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KENYA

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C.O 533/406

Fraudulent Transfer of Land 1970

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of Nov. 1905 5 January 2

Spares to library

In authenticated and printed copies of Fraudulent  
Transfer of Business Ordinance, No. 55 of 1930  
together with legal report by Attorney-General

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No legal objection

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Gov 151-1-1 Answer 9/3-2:7 FEB 1931



KENYA.

No. 5

GOVERNMENT HOUSE,  
NAIROBI,  
KENYA.

5<sup>th</sup> January, 1931.

RECEIVED  
20 JAN 1931

*Amato*

Your lordship's most obedient, humble  
servant,

*Herbert K. ...*

ACTING GOVERNOR.

THE RIGHT HONOURABLE LORD PASSFIELD, P.C.,  
SECRETARY OF STATE FOR THE COLONIES,  
DOWRING STREET,  
LONDON, S.W. 1

LEGAL REPORT

THE FRAUDULENT TRANSFER OF BUSINESSES  
BILL, 1930.

It is a common experience in bankruptcy for creditors to find that the bankrupt purports to have transferred his business with stock-in-trade, goods, will and even book debts to a man of straw before he committed an act of bankruptcy, and in such case nothing is left for the creditors.

It is in the interests of commercial security to provide a remedy against the fraudulent transfer of business.

The provisions of the Bill do not apply to the transfer of a business in consequence of the winding up or reconstruction of a company under the Companies Ordinance, e.g. when a private company converts itself into a limited liability company and continues to carry on the business of the old private company.

Partnerships, and the liability of outgoing partners for partnership debts are specifically dealt with in the Indian Contract Act.

The Bill is modelled on similar legislation enacted in Hong Kong in 1925.

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

Nairobi,

29th November, 1930.

ATTORNEY GENERAL.



H. M. MOORE

*Acting Governor.*

**An Ordinance to Prevent Certain Fraudulent Transfers of Businesses.**

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 Fraudulent Transfer of Businesses Ordinance, 1930." Short title.

2. In this Ordinance—

"business" means any trade or occupation, other than a profession, carried on with a view to profit;

*Interpretation.*

"transferor" and "transferee" respectively include a sub-transferor and sub-transferee, and, where the notice referred to in section 3 is given before the date of the transfer, an intended transferor and an intended transferee.

Transferor of business to be liable for liabilities of transferor in certain cases.

3. (1) Whenever any business or any portion of any business is transferred, with or without the good will or any portion thereof, the transferee shall, notwithstanding any agreement to the contrary, become liable for all the liabilities incurred in the business by the transferor, unless due notice in accordance with this section shall have been given and shall have become complete as the date of the transfer.

(a) The liability of the transferor under sub-section (1) of this section shall cease immediately unless also in respect of the transferee shall become complete.

Provided that the transferee shall be liable for the liabilities of the transferor in respect of the business transferred, if the transferee has not given notice in accordance with this section, and shall have become complete as the date of the transfer.

(2) The notice referred to in sub-section (1) of this section shall be in writing and shall contain the following particulars, to-wit:—

(a) the name and address of the transferor;

(b) the name and address of the transferee;

(c) a statement as to whether the transferee is assuming or is intended to assume all the liabilities incurred in the business by the transferor.

(4) The production of the Gazette containing the notice shall be prima facie evidence as against both the transferor and the transferee of the statements contained in the notice.

(5) Nothing in this section contained shall have the effect of relieving the transferor from any liability to which he would otherwise be subject.

Registrar General may prescribe newspapers.

4. The Registrar General may by notice in the Gazette prescribe the newspaper or newspapers in which notice of transfer shall be given under section 3 of this Ordinance, either in respect of the whole Colony or in respect of businesses carried on in any part of the Colony.

Saving.

5. Nothing in this Ordinance contained shall be deemed to apply to the transfer of any business consequent upon the reconstruction or winding up of a company in accordance with the provisions of the Companies Ordinance.

Cap. 93.

Passed in the Legislative Council the twenty-ninth day of November, in the year of Our Lord one thousand nine hundred and thirty.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council and is presented for authentication and assent as a true and correct copy of the said Bill.

G. R. SANDELL  
Clerk of the Legislative Council