of this Ordinance.
- (b) In addition to or without any other punishment, impose a fine not exceeding rupees ten.

Gov. E.A.P. 192 600
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C. D.
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Jaw

Ans'd 24.5.16

Downing Street,

22 Sept 1916.

DRAFT.

EAST AFRICA PROTECTORATE

C: 626

Governor
Sir H. Conway Belfield, K.C.M.G.,
Nyeri, &c., &c.

Sir,

I have the honour to acknowledge

the receipt of your despatch No. 376 of the

21st June proposing an amendment of the

~~principal~~ King's African Rifles Ordinance.

MINUTE

2. I concur in the opinion that

~~some~~ amendment in the sense suggested is
desirable, but I think that the object in
despatch it should be effected in the
view would be better secured by the
manner shown in the enclosed draft
amendment of section 40 (1) of the prin-
cipal Ordinance, in the form of the draft
of you agree,
enclosed. I should be glad if you would

Mr. Butler 30.8.16.

Mr.

Mr.

Mr. Grindle.

Mr. Lambert.

Mr. Read.

Sir G. Fiddes.

Mr. Steel-Maitland.

Mr. Bonar Law.

have an amending Ordinance passed in this
sense in substitution for the one enclosed
in your despatch.

Revised sec 40(1)
herewith

I have &c.

3. as the R.A.R. are

now under the control

dfts.

of the military authorities,
I assume that you have
secured General Sauter's
concurrence in the proposed
amendment, or that you
will do so before the
amending Ordinance is
passed.

4. I have requested
the ~~representatives~~ ^{representatives} of Uganda
Masaland Prot.
and the East to
amend similarly the
K. A. R. Ordinances of
those Protectorates.

I have
(Signed) A. BONAR LAWE

Sr. E.A.P. 598
601

38629

Checked 26.4.81
Approved

Amend. 1937 4/24/81
24/10/81

Downing Street,
2 Sept 1916.

DRAFT
INDIA PROTECTORATE NO. 228
INDIA PROTECTORATE NO. 176

Sir,

Governor

MINUTE

- Mr. Butler 30.8.16.
- Mr. f-3.
- Mr.
- Mr.
- Mr. Grindle.
- Mr. Lambert.
- Mr. Read.
- Sir G. Fiddes.
- Mr. Steel-Maitland.
- Mr. Bonar Law.

I have the honour to inform you
that my attention has been called to the
necessity of making clear the intention of
section 40 of the principal King's African
Rifles Ordinance to give a Commanding
Officer power to inflict one or more of the
punishments provided by that section if he
deals with a case summarily. The provisions
of section 41 of the Ordinance clearly
give the Officer Commanding a Detachment
power to inflict a combination of the
~~punishments~~ ^{punishments} provided by that section, and
the intention of section 40 should be made
no less indisputable. I have therefore
to request that you will take an opportunity

used Sec 40(G)
here with

make for/consent
the Somaliland Ord.
of

of

for 35629/1916 2nd

SEP 22 599 602

of amending section 40 (1) of the principal
Ordinance in the sense of the enclosed draft,
as in the enclosed revision of the ^{sub} section
I have &c.,

MINUTE

DRAFT

Somaliland
No. 134
MINUTE

- Mr. Harper
- Mr. Bottomley 22.9.16
- Mr.
- Mr. Grimille.
- Mr. Lambert.
- Mr. Read.
- Sir G. Fiddes.
- Mr. Steel-Maitland.
- Mr. Bonar Law.

Amend 59492

27th Sept 1916

Sir,

I have the honour to inform you that my attention has been called to the necessity of making clear the intention of section 40 of the King's African Rifles Order, No. 1, 1909 to give a Commanding Officer power to inflict one or more of the punishments provided by that section if he deals with a case summarily. The provisions of section 41 of the Ordⁿ clearly give the Officer commanding a Detachment power to inflict a combination of the punishments provided by that section and the intention of section 40 should be made no less indisputable.

1916

You will take an opportunity of
amending section ~~40~~⁴⁰⁽¹⁾ as follows:-

After the words "where he deals with
"the case summarily, he may" add
the words "impose on the offender one
"or more of the following punishments",
and delete the first nine
words of sub-section (1) (f)

The word "Order" should be
inserted at the beginning of
subsections (1) (g) and (1) (h),
and in section (2) after
the word "may"; at the end
of the first line, should be
added "deal with the case
summarily and may"

Witness my hand and seal
this 21st day of June 1947

Signed: A. HON. & LAW.